Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington.

APRIL 15 20 15

WILLIAM M. McCOOL, Clerk

By _____ Deputy

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TROY X. KELLEY,

Defendant.

NO. CR 15 5198 RBL

INDICTMENT

THE GRAND JURY CHARGES THAT:

INTRODUCTION

I. Background

A. The Defendant and Relevant Entities

1. TROY X. KELLEY, a resident of Tacoma, Washington, holds a J.D. and an M.B.A., and is an attorney licensed to practice law in the States of California, New York, and Washington, and in the District of Columbia. TROY X. KELLEY's experience includes work as counsel, and then general counsel, for a real estate title company in California, as president of a division of that company, and as a small business owner and operator whose business served the title industry.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

2. Blackstone International, Inc. ("Blackstone"), is an S Corporation formed in the State of Nevada on or about October 26, 2000. Since Blackstone's inception, TROY X. KELLEY has been Blackstone's President and sole owner.

3. Attorney Trustee Services, Inc. ("ATS"), is an S Corporation. Originally, TROY X. KELLEY's wife, D.D.K., was the President of ATS. Subsequently, TROY X. KELLEY became the President of ATS. Through at least 2008, D.D.K. was the sole owner of ATS.

4. United National, LLC ("United National"), was a limited liability company incorporated in Washington State on or about August 2, 2002. TROY X. KELLEY was United National's President. Originally, Blackstone owned 50% of United National. By 2008, Blackstone owned 79.3% of United National, ATS owned 18.1% of the company, and a minority partner owned 2.6% of the company. United National operated under the name Post Closing Department (also known as "PCD") and provided reconveyance-tracking services to real estate escrow companies. On August 11, 2008, TROY X. KELLEY cancelled United National's registration in Washington State.

5. Fidelity National Title of Washington ("Fidelity") and Old Republic Title ("Old Republic") were escrow companies that offered real estate settlement services in Washington State. United National d/b/a Post Closing Department, provided reconveyance-tracking services to these escrow companies and others.

B. The Reconveyance-Processing Industry

6. Generally, individuals who borrow money to purchase or refinance a home ("borrowers") are required to grant a deed of trust to a trustee. The trustee holds title to the property on behalf of the lender, pursuant to that deed of trust, to secure repayment of the loan. When an underlying loan is paid in full, such as through the sale of the property or through a refinancing, the lender sends the trustee proof of repayment, after which the trustee transfers title back to the original borrower. The process of transferring title back to the borrower is called "reconveyance." The reconveyance process is completed when a deed of reconveyance is executed by the trustee and recorded in the recorder's office of

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

the county where the property is located. Trustees may charge a fee to process a reconveyance (a "trustee fee"), and county recording offices generally charge a fee to record a reconveyance (a "county recording fee").

7. Escrow companies performing real estate settlement services collect and disburse loan funds and sales proceeds, and facilitate documentation of real estate transactions, all in accordance with the escrow instructions of the parties to a real estate transaction. As part of their service, escrow companies also facilitate the reconveyance process by collecting from borrowers fees in amounts sufficient to cover the potential costs associated with the reconveyance process.

8. The potential costs associated with the reconveyance process include the cost of paying trustee fees and county recording fees (collectively, "reconveyance-processing fees"), as well as the cost of tracking reconveyances to ensure that they are completed ("reconveyance tracking"). During the period relevant to this Indictment, escrow companies typically collected between $100 and $150 per reconveyance (a "reconveyance fee") from borrowers to cover reconveyance-processing fees and reconveyance-tracking costs.

9. In many cases, lenders processed reconveyances themselves, either for a minimal fee charged directly to the borrower as part of the borrower's loan payoff, or for no fee. When lenders processed reconveyances, escrow companies did not need to pay reconveyance-processing costs, such as trustee fees or county recording fees.

10. Rather than administer reconveyance fees and track reconveyances themselves, in some cases, escrow companies contracted with outside vendors that administered reconveyance fees and performed reconveyance-tracking services. Post Closing Department was a vendor utilized by escrow companies to administer reconveyance fees, and track reconveyances, for the benefit of escrow parties.

II. Summary of Charges

11. Between about 2003 and about June 2008, TROY X. KELLEY, through Post Closing Department, provided reconveyance-tracking services to Fidelity and Old

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

Republic. TROY X. KELLEY represented to Fidelity and Old Republic that, in return for a flat fee per reconveyance, Post Closing Department would receive and administer the full amount of reconveyance fees collected by the escrow companies from borrowers and (1) track the filing of reconveyances; (2) pay any necessary reconveyance-processing fees, such as trustee fees and county recording fees; and (3) refund the unused portions of the reconveyance fees back to the borrowers. In reliance upon TROY X. KELLEY's representations, Fidelity and Old Republic entrusted TROY X. KELLEY and Post Closing Department with millions of dollars of reconveyance fees. In truth and in fact, TROY X. KELLEY lied to Fidelity and Old Republic and did not administer the reconveyance fees as promised. Contrary to his representations, TROY X. KELLEY did not refund unused portions of reconveyance fees to borrowers, but instead fraudulently retained, stole, and converted them to his own use. Based upon this conduct, Count 1 of this Indictment charges TROY X. KELLEY with Possession and Concealment of Stolen Property, namely, approximately $1,463,171 of unused reconveyance-processing fees that should have been refunded to borrowers, as well as more than $5,000, of reconveyance-tracking fees that should have been refunded to escrow companies or borrowers for transactions that were not complete when TROY X. KELLEY closed Post Closing Department.

12. In May 2008, class action lawsuits were filed on behalf of borrowers against Fidelity and Old Republic, seeking, among other things, the return of reconveyance fees charged by the escrow companies for services that were in fact performed by lenders. In June 2008, anticipating that borrowers and escrow companies might seek the return of such fees from Post Closing Department, TROY X. KELLEY, attempted to conceal the funds by moving them rapidly between numerous bank accounts, and eventually depositing the funds into an account in the name of a newly-created shell entity controlled by TROY X. KELLEY. TROY X. KELLEY also attempted to divert attention from himself, and to discredit and disqualify one of the named plaintiffs in the civil suits, by issuing a refund check to him. In about December

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

2009, Old Republic sued TROY X. KELLEY, seeking the return of unused reconveyance fees. In the course of the litigation with Old Republic, TROY X. KELLEY gave false testimony during a deposition, lied in sworn declarations submitted to the Court, and misled Old Republic as to the whereabouts of the unlawfully-retained reconveyance fees through false and fraudulent answers to interrogatories. Based upon this conduct, Counts 2- 6 of this Indictment charge TROY X. KELLEY with False Declarations and Obstruction of a Civil Lawsuit.

13. Finally, TROY X. KELLEY engaged in a long-running scheme to avoid and reduce his taxes on the unlawfully-retained reconveyance fees. For the tax years between 2006 and 2008, TROY X. KELLEY fraudulently underreported United National's and his own gross receipts and income, and avoided declaring and paying taxes on the reconveyance fees that he had unlawfully retained. Beginning in 2011, after all of the litigation against him had been resolved, TROY X. KELLEY began withdrawing $245,000 annually from the pool of unlawfully-retained reconveyance fees. TROY X. KELLEY reported the $245,000 that he drew down annually as income to his wholly-owned S Corporation, Blackstone. For the 2011 and 2012 tax years, however, TROY X. KELLEY sought to reduce his tax by fraudulently claiming as business deductions, on Blackstone's return, personal and campaign-related expenditures that were not legitimate business expenses. Finally, when Internal Revenue Service (IRS) agents interviewed TROY X. KELLEY in April 2013, TROY X. KELLEY falsely stated he reported $245,000 of income in each of 2011 and 2012, because he was continuing to perform reconveyance-tracking services and was only reporting income as he earned it. Based upon this conduct, Counts 7 - 10 of this Indictment charge TROY X. KELLEY with Corrupt Interference with Internal Revenue Laws, with Filing False Income Tax Returns, and with False Statements to IRS Agents.

III. The Reconveyance-Fee Fraud Scheme

A. The Fraud Relating to Fidelity

14. During 2003, TROY X. KELLEY entered into a business agreement with

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

Fidelity. Both orally and in writing, TROY X. KELLEY represented that, for a flat fee of $15 per file, Post Closing Department would (1) provide Fidelity reconveyance-tracking services for real estate transactions in King and Snohomish Counties; (b) receive from Fidelity the full amount of reconveyance fees entrusted to Fidelity by borrowers; and, (c) where Post Closing Department was not required to use the full amount of those fees to pay trustee fees and/or county recording fees, or its own $15 reconveyance-tracking fee, return the unused portion of reconveyance fees to borrowers.

