

United States District Court
 District of Connecticut
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 Roberta D. Tabora, Clerk
 By Deputy Clerk
 2016

UNITED STATES DISTRICT COURT
 DISTRICT OF CONNECTICUT
 B-15-1

UNITED STATES OF AMERICA : Criminal No. 3:16CR29 (MPS)

v. : VIOLATIONS:

: : 18 U.S.C. Section 1349 (Conspiracy)

TIMOTHY W. BURKE, also known as : 18 U.S.C. Section 1341 (Mail Fraud)

“Bill Burke,” “William Burke,” : 18 U.S.C. Section 1343 (Wire Fraud)

“Kerry Saunders,” “Pat Riley,” : 18 U.S.C. Section 1028A (Aggravated

“Jim Caldwell,” “Jim Saunders,”: Identity Theft)

“Tom Morrisey,” “Jimmy,” : 26 U.S.C. Section 7201 (Tax Evasion)

“Phil Burke,” “Phil,” “Burt,” : 18 U.S.C. Section 1956(a)(1)(B)(i) (Money

“James Burke,” and “M. Soler,” : Laundering)

and BRADFORD BARNEYS. : 18 U.S.C. Section 2 (Aiding and Abetting)

SECOND SUPERSEDING INDICTMENT

The Grand Jury charges:

General Allegations

1. At all times relevant to this Superseding Indictment, defendant

Timothy W. BURKE resided in Connecticut and owned and controlled a number of businesses purportedly engaged in the business of real estate, including but not limited to, Quality Asset Management Services, LLC; Birmingham Investments, LLC; the Birmingham Group of Companies; Saunders Associates; New Haven Investments; Realty Partners Group; Preston Associates II; Landlord Maintenance Services, LLC; Turnkey Construction Services LLC; The Complete Handyman, LLC; and Woodbridge Associates.

2. In or around 2002, BURKE was indicted by a federal grand jury in the District of New Jersey on charges of conspiracy, mail fraud, and equity skimming. In or around March 2003, BURKE pleaded guilty to conspiracy to commit mail fraud and equity skimming and was sentenced to a term of imprisonment. BURKE was released from federal custody in approximately August 2007 and began his federal supervised release at that time. BURKE was convicted under the name "Timothy W. Burke." One of the special conditions of BURKE's supervised release was that he refrain from employment in the real estate business or mortgage industry.

3. At all times relevant to this Superseding Indictment, BURKE used a number of aliases, including but not limited, to "Bill Burke," "William Burke," "Kerry Saunders," "Pat Riley," "Jim Caldwell," "Jim Saunders," "Tom Morrisey," "Jimmy," "Phil Burke," "Phil," "Burt," "James Burke," and "M. Soler" in connection with the activities described herein.

4. Defendant BRADFORD BARNEYS was an attorney who was admitted to practice law in the State of Connecticut in or around December 1991 and who operated a law firm doing business as Barneys Law Group, LLC with offices in Bridgeport, Connecticut.

COUNT ONE
(Conspiracy – Burke & Barneys)

The Conspiracy

5. The allegations in paragraphs 1 through 4 of this Superseding Indictment are realleged and incorporated by reference as though set out in this count.

6. Beginning from at least in or about August 2011 and continuing until at least September 2014, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, BURKE and BARNEYS did unlawfully, knowingly, and intentionally combine, conspire, confederate, and agree with others, both known and unknown to the Grand Jury, to commit an offense against the United States, that is:

- a. to devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme and artifice, to knowingly deposit and cause to be deposited items to be sent and delivered by U.S. Mail and by private and commercial interstate carrier, in violation of Title 18, United States Code, Section 1341; and
- b. to devise and to intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing the scheme and artifice, to knowingly transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

Purpose of the Conspiracy

7. The purpose of the conspiracy was for BURKE and BARNEYS to unlawfully enrich and benefit themselves by defrauding homeowners, tenants, mortgage lenders, and the Federal Housing Administration (“FHA”), by obtaining possession of real properties throughout Connecticut through false and fraudulent pretenses, collect rent on those properties, and conceal the conspiracy from others.

Manner and Means of the Conspiracy

The manner and means by which BURKE and BARNEYS sought to accomplish and did accomplish the objects of the conspiracy included, among others, the following:

8. It was part of the conspiracy that BURKE sought to enrich himself by identifying real properties that were in financial distress and/or in foreclosure proceedings.