15. A written agreement, signed by Fidelity's Operations Manager on October 9, 2003, defined Fidelity as the "Client," and borrowers as "Customers," and provided, in relevant part:

> Fees are as follows: $15.00 post closing tracking fee per item.
>
> * * *
>
> Payment Terms:
> Client shall collect post closing fee and make check payable to PCD (leave the check to be picked up by representative and/or coordinator). Expenses such as trustee fees and recording fees that are associated with a file will be advanced and charged to that file. At the completion of the post closing documentation if extra funds are left over, PCD shall forward the funds to Customer, with sample letter attached.

16. In reliance upon TROY X. KELLEY's representations and promises, beginning in 2003, Fidelity began using Post Closing Department to perform reconveyance-tracking work, and caused borrowers to authorize disbursement of funds from Fidelity to Post Closing Department for reconveyance processing and tracking. Fidelity provided Post Closing Department files accompanied by checks made payable to Post Closing Department in the full amount of the reconveyance fees that had been entrusted to Fidelity for reconveyance processing and tracking by borrowers. TROY X. KELLEY and Post Closing Department employees subsequently cashed those checks, depositing the funds into an account at Columbia Bank that Post Closing Department

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

used to hold funds received from Fidelity. In doing so, TROY X. KELLEY caused Columbia Bank to transmit wire communications in interstate commerce.

17. To track Fidelity's reconveyances, a Post Closing Department employee entered the data for each reconveyance into a line in a large spreadsheet. Post Closing Department then tracked the reconveyances by logging onto county recorder's offices' websites to check the status of the reconveyances. When a title was reconveyed, an employee noted the number assigned to the reconveyance in the spreadsheet. Because the employees understood that Post Closing Department received a flat $15 fee per transaction tracked regardless of the amount of work involved, they did not use the spreadsheet to record the specific tasks performed on each file.

18. Because major lenders processed the vast majority of the reconveyances Post Closing Department tracked, Post Closing Department generally did not need to perform additional work, or pay additional trustee fees or county recording fees, to effect reconveyances. As a result, in the vast majority of cases, Post Closing Department received from Fidelity, and retained at the completion of the reconveyances, funds entrusted to Fidelity to cover possible reconveyance-processing costs that were not actually needed to pay a trustee fee or a county recording fee.

19. By no later than in or about January 2006, TROY X. KELLEY devised a scheme and artifice to defraud Fidelity and borrowers, to obtain money from Fidelity by means of false and fraudulent representations, and to steal money from Fidelity and from borrowers, namely to take and convert to his own use and benefit reconveyance-processing fees that TROY X. KELLEY knew should have been refunded to borrowers.

20. TROY X. KELLEY decided not to pay refunds to borrowers, all the while, continuing to keep up a pretense that Post Closing Department was administering fees as promised, and continuing to obtain from Fidelity fees entrusted to Fidelity by borrowers. Unbeknownst to Fidelity and borrowers, and contrary to his representations and promises, TROY X. KELLEY directed Post Closing Department employees to issue refund checks in limited circumstances, typically, when an escrow company or a

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

borrower complained that the borrower had not received a refund to which the borrower was entitled.

21. To conceal further from Fidelity the fact that Post Closing Department was keeping unused reconveyance-processing fees, TROY X. KELLEY falsely and fraudulently represented to Fidelity that Post Closing Department continued to charge only a flat $15 fee per transaction tracked.

22. For example, on February 16, 2006, TROY X. KELLEY sent an email to an employee at Fidelity, advising that Ticor Title was raising its trustee fees to $120, suggesting that Fidelity might want to do the same, and noting that PCD would hold only $105 in processing fees "after our $15 fee."

23. Similarly, on May 9, 2007, TROY X. KELLEY caused an employee to send an email to an employee at Fidelity, stating that Post Closing Department collected $15 per file, and that, in tracking each file, Post Closing Department sent letters and made telephone calls.

24. And on July 31, 2007, TROY X. KELLEY sent an email to an employee at Fidelity, stating that he wanted "to confirm our fees are $15 per deed of trust tracked and we hold what you direct us to in order that the trustee gets paid and records the reconveyance." In reliance upon these false representations, Fidelity continued to cause borrowers to instruct at closing that reconveyance fees entrusted to Fidelity be disbursed to Post Closing Department, and Fidelity continued to disburse such fees to Post Closing Department.

25. In approximately March 2008, Fidelity decided to stop using Post Closing Department to track reconveyances. After being notified of that fact, on March 14, 2008, TROY X. KELLEY sent an employee at Fidelity an email in which he offered to continue tracking Fidelity's reconveyances for a flat fee of $15 per transaction tracked, while allowing Fidelity to retain the remainder of the reconveyance fees. The email stated, in relevant part:

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

> I just wanted to let you know that there is a reconveyance service model that allows you to hold the income generated and we are paid though a monthly invoice that is $15 per file.

26. On April 7, 2008, TROY X. KELLEY sent a similar email to another employee at Fidelity, stating, in relevant part:

> I want to confirm the option that we can track new payoffs . . . . Our price is still only $15 per item and can be invoiced monthly. . . . We operate this way for six counties in Oregon and we even advance substantial recording fees on Fidelity's behalf. We do all the work after close, and Fidelity holds the money.

Despite TROY X. KELLEY's emails, Fidelity stopped using Post Closing Department in March 2008.

27. After Fidelity stopped using Post Closing Department to provide reconveyance-tracking services, TROY X. KELLEY terminated one of the Post Closing Department employees who had been primarily responsible for performing the work for Fidelity. In approximately May 2008, TROY X. KELLEY picked up the Post Closing Department documents remaining at the employee's residence, and caused all Post Closing Department-related files to be deleted from the employee's computer.

28. Because major lenders had processed the vast majority of the reconveyances Post Closing Department tracked for Fidelity, Post Closing Department retained a substantial amount of unused reconveyance-processing fees. Between January 2006 and March 2008, Fidelity asked Post Closing Department to track approximately 21,158 reconveyances. Of these, Fidelity collected reconveyance fees in an amount designed to cover reconveyance-processing costs, as well as reconveyance-tracking costs, in approximately 18,208 cases.

29. By March 2008, the vast majority of the files tracked had reconveyed. With respect to those reconveyed transactions, Post Closing Department had been required to issue only approximately 460 checks to pay reconveyance-processing fees. Accordingly, Post Closing Department should have refunded unused reconveyance-

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

processing fees to thousands of borrowers. In fact, however, Post Closing Department had issued only approximately 25 refund checks, totaling approximately $4,340, to borrowers from the Columbia Bank account that it used to conduct Fidelity business. (Post Closing Department had issued approximately 423 additional checks to pay reconveyance-processing fees from bank accounts not related to specific escrow companies, and had issued approximately 34 additional refund checks, totaling approximately $8,837, from such accounts. Some of those checks may have related to borrowers in transactions that Post Closing Department tracked for Fidelity.)

30. Instead of refunding unused reconveyance-processing fees to borrowers, TROY X. KELLEY retained the vast majority of these fees in the Columbia Bank account from which he conducted Fidelity business. As a result, the balance in this account, which was $745,121 on January 1, 2006, had grown to $2,361,181 by June 2008. (In addition, during the same period, although Post Closing Department was entitled to only approximately $317,370 for reconveyance-tracking services that it performed for Fidelity, TROY X. KELLEY transferred approximately $443,006 from the account to his own personal account at Bank of America.)

B. The Fraud Relating to Old Republic

31. By no later than April 2006, TROY X. KELLEY devised a scheme and artifice to defraud Old Republic and borrowers, to obtain money from Old Republic by means of false and fraudulent representations, and to steal money from Old Republic and borrowers. This scheme was functionally-identical to the scheme to defraud Fidelity.

32. On or about April 10, 2006, TROY X. KELLEY met with a Senior Vice President of Old Republic. TROY X. KELLEY falsely and fraudulently represented that, for a flat fee of $20.00 per reconveyance, Post Closing Department would (a) provide reconveyance-tracking services for real estate transactions in which Old Republic acted as the escrow agent; (b) receive from Old Republic the full reconveyance fees entrusted to Old Republic by borrowers; and, (c) where Post Closing Department was not required to use the full reconveyance fees to pay trustee fees and county-recording fees, or its own

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

$20 reconveyance-tracking fee, it would return the unused reconveyance-processing fees to borrowers.