9. It was further part of the conspiracy that BURKE, along with BARNEYS—acting as his attorney—convinced victim homeowners to give BURKE physical control of their properties by falsely representing to them that BURKE was purchasing their properties, would take over their mortgage and interest payments, and would pay the taxes associated with the properties.

10. It was further part of the conspiracy that BURKE would advertise and rent out the properties that he fraudulently obtained to make rental income but not pay the homeowner victims’ mortgage and interest payments and taxes as he had

promised to the homeowner victims.

11. It was further part of the conspiracy that BURKE and BARNEYS used numerous aliases for BURKE, including but not limited to "Bill Burke," "William Burke," "Kerry Saunders," "Pat Riley," "Jim Caldwell," "Jim Saunders," "Tom Morrisey," "Jimmy," "Phil Burke," "Phil," "Burt," "James Burke," and "M. Soler," to conceal, and did conceal, BURKE's true identity from homeowners, lenders, the United States Department of Housing and Urban Development ("HUD"), tenants, and others, and to prevent them from discovering his criminal history, including his 2003 federal conviction for conspiracy to commit mail fraud and equity skimming.

12. It was further part of the conspiracy that BURKE and BARNEYS used a number of corporate entities or names, including but not limited to Quality Asset Management Services, LLC; Birmingham Investments, LLC; the Birmingham Group of Companies; Saunders Associates; New Haven Investments; Realty Partners Group; Preston Associates II; Landlord Maintenance Services, LLC; Turnkey Construction Services LLC; The Complete Handyman, LLC; and Woodbridge Associates, to disguise and obscure BURKE's true identity and his prior criminal history. In an effort to conceal his ownership of these entities, BURKE routinely caused the names of other persons to appear on corporate paperwork and bank accounts.

13. It was further part of the conspiracy that BURKE rented and used post office boxes as his business address to disguise and obscure his activities.

BURKE and BARNEYS Solicit Homeowners to Defraud

14. It was further part of the conspiracy that BURKE would and did identify real properties that were in foreclosure, including but not limited to, purchasing lists of properties in foreclosure.

15. It was further part of the conspiracy that BURKE mailed, and caused to be mailed, hundreds of letters addressed to owners of properties in foreclosure indicating that BURKE (through an alias and/or a corporate entity) was an "investor" interested in "purchasing" their property quickly. The letters encouraged homeowners to call the telephone number listed in the solicitation letter.

16. It was further part of the conspiracy that BURKE spoke with homeowner victims who responded to the solicitation letter and met with them on one or more occasions, including with BARNEYS, who BURKE introduced as his attorney.

17. It was further part of the conspiracy that BURKE represented to homeowner victims that he was an experienced real estate investor who worked with "partners" to purchase properties.

18. It was further part of the conspiracy that BURKE and BARNEYS induced homeowner victims to relinquish control of their property by falsely representing to them that BURKE or one of his companies would purchase their property and pay their mortgage obligations, interest payments, and property taxes.

19. It was further part of the conspiracy that BURKE and BARNEYS had

homeowner victims sign one or more of the following documents:

- a. a purported quitclaim deed in which the homeowner deeded his or her property to one of BURKE's corporate entities for a nominal figure (e.g., \$1);
- b. a purported indemnification agreement in which one of BURKE's corporate entities indemnified the homeowner victim from the mortgage, interest, and any attorney's fees arising from the foreclosure action;
- c. a purported third party authorization for one of BURKE's corporate entities to negotiate an assumption, mortgage modification, and/or short sale with the homeowner victim's mortgage lender; and
- d. a purported management agreement to authorize one of BURKE's corporate entities to manage the property, including renovation, maintenance, and rental activities.

20. It was further part of the conspiracy that BURKE and BARNEYS falsely represented to homeowner victims that the documents described in ¶ 19 above allowed them to walk away from their distressed home "free and clear" of any further financial obligations.

21. It was further part of the conspiracy that BURKE would and did entice some homeowner victims to vacate their properties quickly by paying them money for moving expenses.

22. It was further part of the conspiracy that BURKE informed homeowner victims that they could continue to receive correspondence, notices, or calls about their delinquent mortgage payments or foreclosure proceedings, but that they should ignore them because the purchase process could take some time and mortgage lenders were slow to update their records.