33. On or about the following day, TROY X. KELLEY sent the Old Republic officer an email in which TROY X. KELLEY stated that he had created a refund letter for a client who "wanted to hit the issue of the refund and integrity extra hard." The letter provided, in relevant part:

> To ensure that the reconveyance is done properly, Old Republic collects a Post Closing fee for each reconveyance. A portion of this fee is charged to track county records for your reconveyance and the balance is charged so that Old Republic or another trustee can process your reconveyance if additional [funds] are needed. In your case, the county records show the reconveyance document has been recorded, so we can close our file and we are refunding you the excess processing fee.

34. In May 2006, Old Republic and Post Closing Department signed an agreement for Post Closing Department to provide reconveyance-tracking services to Old Republic. The agreement provided, in relevant part:

> Fees are as follows:
>
> $20.00 post closing tracking fee per item,
> fee includes management of funds due trustees & client refunds
>
> * * *
>
> Additional Terms and Conditions:
>
> PCD shall provide client with monthly progress reports of reconveyance activity on each of client's files being tracked as well as an accounting on all funds received from client that have been disbursed and/or refunded to principals.

35. In truth and in fact, however, TROY X. KELLEY did not intend for Post Closing Department to issue refund checks to the vast majority of borrowers to whom refunds were owed. Instead, TROY X. KELLEY intended to take and convert to his own

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

benefit reconveyance-processing fees that TROY X. KELLEY knew should have been refunded to borrowers.

36. In June 2006, in reliance upon TROY X. KELLEY's representations and promises, Old Republic began using Post Closing Department to provide reconveyance-tracking services. Old Republic caused borrowers to instruct at closing that reconveyance fees entrusted to Old Republic be disbursed to Post Closing Department, and Old Republic disbursed such fees to Post Closing Department.

37. Old Republic provided Post Closing Department files accompanied by checks made payable to Post Closing Department in the full amount that had been entrusted to Old Republic for reconveyance processing and tracking by borrowers. TROY X. KELLEY and Post Closing Department employees subsequently cashed those checks, depositing the funds into an account at Columbia Bank that Post Closing Department used to hold funds received from Old Republic. In doing so, TROY X. KELLEY and the employees caused Columbia Bank to transmit wire communications in interstate commerce.

38. To track Old Republic's reconveyances, Post Closing Department employees entered the data for each reconveyance into a line in a large spreadsheet. Post Closing Department then tracked the reconveyances by logging onto county recorder's offices' websites to check the status of the reconveyances. When a title was reconveyed, an employee noted the number assigned to the reconveyance in a spreadsheet. Because employees understood that Post Closing Department received a flat $20 fee per transaction tracked regardless of the amount of work involved, the employees did not use the spreadsheet to record the specific tasks they performed on each file.

39. Unbeknownst to Old Republic and borrowers, and contrary to his representations and promises, TROY X. KELLEY directed Post Closing Department employees to issue refund checks in only two limited situations. First, when an escrow company or a borrower complained that the borrower had not received a refund to which the borrower was entitled, TROY X. KELLEY directed an employee to issue a refund

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

check to that borrower. Second, on rare occasions, TROY X. KELLEY directed Post Closing Department employees to issue small batches of refund checks. TROY X. KELLEY did this either to respond to questions from Old Republic, or to create a defense in the event that he subsequently was questioned about Post Closing Department's actions.

40. To conceal from Old Republic the fact that Post Closing Department was keeping unused reconveyance-processing fees, TROY X. KELLEY falsely and fraudulently represented to Old Republic that Post Closing Department continued to charge only a flat $20 fee per transaction tracked. For example, on March 26, 2007, a representative of Old Republic emailed Post Closing Department asking, among other things, "[d]o you have a fee schedule . . . ?" TROY X. KELLEY caused an employee of Post Closing Department to respond, "[t]he fee is $20 flat for each item (each DOT to be tracked)."

41. On July 26, 2007, TROY X. KELLEY again represented that Post Closing Department charged a flat fee in an email to an Old Republic employee in which he stated, in relevant part:

> It seems that most companies are raising their trustee (recon) fee by $10 to offset the two County Recorder's increases. Thus they are having us increase the funds held by $10. Our $20 tracking fee does NOT change.

42. At some point, Old Republic employees in fact requested proof that Post Closing Department was using reconveyance fees appropriately. Thereafter, TROY X. KELLEY regularly directed a Post Closing Department employee to produce "zeroed out" spreadsheets. These spreadsheets showed that all reconveyance fees relating to borrowers whose reconveyances were complete had been (1) paid out as third-party fees to trustees or county recorder's offices, or (2) refunded to borrowers. TROY X. KELLEY provided the employee the check number that supposedly had been used to make one payment, and directed that the employee have the spreadsheets show that payments relating to other borrowers had been made using the next-in-sequence checks.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

43. After the Post Closing Department employee prepared "zeroed out" spreadsheets that falsely showed that large numbers of third-party and refund payments had been made, TROY X. KELLEY caused the spreadsheets to be provided to the Old Republic personnel who had requested the information as supposed proof that Post Closing Department was handling reconveyance fees appropriately. In truth and in fact, TROY X. KELLEY well knew that Post Closing Department had not made the payments to trustees and county recorder's offices shown in the spreadsheets, and that it was not paying refunds as required.

44. Because major lenders processed the vast majority of the reconveyances that Post Closing Department tracked for Old Republic, Post Closing Department retained a substantial amount of unused reconveyance-processing fees. Between June 2006 and June 2008, Old Republic asked Post Closing Department to track approximately 11,773 reconveyances. Of these, Old Republic collected reconveyance fees in an amount designed to cover reconveyance-processing costs, as well as reconveyance-tracking costs, in approximately 9,072 cases.

45. By June 2008, more than 3,500 of the reconveyances that Post Closing Department was tracking for Old Republic had been completed. With respect to those reconveyed transactions, Post Closing Department had been required to issue only approximately 150 checks to pay reconveyance-processing fees. Accordingly, Post Closing Department should have refunded unused reconveyance-processing fees to thousands of borrowers. In fact, however, Post Closing Department issued only approximately 30 refund checks, totaling approximately $5,660, to borrowers. (Post Closing Department had issued approximately 423 additional checks to pay reconveyance-processing fees from bank accounts not related to specific escrow companies, and had issued approximately 34 additional refund checks, totaling approximately $8,837, from such accounts. Some of those checks may have related to borrowers in transactions that Post Closing Department tracked for Old Republic.)

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

46. Instead of refunding unused reconveyance-processing fees to borrowers, TROY X. KELLEY retained the vast majority of these fees in the Columbia Bank account from which he conducted Old Republic business. As a result, the balance in this account had grown to $888,949 by June 2008. (In addition, between June 2006 and June 2008, TROY X. KELLY transferred approximately $95,000 from the account to his personal account at Bank of America.)

IV. The Tax Fraud Scheme

47. Under federal law relating to taxation, income must be reported in the tax year in which it is received or earned.

48. IRS Form 1065, U.S. Return of Partnership Income ("Form 1065"), is an IRS form used to report the income and deductions of a partnership. Generally, partnership income flows through to partners, according to their share in the partnership. United National reported its income as a partnership using IRS Form 1065. From 2006 through 2008, United National's income flowed through to its partners, including Blackstone and ATS.

49. IRS Form 1120S, U.S. Income Tax Return for an S Corporation ("Form 1120S") is an IRS form used to report the income and deductions of an S Corporation. S Corporation income flows through to the corporation's owners, according to their share in the S Corporation. Blackstone and ATS reported their income using Form 1120S. From 2006 through 2008, Blackstone's income flowed through to its sole owner, TROY X. KELLEY, and ATS' income flowed through to its sole owner, D.D.K.

50. IRS Form 1040, U.S. Individual Income Tax Return ("Form 1040"), is an IRS form used by individual taxpayers to report their annual income, deductions, and credits, and their tax due and owing.

51. Having fraudulently obtained and stolen funds from Fidelity, Old Republic, and borrowers, TROY X. KELLEY sought to avoid payment of taxes on those funds. In addition, TROY X. KELLEY realized that the escrow companies and borrowers might seek the return of their funds. Accordingly, TROY X. KELLEY particularly sought to

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

avoid payment of taxes on the funds until after any such potential claims were resolved. As a result, for tax years between 2006 and 2008, TROY X. KELLEY underreported the income he earned.