**BURKE Intentionally Does Not Pay
Homeowners' Mortgages, Taxes, or Other Expenditures**

23. It was further part of the conspiracy that, after he obtained the keys to the property from a homeowner victim, BURKE did not record documents reflecting a homeowner's purported transfer of title or ownership to one of BURKE's companies.

24. It was further part of the conspiracy that BURKE did not contact mortgage lenders to assume and/or modify a homeowner victim's existing mortgage. BURKE did not negotiate short sales with a homeowner victim's mortgage lender.

25. It was further part of the conspiracy that BURKE did not make mortgage or interest payments on a homeowner victim's existing mortgage. Some of those mortgages were insured by the Federal Housing Administration, a component of HUD.

26. It was further part of the conspiracy that BURKE did not pay applicable property taxes and other expenses, such as condominium association fees, on the properties that he fraudulently obtained as part of this scheme.

27. It was further part of the conspiracy that BURKE concealed his failure to pay the mortgage, interest, and taxes from the homeowner victims and further concealed his failure to contact their mortgage lenders.

28. It was further part of the conspiracy that, when homeowner victims attempted to contact BURKE or BARNEYS about the status of their sale to BURKE or inquire about a notice or correspondence they received from their mortgage

lenders, BURKE and BARNEYS falsely assured homeowner victims that everything was progressing as they had promised, evaded their calls and inquiries, or referred them to the other co-conspirator.

29. It was further part of the conspiracy that when the properties BURKE fraudulently obtained were finally foreclosed, the homeowner victims—and not BURKE or one of his entities—were held financially responsible.

BURKE Rents Out Properties to Enrich Himself

30. It was further part of the conspiracy that after BURKE obtained control of a homeowner victim's property, BURKE would and did attempt to rent the property out to one or more tenants.

31. It was further part of the conspiracy that BURKE advertised properties he obtained through his scheme through, among other means, "for rent" signs and online rental listings, including on Craigslist.com.

32. It was further part of the conspiracy that BURKE and his associates showed properties that BURKE fraudulently obtained to prospective tenant victims to entice them to rent the properties.

33. It was further part of the conspiracy that BURKE represented, and caused others to represent, that he and one of his entities was the owner or landlord of the property and that he was authorized to rent the properties and collect rent payments.

34. It was further part of the conspiracy that BURKE did not disclose to

prospective tenant victims the identity of the true homeowner and that the property they sought to rent was in foreclosure proceedings.

35. It was further part of the conspiracy that BURKE required a tenant victim to pay him one month's rent and one month's security deposit in order to rent the property. Often, BURKE required the tenant victim to also pay the last month's rent, thus requiring three months' rent up front.

36. It was further part of the conspiracy that BURKE directed tenants to pay rent in cash and not by check.

37. It was further part of the conspiracy that BURKE and others at his direction would and did collect rent payments in person from tenants rather than have them mail payments.

38. It was further part of the conspiracy that BURKE would and did divert and collect Section 8 payments from Public Housing Authorities ("PHAs") as partial payment for rent on properties that were part of BURKE's scheme.

39. It was further part of the conspiracy that BURKE did not disburse rental income from tenants to mortgage lenders and to homeowner victims, but instead used the rental income he and his entities received for his own personal use and to perpetuate the scheme.

40. It was further part of the conspiracy that BURKE and BARNEYS would and did evict tenants for non-payment of rent and delinquent payments in order to vacate the properties and to collect legal fees.

41. It was further part of the conspiracy that, upon eviction, BURKE would and did re-rent the properties to other tenants in order to perpetuate the conspiracy and to collect security deposits and rental income.

42. It was further part of the conspiracy that BARNEYS represented BURKE in eviction proceedings in housing court and filed eviction actions on BURKE's behalf, on behalf of one of BURKE's entities, and purportedly on behalf of homeowners.

43. It was further part of the conspiracy that BURKE paid BARNEYS tens of thousands of dollars of fees and other monies.

44. It was further part of the conspiracy that BURKE would and did deny that he was "Timothy W. Burke" in order to conceal his true identity, to prevent discovery of his criminal history, and to perpetuate the scheme, including, but not limited to, in correspondence with the Better Business Bureau.