52. On or about February 28, 2007, TROY X. KELLEY filed a Form 1065 partnership return for United National for the tax year 2006. On or about February 28, 2008, TROY X. KELLEY filed a Form 1065 partnership return for United National for the tax year 2007. And, on or about October 9, 2008, TROY X. KELLEY filed a Form 1065 partnership return for United National for the tax year 2008.

53. These Forms 1065 were false in that they underreported income United National earned between 2006 and 2008 by an aggregate amount of more than $3,000,000. By underreporting this income, which ultimately flowed through to his and D.D.K's joint personal Forms 1040, TROY X. KELLEY reduced the individual income taxes he was required to pay for tax years 2006 through 2008 by approximately $1,000,000.

54. In particular, the Form 1065 that TROX X. KELLEY filed for United National for the tax year 2008, was false in that it underreported income United National earned during 2008 by in excess of approximately $304,019. By underreporting this income, which ultimately flowed through to his and D.D.K.'s personal Form 1040 Individual Income Tax Return, TROY X. KELLEY reduced the individual income taxes he was required to pay for tax year 2008 by approximately $100,000.

V. Obstruction of Civil Lawsuits

55. On May 14, 2008, class action lawsuits were filed in the United States District Court for the Western District of Washington against Fidelity and Old Republic. The class actions, *Cornelius v. Fidelity National Title Insurance*, C08-0754MJP (W.D. Wash.), and *McFerrin v. Old Republic Title*, C08-5309BHS (W.D. Wash.), alleged, among other things, that Fidelity and Old Republic collected reconveyance-processing fees from borrowers, that, even though they went unused, "[n]o portion of the reconveyance processing fees [were] credited or returned with the final settlement," and

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

that the two companies "kept these duplicative and unearned sums for no settlement services rendered . . . ." TROY X. KELLEY learned of the existence of these class actions lawsuits no later than the day after they were filed, that is, May 15, 2008.

A. TROY X. KELLEY Falsely Claims that Post Closing Department Previously Provided a Refund to F.C.

56. In *Cornelius v. Fidelity National Title*, Post Closing Department had performed the tracking services for the lead plaintiff, F.C.'s, real estate transaction. As TROY X. KELLEY well knew, Fidelity had delivered to Post Closing Department the $280 in reconveyance fees entrusted to Fidelity by F.C., to cover two reconveyances involved in F.C.'s refinance.

57. As TROY X. KELLEY also well knew, despite the fact that Post Closing Department had not been required to pay any trustee fees or county recording fees, Post Closing Department had kept the entire reconveyance fee, rather than refund all but the $30 to which it was entitled for tracking two reconveyances. To divert attention from this fact, and thereby seek to avoid being made a defendant in the class action lawsuits, and also to discredit and disqualify F.C. as a plaintiff, TROY X. KELLEY sought to convince F.C. that Post Closing Department had timely sent him a refund of his reconveyance-processing fees.

58. On May 16, 2008, at 9:17 a.m., TROY X. KELLEY used an ATM at a Bank of America branch near his home to withdraw $300 in cash from his personal Bank of America account. TROY X. KELLEY immediately traveled to a nearby Washington Mutual Bank branch. There, at 9:27 a.m., TROY X. KELLEY used the cash to purchase a $250 cashier's check payable to F.C. To avoid fees associated with the purchase of the cashier's check, TROY X. KELLEY provided Washington Mutual Bank with the account number for his Washington Mutual Bank campaign finance account in the name of Friends of Troy Kelley. Finally, because he paid for this check using money withdrawn from his personal account, TROY X. KELLEY wrote a check dated May 16, 2008, on the Post Closing Department account at Columbia Bank that he used for Fidelity business,

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

and made it payable to himself in the amount of $250. On the memo line, TROY X. KELLEY wrote the word "reimbursement."

59. TROY X. KELLEY caused the $250 cashier's check that he had purchased to be mailed to F.C. In an accompanying letter, TROY X. KELLEY acknowledged that Post Closing Department was entitled to a flat reconveyance-tracking fee of $15 per reconveyance, and falsely claimed that Post Closing Department previously had refunded the remainder of F.C.'s reconveyance fees to F.C., but that F.C. had failed to cash Post Closing Department's check. The letter, which was not signed, provided in relevant part:

> Dear [F.C.]:
>
> A review of our records shows that you did not cash our check of January 7, 2008. The letter mailed to you was not returned by the post office, and you have not contacted Fidelity National Title or The Post Closing Department since the time your escrow closed. That check is now stale dated and you should not cash it.
>
> We are enclosing an official bank check to zero out your account balance, and mailing it to you with proof of mailing.
>
> The enclosed official bank check is for $250. Fidelity National Title collected $140 on the payoff of each deed of trust. $15 was charged to track each reconveyance. There was a balance on each deed of trust of $125 when the beneficiary secured the reconveyance. This recording of the reconveyance may have been after being contacted by the Post Closing Department to confirm that the document was being processed. Thus, you are being refunded $125 for each deed of trust that was paid off in escrow for a total of $250.

60. TROY X. KELLEY also included with the cashier's check a copy of the letter that Post Closing Department allegedly had sent to F.C. on January 7, 2008. In the letter, TROY X. KELLEY again acknowledged that Post Closing Department was entitled to retain only a flat $15 tracking fee. TROY X. KELLEY fraudulently placed a

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

slightly-incorrect address in the letter's heading in an attempt to create a plausible explanation for the fact that it never had been delivered to F.C.

B. *TROY X. KELLEY Conceals Post Closing Department's Money*

61. Within a month after learning of the class action lawsuits, TROY X. KELLEY sought to conceal $3,782,226 held in Post Closing Department's Columbia Bank accounts by moving the money through a series of convoluted wire transfers through various newly-opened bank accounts. As part of this series of transfers, TROY X. KELLEY transferred the money out of the State of Washington and into accounts opened in the name of entities not associated with United National or Post Closing Department.

62. On June 10, 2008, TROY X. KELLEY opened an account at Wells Fargo Bank in the name of United National. On June 12, 2008, TROY X. KELLEY wire transferred (1) $2,361,181 from the Columbia Bank account that he had used for Fidelity business, (2) $888,949 from the Columbia Bank account that he had used for Old Republic business, and (3) $532,096 from the Columbia Bank account number that he had used for Stewart Title business, for a combined total of $3,782,226, into the newly opened account at Wells Fargo Bank.

63. On June 12, 2008, TROY X. KELLEY opened an account at U.S. Bank in the name of United National. On June 13, 2008, TROY X. KELLEY wire transferred $3,785,667 from the United National account at Wells Fargo Bank to the newly-opened United National account at U.S. Bank.

64. On June 17, 2008, TROY X. KELLEY opened an account at Nevada State Bank in the name of Blackstone. On June 18, 2008, TROY X. KELLEY wire transferred $3,784,619 from the United National account at U.S. Bank to the newly-opened Blackstone account at Nevada State Bank in Nevada.

65. On June 23, 2008, TROY X. KELLEY formed Berkeley United, LLC ("Berkeley United"), a Nevada limited liability company. At approximately the same time, TROY X. KELLEY formed Wellington Trust, a trust organized under the laws of

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

Belize. Although TROY X. KELLEY did not technically own Wellington Trust, for all practical purposes, TROY X. KELLEY controlled the trust, which operated for his benefit. Wellington Trust owned 99% of Berkeley United. Blackstone owned the remaining 1%.

66. On June 30, 2008, TROY X. KELLEY opened an account at Vanguard in the name of Berkeley United. On that same date, TROY X. KELLEY transferred $3,634,673 from the Blackstone account at Nevada State Bank, in Nevada, to the newly-opened Berkeley United account at Vanguard, in Pennsylvania.

67. Between January 2006 and June 2008, Post Closing Department failed to refund to borrowers (in the case of completed reconveyances) or to Fidelity or Old Republic (in the case of reconveyances that had not yet been completed when Post Closing Department ceased operations), a total of at least approximately $2,964,679. Of this amount, at least approximately $1,618,744 was included in money that TROY X. KELLEY transferred to the Blackstone account at the Bank of Nevada on June 18, 2008, and at least approximately $1,463,171 was included in the money that TROY X. KELLEY held in the Berkeley United account at Vanguard on January 1, 2011.

C. *TROY X. KELLEY Shuts Down Post Closing Department*

68. In approximately June 2008, TROY X. KELLY transferred Post Closing Department's two remaining employees in the State of Washington from Post Closing Department's payroll to the payroll of ATS. On the evening of June 25, 2008, a fire was reported at the Stewart Title offices in Everett, Washington. By 11:00 p.m., on June 25, 2008, Stewart Title had burned to the ground. TROY X. KELLEY subsequently represented that all of Post Closing Department's records had been destroyed in that fire and in a subsequent crash of his computer.

69. On August 11, 2008, having shut down Post Closing Department's operations in the States of Washington and Oregon, TROY X. KELLEY filed a Certificate of Withdrawal/Cancellation with the Washington State Secretary of State,

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

thereby immediately canceling the registration of United National, d/b/a Post Closing Department.

70. On September 23, 2008, after learning of the existence of Post Closing Department, the class action plaintiffs served TROY X. KELLEY with subpoenas demanding that he produce books and records. On that same date, to ensure his ability to further conceal the funds he previously had hidden from the class action litigants, TROY X. KELLEY submitted to Vanguard an International Wire Option Form, providing him with the option of wiring funds from the Berkeley United account at Vanguard, to an account in the name of Wellington Trust at Atlantic International Bank in Belize.

D. Old Republic Sues TROY X. KELLEY, and TROY X. KELLEY Seeks to Conceal from Old Republic the Location of its Funds and Makes False Declarations in a Deposition

71. On March 3, 2009, counsel for class-action defendant Old Republic filed a third-party complaint against TROY X. KELLEY charging, among other things, that, by failing to refund unused reconveyance-processing fees to borrowers, Post-Closing Department had breached its agreement with, and been unjustly enriched to the detriment of, Old Republic.

72. Between March 2009, and September 8, 2009, counsel for Fidelity sought to locate the stolen funds that TROY X. KELLEY had concealed. They did so by issuing subpoenas to Columbia Bank, Wells Fargo Bank, Washington Mutual Bank, U.S. Bank, HSBC, and, ultimately, on September 8, 2009, to the Vanguard Group.

73. On July 9, 2009, and October 29, 2009, after finding that Old Republic, which had disclosed the payment of reconveyance fees to Post Closing Department in the settlement document that the plaintiffs signed at their closing, had not breached any agreement with, or duty of good faith to, the plaintiffs, the Court dismissed the class action lawsuit against Old Republic. Likewise, on April 1, 2010, the Court dismissed the class action lawsuit against Fidelity.

74. On December 10, 2009, Old Republic filed a new lawsuit against TROY X. KELLEY, in King County Superior Court. On June 6, 2010, that lawsuit was removed to

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

the United States District Court for the Western District of Washington, *Old Republic Title, Ltd. v. Troy X. Kelley, et al.,* No. C10-0038JLR (W.D. Wash.). All of Old Republic's claims stemmed from its core allegation that TROY X. KELLEY had agreed, in June 2006, to perform reconveyance-tracking services for a flat fee of $20 per escrow transaction, and to refund all other unused reconveyance fees to borrowers, but that TROY X. KELLEY instead improperly had kept the unused fees.

75. As part of the civil discovery in the *Old Republic Title* case, written interrogatories were served upon TROY X. KELLEY. A key objective of these interrogatories was locating the reconveyance fees that were entrusted to Old Republic and then provided to Post Closing Department pursuant to borrowers' escrow instructions. In his responses to those interrogatories, TROY X. KELLEY repeatedly sought to conceal the Berkeley United account at Vanguard that held the fees.

76. Thus, Interrogatory 15 of Old Republic's First Set of Interrogatories required TROY X. KELLEY to disclose all entities in which he held an ownership interest. On February 22, 2010, TROY X. KELLEY submitted a response that objected to the interrogatory in general terms and did not provide any substantive response. On March 25, 2010, TROY X. KELLEY submitted a supplemental response stating that his response to another interrogatory (which he described as Interrogatory 15, but by which he likely intended to refer to Interrogatory 16) responded to the question. On July 26, 2010, TROY X. KELLEY again supplemented his response, stating:

- The Kelleys were and are the sole owners of the stock of Blackstone International, Inc.;
- the Kelleys were the sole owners of the LLC interest in United National, LLC, prior to its cancellation;
- the Kelleys were the sole owners of the LLC interest in United National 14, LLC, prior to its cancellation;
- the Kelleys were and are the sole owners Attorney Trust Services, Inc.;
- the Kelleys control the education foundation and Mr. Kelley controls and the campaign organization, but they do not have an "ownership interest" in them.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

In truth and in fact, as TROY X. KELLEY well knew, Blackstone held a 1% ownership interest, and Wellington Trust, which for all practical purposes TROY X. KELLEY controlled, held the remaining 99% interest, in Berkeley United, the entity that held the Vanguard account into which TROY X. KELLEY had moved Old Republic's funds.

77. Interrogatory 16 required TROY X. KELLEY to disclose all entities in which he was an officer. On March 25, 2010, TROY X. KELLEY responded to this interrogatory, stating:

> Mr. Kelley has formed the following entities, . . . :
>
> Blackstone International Inc. 2000 – present. (President)
> United National LLC, 2002-2008, cancelled. (President)
> United National 14 LLC, 2004-2008, cancelled. (President)
> Attorney Trustee Services Inc, 2003-present. (President)
> Kelley Education Foundation, 2007-present, very small, give money for education or internships (Chairman)
> Friends of Troy Kelley, political association for campaign, 2006-present (Candidate)

In truth and in fact, as TROY X. KELLEY well knew, TROY X. KELLEY also was the President of Berkeley United, the entity that held the Vanguard account into which TROY X. KELLEY had moved Old Republic's funds.

78. Interrogatory 18 required TROY X. KELLEY to disclose all bank accounts into which he had "deposited any money originally received from Old Republic." On March 25, 2010, TROY X. KELLEY responded to this interrogatory, stating "[t]he only account used for the deposit of checks from ORT was #[******]1629 at Columbia Bank. The account was in the name of United National, LLC; dba Post Closing Department." On July 26, 2010, TROY X. KELLEY supplemented his Response to Interrogatory 18, as follows:

> RESPONSE: As noted above, the only account used for the deposit of checks was Account No. [******]1629 at Columbia Bank. From time to time, as reflected in the Columbia bank records, United National would transfer funds

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

representing service fees from this account to Account No. [******]5529 at Columbia Bank.

In addition, as also reflected in the Columbia Bank records, at the conclusion of United National's reconveyance work for Old Republic, United National transferred the remaining funds in Account No. [******]1629 to Wells Fargo Account No. [***-***]3310, another business account held by United National. At that point, the funds were commingled with other funds that United National had received from other business operations, including other reconveyance business.

In truth and in fact, as TROY X. KELLEY well knew, Berkeley United held a Vanguard account into which TROY X. KELLEY had transferred funds entrusted to Old Republic and then delivered to Post Closing Department pursuant to borrowers' escrow instructions. By his response to Interrogatory 18, TROY X. KELLEY sought to conceal that bank account.

79. On August 2, 2010, TROY X. KELLEY was deposed in *Old Republic Title, Ltd. v. Troy Kelley et al.* During the deposition, counsel for Old Republic directly confronted TROY X. KELLEY about the funds TROY X. KELLEY had concealed in the Vanguard account he had opened in the name of Berkeley United, inquiring "[w]hy were the funds transferred to Berkeley United?" On January 28, 2011, TROY X. KELLEY supplemented his prior interrogatory responses, admitting both that he had transferred Old Republic's funds to a Vanguard account held by Berkeley United, and that he was the President of Berkeley United.

80. During that same deposition, TROY X. KELLEY also provided false testimony concerning other matters. Thus, TROY X. KELLEY falsely testified that he had negotiated the right to charge Old Republic additional fees beyond the $20 fee per transaction. TROY X. KELLEY falsely testified that Post Closing Department's spreadsheets identified and broke down the amounts of these individual fees for each transaction. And TROY X. KELLEY falsely testified that he did not send the letter to F.C. after the class action lawsuits were filed, or ask anyone to do so.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

81. During that same deposition, TROY X. KELLEY also testified that, after shuttering Post Closing Department, he had performed a final reconciliation of all of the work done by Post Closing Department for each of its escrow clients. TROY X. KELLEY further testified that Post Closing Department was entitled to keep the money in the Berkeley United account as "fees earned" for "services provided." TROY X. KELLEY also testified that he had not paid tax on this money because, although Post Closing Department had "earned" the money, the income had not yet been "realized."

VI. Continuation of the Tax Fraud Scheme

82. On May 3, 2011, Old Republic and TROY X. KELLEY settled *Old Republic Title, Ltd. v. Troy Kelley et al.*. Following the settlement TROY X. KELLEY paid Old Republic $1,050,000 drawn from the money in the Berkeley United account at Vanguard, in order that Old Republic could refund the money to borrowers.

83. After he settled *Old Republic Title, Ltd. v. Troy Kelley et al.*, TROY X. KELLEY maintained approximately $2,581,653 of the funds he had concealed during June 2008 in the Berkeley United account at Vanguard. Beginning in 2011, TROY X. KELLEY transferred $245,000 per year to accounts he controlled, which he then reported as income on Forms 1120S he filed on behalf of Blackstone. TROY X. KELLEY sought to evade the full taxes due and owing on the reported income, however, by fraudulently deducting various items as business expenses, knowing full well that the deductions were not for legitimate business expenses.

84. On or about June 3, 2011, a month after the settlement in *Old Republic Title, Ltd. v. Troy Kelley et al.*, TROY X. KELLEY wired $245,030 from the Berkeley United account at Vanguard to a Berkeley United account at Wells Fargo Bank. On June 7, 2011, TROY X. KELLEY issued a check on the Wells Fargo Berkeley United account, in the amount of $245,000, to Blackstone. TROY X. KELLEY deposited the check into an account at Columbia Bank in the name of Blackstone.

85. On or about February 28, 2012, TROY X. KELLEY filed a Form 1120S for Blackstone for the tax year 2011. That form stated that Blackstone's business was

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

"[i]nformation [s]ervices," and described its product or service as "[d]ocument [t]racking." TROY X. KELLEY declared that the company made gross profits of $245,000 for tax year 2011. Blackstone's declared income for 2011, however, was offset by business expense deductions that totaled $66,147.

86. According to an attached Form 4562 Depreciation and Amortization, approximately $28,535.32 of the declared deductions consisted of depreciation of two vehicles, including a new vehicle purchased in 2011. TROY X. KELLEY indicated in Form 4562 that both vehicles were used 100% for the business. The remaining business deductions were itemized in a personally-prepared schedule entitled "Profit & Loss Statement," and appended to Blackstone's return. The schedule noted, for example, $5,162.21 in fuel expenses, $8,830.40 in business travel, $3,065.48 in conference education expenses, $7,402.12 in sales expenses, and $2,974.35 for subscriptions and books.

87. In truth and fact, as TROY X. KELLEY well knew, many of the expenses that TROY X. KELLEY declared as business deductions on Blackstone's Form 1120S were personal expenses, and the expenses were not expenses associated with any business that Blackstone had engaged in during the tax year 2011.

88. On about January 6, 2012, TROY X. KELLEY issued a check on the Berkeley United account at Vanguard, in the amount of $245,000, to Blackstone, which he deposited into Blackstone's account at Columbia Bank. On about February 1, 2012, TROY X. KELLEY transferred the remaining $2,090,818 in the Berkeley United account at Vanguard to an account at Vanguard in the name of Blackstone.

89. On or about February 2, 2013, TROY X. KELLEY filed a Form 1120S on behalf of Blackstone for the tax year 2012, in which he declared gross profits of $245,000, for Blackstone. As with the previous year's form, that form stated that Blackstone's business was "[i]nformation [s]ervices," and described its product or service as "[d]ocument [t]racking." Blackstone's declared income in 2012 was offset by business-expense deductions totaling $60,425.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

90. Attached to the 2012 Form 1120S was a personally-prepared schedule itemizing the various categories of claimed business expenses. The schedule noted, among other things, $5,953.85 in fuel costs, $12,573.81 in business travel, $4,979.40 in a category entitled "conference education," $9,975.04 in sales expenses, and $6,270 in depreciation for a vehicle. On an attached Form 4562, which detailed the depreciated vehicle, TROY X. KELLEY noted that the vehicle claimed was used 100% for business and that the vehicle had been driven 15,000 miles during that year.

91. In truth and fact, as TROY X. KELLEY well knew, many of the expenses that TROY X. KELLEY declared as business deductions on Blackstone's Form 1120S were personal or campaign-related expenses, and at least approximately $57,273 were not expenses associated with any business that Blackstone had engaged in during the tax year 2012.

92. On April 19, 2013, at Olympia, IRS Criminal Investigation ("IRS-CI") Special Agents interviewed TROY X. KELLEY. During the interview, TROY X. KELLEY was asked to explain his tax treatment of the reconveyance fees that TROY X. KELLEY had consolidated in 2008, but did not declare as income on his 2006 to 2008 income tax returns. TROY X. KELLEY stated that his company was earning the $245,000 he was transferring to Blackstone each year by continuing to perform work on old reconveyance files.

93. The statements and representations were false because, as TROY X. KELLEY then and there knew, TROY X. KELLEY and Blackstone were not tracking reconveyance transactions. Post Closing Department had terminated the employees who previously had performed the work. In addition, TROY X. KELLEY previously had testified under oath that Post Closing Department's files had been destroyed in a fire at Stewart Title's office on June 25, 2008, and in the subsequent crash of TROY X. KELLEY's computer.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

94. In each of 2013, 2014, and 2015, TROY X. KELLEY withdrew an additional $245,000 from the Blackstone account at Vanguard. As a result, by February 27, 2015, the balance on the account had been reduced to $1,355,843.

95. On March 26, 2015, notwithstanding the fact that he had told IRS-CI agents that he still was performing work to earn this money, TROY X. KELLEY wrote two checks on the account -- which he previously had described as an impound account that held moneys that he had not earned -- that reduced the balance in the account to zero. First, TROY X. KELLEY wrote a check to the United States Treasury for $447,421. On the memo line of that check, TROY X. KELLEY wrote "Form 1040 2016-2020." Second, TROY X. KELLEY wrote a check in the amount of $908,397 to a trust account in Seattle in which the funds were to be held for his benefit.

COUNT 1
(Possession and Concealment of Stolen Property)

96. The allegations set forth in Paragraphs 1 through 95 are re-alleged and incorporated as if fully set forth herein.

97. From in or about June 2008, to in or about January 2012, at Tacoma, in the Western District of Washington, and elsewhere, TROY X. KELLEY did possess and conceal stolen property, knowing the same to have been stolen, unlawfully converted, and taken, namely, money of a value of $5,000 or more, which money had crossed a State boundary after being stolen, unlawfully converted, and taken, to wit, funds that were taken by fraud from Fidelity National Title and borrowers between January 2006 and March 2008, taken by fraud from Old Republic Title and borrowers between June 2006 and June 2008, and stolen by TROY X. KELLEY between January 2006 and June 2008, and that subsequently were transferred to an account in the name of Blackstone International, Inc., at Nevada State Bank, in the State of Nevada, and further transferred to an account in the name of Berkeley United, LLC, at Vanguard, in the State of Pennsylvania.

All in violation of Title 18, United States Code, Section 2315.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

COUNT 2
(False Declaration)

98. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

99. On or about August 2, 2010, at Seattle, in the Western District of Washington, TROY X. KELLEY, while under oath and testifying in a civil deposition, knowingly did make a false material declaration in a proceeding before and ancillary to a court of the United States.

100. On December 10, 2009, Old Republic Title filed a civil lawsuit in King County Superior Court, which was removed to the United States District Court for the Western District of Washington, *Old Republic Title, Ltd v. Troy Kelley, et al.*, C10-0038JLR, on January 6, 2010. The lawsuit included allegations that, pursuant to TROY X. KELLEY's agreement with Old Republic Title, TROY X. KELLEY and Post Closing Department were obligated to return unused reconveyance-processing fees to borrowers, but did not do so. Among other things, the lawsuit alleged that this failure constituted a breach of contract and unjust enrichment. Accordingly, at the time and place of aforesaid deposition, it was material whether, during a previous class action lawsuit in relation to an agreement similar to the one TROY X. KELLEY entered into with Old Republic Title, TROY X. KELLEY, after the class action lawsuit was filed, acknowledged that he was obligated to pay refunds to borrowers by sending the lead plaintiff, F.C., a $250 refund under cover of a letter acknowledging Post Closing Department's obligation to pay the refund.

101. At the time and place alleged, TROY X. KELLEY appearing as a witness under oath during a deposition, knowingly made the following declarations in response to questions with respect to the material matter alleged, as follows:

Question: But you're denying that you sent this letter?

Answer: Yes.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

Question: Or denying a recollection of it?

Answer: Yes.

Question: Which –

Answer: I don't remember this at all.

Question: You think it's likely that you sent it?

Answer: No.

Question: Think it's most likely that you did not?

Answer: Yes.

102. The answer given by TROY X. KELLEY to the next-to-last question, as he then and there well knew and believed, was false in that, as he was well aware, TROY X. KELLEY personally wrote the letter and caused the letter to be written, purchased the check made payable to F.C. for $250, and sent the letter to F.C.

All in violation of Title 18, United States Code, Section 1623(a).

COUNT 3
(False Declaration)

103. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

104. On or about April 8, 2011, at Olympia and Seattle, in the Western District of Washington, TROY X. KELLEY, in a declaration under penalty of perjury as permitted under Title 28, United States Code, Section 1746, knowingly did make a false material declaration in a proceeding before and ancillary to a court of the United States.

105. On December 10, 2009, Old Republic Title filed a civil lawsuit in King County Superior Court, which was removed to the United States District Court for the Western District of Washington, *Old Republic Title, Ltd v. Troy Kelley, et al.*, C10-0038JLR, on January 6, 2010. The lawsuit included allegations that, pursuant to TROY

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

X. KELLEY's agreement with Old Republic Title, TROY X. KELLEY and Post Closing Department were obligated to return unused reconveyance-processing fees to borrowers, but did not do so. Among other things, the lawsuit alleged that this failure constituted a breach of contract and unjust enrichment. Accordingly, it was material whether during a previous class action lawsuit, in relation to an agreement similar to the one TROY X. KELLEY entered into with Old Republic Title, TROY X. KELLEY, after the class action lawsuit was filed, acknowledged that he was obligated to pay refunds to borrowers by sending the lead plaintiff, F.C., a $250 refund under cover of a letter acknowledging Post Closing Department's obligation to pay the refund.

106. At the time and place alleged, TROY X. KELLEY signed and filed with the court a declaration in which he knowingly made the following statement with respect to the material matter alleged:

> Old Republic has also submitted a copy of a letter from the *Cornelius* litigation in which someone tried to return money to the plaintiff in that case. As I testified at my deposition, I didn't send this letter, and I don't know who did.

107. The aforesaid statement of TROY X. KELLEY, as he then and there well knew and believed, was false in that, as he was well aware, TROY X. KELLEY personally wrote the letter and caused the letter to be written, purchased the check made payable to F.C. for $250, sent the letter to F.C., and knew who sent the letter to F.C.

All in violation of Title 18, United States Code, Section 1623(a).

COUNT 4
(False Declaration)

108. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

109. On or about August 2, 2010, at Seattle, in the Western District of

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

Washington, TROY X. KELLEY, while under oath and testifying in a civil deposition, knowingly did make a false material declaration in a proceeding before and ancillary to a court of the United States.

110. On December 10, 2009, Old Republic Title filed a civil lawsuit in King County Superior Court, which was removed to the United States District Court for the Western District of Washington, *Old Republic Title, Ltd v. Troy Kelley, et al.*, C10-0038JLR, on January 6, 2010. The lawsuit included allegations that, pursuant to TROY X. KELLEY's agreement with Old Republic Title, TROY X. KELLEY and Post Closing Department were obligated to return unused reconveyance-processing fees to borrowers, but did not do so. Among other things, the lawsuit alleged that this failure constituted a breach of contract and unjust enrichment. Accordingly, at the time and place of aforesaid deposition, it was material whether any verbal amendments had been made which would allow Post Closing Department to charge more for reconveyance tracking than had been provided for in the written agreement.

111. At the time and place alleged, TROY X. KELLEY appearing as a witness under oath during a deposition knowingly made the following declaration in response to questions with respect to the material matter alleged, as follows:

Question: Who at Old Republic discussed or negotiated with you any of your charges beyond the $20 fee specified in the agreement with Old Republic?

Answer: Carl [Lago].

112. The aforesaid testimony of TROY X. KELLEY, as he then and there well knew and believed, was false in that Carl Lago never discussed or negotiated with TROY X. KELLEY the option of earning more than $20 per file.

All in violation of Title 18, United States Code, Section 1623(a).

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

COUNT 5
(False Declaration)

113. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

114. On or about August 2, 2010, at Seattle, in the Western District of Washington, TROY X. KELLEY, while under oath and testifying in a civil deposition, knowingly did make a false material declaration in a proceeding before and ancillary to a court of the United States.

115. On December 10, 2009, Old Republic Title filed a civil lawsuit in King County Superior Court, which was removed to the United States District Court for the Western District of Washington, *Old Republic Title, Ltd v. Troy Kelley, et al.*, C10-0038JLR, on January 6, 2010. The lawsuit included allegations that, pursuant to TROY X. KELLEY's agreement with Old Republic Title, TROY X. KELLEY and Post Closing Department were obligated to return unused reconveyance processing fees to borrowers, but did not do so. Among other things, the lawsuit alleged that this failure constituted a breach of contract and unjust enrichment. It was TROY X. KELLEY's position that he had not returned unused reconveyance fees because the agreement he had entered with Old Republic Title had been verbally modified, providing that Post Closing Department could charge additional fees for every task it performed in relation to each file, and, as a result, there were no unused reconveyance-processing fees. Accordingly, at the time and place of aforesaid deposition, it was material whether Post Closing Department employees kept records reflecting all of the tasks they performed on each file.

116. At the time and place alleged, TROY X. KELLEY appearing as a witness under oath during a deposition knowingly made the following declarations in response to questions with respect to the material matter alleged, as follows:

Question: So you had a log or spreadsheet? What word would you use?

Answer: I would use either word.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

Question: And it would have a specific breakdown of each of these fees and expenses on each transaction?

Answer: Correct.

Question: Would it identify who the – what the specific fee was paid to PCD?

Answer: Correct.

Question: So for example, you mentioned a fee for contacting lenders.

Answer: Correct.

Question: Would it say what the fee was and that this particular fee was charged to that escrow file and to contact the lender?

Answer: That's exactly how –

Question: It wouldn't just be "PCD fees $55" without indicating what?

Answer: No, there were separate columns for each different fee.

117. The answer given by TROY X. KELLEY to the last question, as he then and there well knew and believed, was false in that, as he was well aware, TROY X. KELLEY had entered into an agreement with Old Republic Title to track its reconveyances for a flat fee of $20.00 per transaction tracked. Therefore, Post Closing Department employees were not asked to, and did not, keep track of the individual tasks they performed on files. As a result, Post Closing Department's spreadsheets did not identify specific fees paid to Post Closing Department.

All in violation of Title 18, United States Code, Section 1623(a).

COUNT 6
(Attempted Obstruction of Civil Lawsuit)

118. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

119. On or about the July 26, 2010, at Seattle and elsewhere, within the Western District of Washington, TROY X. KELLEY corruptly attempted to obstruct, influence, and impede the proceedings in *Old Republic Title, Ltd v. Troy Kelley, et al.*, C10-

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

0038JLR, an official proceeding, by concealing from plaintiff, Old Republic Title, funds that TROY X. KELLEY had taken by fraud and stolen.

120. On December 10, 2009, Old Republic Title filed a civil lawsuit in King County Superior Court, which was removed to the United States District Court for the Western District of Washington, *Old Republic Title, Ltd v. Troy Kelley, et al.*, C10-0038JLR, on January 6, 2010. The lawsuit included allegations that, pursuant to TROY X. KELLEY's agreement with Old Republic Title, TROY X. KELLEY and Post Closing Department were obligated to return unused reconveyance-processing fees to borrowers, but did not do so. Alleging that this failure constituted a breach of contract and unjust enrichment, the lawsuit sought the return of the funds. Accordingly, information relating to the location of Old Republic Title's funds was material.

121. As part of the civil discovery in *Old Republic Title, Ltd v. Troy Kelley, et al.*, C10-0038JLR, written interrogatories were served upon defendant TROY X. KELLEY. Interrogatory 18 required TROY X. KELLEY to identify all bank accounts "into which you deposited or held any money originally received from Old Republic." On March 25, 2010, TROY X. KELLEY responded to this interrogatory, stating "[t]he only account used for the deposit of checks from ORT was #[******]1629 at Columbia Bank. The account was in the name of United National, LLC; dba Post Closing Department."

122. On or about July 26, 2010, TROY X. KELLEY provided the following supplemental response to Interrogatory 18:

> As noted above, the only account used for the deposit of checks was Account No. [******]1629 at Columbia Bank. From time to time, as reflected in the Columbia bank records, United National would transfer funds representing service fees from this account to Account No. [******]5529 at Columbia Bank.
>
> In addition, as also reflected in the Columbia Bank records, at the conclusion of United National's reconveyance work for Old Republic, United National transferred the remaining funds in Account No. [******]1629 to Wells Fargo Account No. [***-***]3310, another business account held by United National. At that point, the funds were commingled with other funds that United National

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

had received from other business operations, including other reconveyance business.

123. In truth and in fact, as TROY X. KELLEY well knew, Berkeley United held a Vanguard account into which TROY X. KELLEY had transferred money received from Old Republic Title, namely, reconveyance fees entrusted to Old Republic by borrowers and disbursed to Post Closing Department pursuant to borrowers' escrow instructions. By his supplemental response to Interrogatory 18, TROY X. KELLEY sought to conceal this money from Old Republic Title.

All in violation of Title 18, United States Code, Section 1512(c)(2).

COUNT 7
(Corrupt Interference with Internal Revenue Laws)

124. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

125. Beginning in or before 2007 and continuing until the present, at Tacoma and elsewhere, in the Western District of Washington, TROY X. KELLEY did corruptly endeavor to obstruct and impede the due administration of the internal revenue laws by failing to declare income that he had obtained by fraud and stolen in the years in which he obtained such income, by falsely declaring a portion of that income in later years in an attempt to make the income legitimate, by claiming fraudulent deductions to reduce his tax obligation on the portion of the income that he did declare, and by making false statements to Internal Revenue Service employees who interviewed him concerning the income.

126. The Internal Revenue Service ("IRS") is an agency of the United States within the Department of Treasury of the United States responsible for enforcing and administering the tax laws of the United States. The federal income tax system of the United States relies upon citizens to truthfully, accurately, and timely report income and expense information to the IRS.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

127. Between 2006 and 2008, having fraudulently obtained and stolen funds from Fidelity National Title, Old Republic Title, and borrowers, TROY X. KELLEY fully realized that the title companies and borrowers might seek the return of their funds. Accordingly, TROY X. KELLEY sought to avoid payment of taxes on the fraudulently-obtained and stolen funds, at least until after any such action was resolved.

128. To do so, between 2006, and 2008, TROY X. KELLEY deliberately underreported on tax returns for the tax years 2006 through 2008, the income that United National earned and that flowed through to Blackstone and ATS, and then to TROY X. KELLEY's and D.D.K.'s tax returns. In total, TROY X. KELLEY failed to report a total of more than $3,000,000 of income on United's tax returns for 2006 through 2008. As a result, TROY X. KELLEY failed to report on his and D.D.K.'s joint tax returns, and to pay, a total of approximately $1,000,000 of taxes for those three years.

129. After failing to report Post Closing Department's true income on United National's tax returns for the years 2006 through 2008, TROY X. KELLEY kept that untaxed money in an account in the name of Berkeley United at Vanguard from 2008 through 2011. On May 3, 2011, TROY X. KELLEY settled the last remaining piece of litigation against him relating to the stolen reconveyance funds by agreeing to pay Old Republic Title $1,150,000.

130. Beginning a month later, on June 3, 2011, TROY X. KELLEY transferred $245,000 per year of this money to accounts that he controlled. TROY X. KELLEY reported this amount as income on Blackstone tax returns for the years 2011 through at least 2013. TROY X. KELLEY offset the income by claiming fraudulent deductions for expenses that either were wholly fraudulent or that were for personal expenses, rather than legitimate business expenses of Blackstone. TROY X. KELLEY claimed these fraudulent expenses both to reduce his tax obligation, and in an attempt to provide an appearance of legitimacy for Blackstone, which otherwise would have had substantial income but no reported expenses.

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

131. TROY X. KELLEY claimed $66,147 in fraudulent business deductions on Blackstone's 2011 Form 1120S, and claimed $60,425 in business deductions, at least $57,273 of which were fraudulent, on Blackstone's 2012 Form 1120S. Because Blackstone's ordinary business income was reportable on TROY X. KELLEY's and D.D.K.'s joint personal tax return, TROY X. KELLEY thereby reduced his own taxable income for each of 2011 and 2012. The overall effect of the claimed expenses was to reduce TROY X. KELLEY's personal tax obligation by approximately $20,000 in each of 2011 and 2012.

132. When TROY X. KELLEY was interviewed by Internal Revenue Service – Criminal Investigation Special Agents, on April 19, 2013, TROY X. KELLEY made false and fraudulent statements concerning his actions. In particular, TROY X. KELLEY falsely claimed that Blackstone was continuing to work on reconveyance files, and, thereby, had earned the $245,000 in income that it reported in each of 2011 and 2012.

All in violation of Title 26, United States Code, Section 7212(a).

COUNT 8
(Filing False Income Tax Return)

133. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

134. On or about October 9, 2008, at Seattle, in the Western District of Washington, TROY X. KELLEY, a resident of Tacoma, Washington, did willfully make and subscribe a US Return of Partnership Income, Form 1065, for United National, LLC for calendar year 2008, which was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported "gross receipts or sales" of $198,996, whereas, as TROY X. KELLEY then and there well knew, United National LLC received additional gross receipts not stated on the return, to wit, at least approximately $304,019 of additional gross receipts.

All in violation of Title 26, United States Code, Section 7206(1).

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

COUNT 9
(Filing False Income Tax Return)

135. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

136. On or about March 31, 2009, at Tacoma, in the Western District of Washington, TROY X. KELLEY, a resident of Tacoma, Washington, did willfully make and subscribe a U.S. Individual Income Tax Return, Form 1040, for himself and his wife D.D.K. for calendar year 2008, which was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported income from Blackstone International, Inc., and Attorney Trustee Services, Inc., of $169,868 and total income of $322,659, whereas, as TROY X. KELLEY then and there well knew, he and D.D.K. had income from Blackstone International, Inc., and Attorney Trustee Services, Inc., in addition to the amount stated on the return, to wit, additional income of at least approximately $292,954.

All in violation of Title 26, United States Code, Section 7206(1).

COUNT 10
(False Statements)

137. The allegations set forth in Paragraphs 1 through 95 of this Indictment are re-alleged and incorporated as if fully set forth herein.

138. On or about April 19, 2013, at Olympia, within the Western District of Washington, TROY X. KELLEY did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of the executive branch of the Government of the United States, by informing Internal Revenue Service – Criminal Investigation Special Agents during an interview that, Blackstone International earned the $245,000 he transferred to Blackstone International, Inc., in each of 2011 and 2012, by continuing to perform work on reconveyance files. The statements and representations were false because, as TROY X. KELLEY then and

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

there knew, TROY X. KELLEY and Blackstone International, Inc., were not performing any significant work tracking reconveyance transactions in 2011 and 2012.

All in violation of Title 18, United States Code, Section 1001.

FORFEITURE ALLEGATION

139. The allegations contained in Count 1 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

140. Upon conviction of the offense of Possession and Concealment of Stolen Property in violation of Title 18, United States Code, Section 2315, set forth in Count 1 above, TROY X. KELLEY shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all property, real or personal, that constitutes or is derived from proceeds traceable to such offense, including but not limited to the following property:

a. Money Judgment. A sum of money equal to approximately $1,463,171, representing the amount of proceeds obtained as a result of the offense set forth in Count 1, above.

141. If any of the forfeitable property described above, as a result of any act or omission of 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 comingled with other property which cannot be divided without difficulty;

then it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800

forfeiture of any other property of the Defendant up to the value of the forfeitable property.

A TRUE BILL: 4-17-2017

DATED:

Signature of Foreperson redacted pursuant to the policy of the Judicial Conference of the United States

FOREPERSON

/s/ Teresa Gorman

ANNETTE L. HAYES
Acting United States Attorney

ANDREW C. FRIEDMAN
Assistant United States Attorney

KATHERYN K. FRIERSON
Assistant United States Attorney

ARLEN R. STORM by KF
Assistant United States Attorney

UNITED STATES ATTORNEY
1201 PACIFIC AVENUE, SUITE 700
TACOMA, WASHINGTON 98402
(253) 428-3800