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

COUNTS TWO through SIX
(Mail Fraud – Burke & Barneys)

The Scheme to Defraud

45. The allegations in paragraphs 1 through 44 of this Superseding Indictment are realleged and incorporated by reference as though set out in full in these counts.

46. Beginning from at least in or about April 2008 and continuing until

approximately November 19, 2015, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, BURKE and BARNEYS willfully, knowingly, and with intent to defraud, devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purposes of executing such scheme and artifice, did knowingly cause to be deposited items to be sent and delivered by U.S. mail and by private and commercial interstate carriers.

47. On or about the dates set forth for each count below, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, for the purpose of executing and attempting to execute the aforementioned scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises as described above, the defendant(s) indicated below for each count did knowingly cause to be deposited items to be sent and delivered by U.S. mail and private and commercial interstate carriers according to the directions thereon, each item delivered and caused to be delivered constituting a separate count of this Superseding Indictment:

Count	Defendant	Date	From	To	Description
2	BURKE	1/30/2014	P.O. Box 320954 Fairfield, CT	L. **** Appletree Way Keller, TX	First-class letter containing solicitation letter from Saunders Associates dated January 4, 2014
3	BURKE	4/17/2014	Barneys Law Offices 1944 Boston Avenue Suite 200 Bridgeport, CT	P.S. *** Sycamore St. Bristol, CT	First-class letter containing documents re *** Sylvester Street, Meriden, CT
4	BURKE BARNEYS	6/20/2014	State of Connecticut Superior Court Housing Session Office of the Clerk	Bradford J BARNEYS 1944 Boston Ave., Suite 200 Bridgeport, CT	Notice of Docket Number re eviction action for ***-*** Lenox Avenue, Bridgeport, CT
5	BURKE	2/24/2015	Quality Asset Management Services, LLC P.O. Box 308 Easton, CT	Bridgeport Housing Authority 150 Highland Avenue Bridgeport, CT	First-class letter containing documents re ***-*** Lenox Avenue, Bridgeport, CT
6	BURKE	5/7/2015	Preston Associates II P.O. Box 308 Easton, CT	T.G. 55 Park St.-Lower Level New Haven, CT	FedEx Envelope containing eviction papers for T.G. at *** 3rd Street, Unit 16, Ansonia, CT

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNT SEVEN
(Wire Fraud – Burke)

48. The allegations in paragraphs 1 through 46 of this Superseding Indictment are realleged and incorporated by reference as though set out in full in this count.

49. Beginning from at least in or about April 2008 and continuing until approximately November 19, 2015, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, the defendant Timothy W.

BURKE willfully, knowingly, and with intent to defraud, devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and for the purposes of executing such scheme and artifice, did knowingly transmit, and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, and sounds.

50. It was part of the scheme and artifice to defraud that in 2013, BURKE would and did respond to an on-line complaint a victim tenant filed against Saunders & Associates, one of BURKE's entities, to the Better Business Bureau ("BBB"). The complaint caused the BBB's complaints system to generate an e-mail to BURKE notifying him that a complaint had been filed and contained a link. Clicking on the link allowed access via the internet to BBB's online complaint system to write a response.

51. It was further part of the scheme and artifice to defraud that on or about November 20, 2013, BURKE responded to the victim's complaint in part by writing "[m]yself and my firm are not affiliated with any Timothy Burke from New Jersey or Connecticut." BURKE's response caused the BBB to generate an e-mail to the victim tenant notifying the victim of Saunders & Associates' response to the complaint.

52. On or about November 20, 2013, in the District of Connecticut and elsewhere, for the purpose of executing and attempting to execute the

aforementioned scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises as described above, the defendant Timothy W. BURKE did knowingly transmit, and cause to be transmitted, by means of wire communication in interstate and foreign commerce, certain writings, signs, signals and sounds, to wit, an e-mail with the domain name of ct.bbb.org from the BBB's complaints system servers, located in Texas, to l***@unh.newhaven.edu, located in Connecticut.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT EIGHT
(Aggravated Identity Theft – Burke)

53. The allegations in paragraphs 1 through 52 of this Superseding Indictment are realleged and incorporated by reference as though set out in full in this count.

54. On or about October 6, 2015, in the District of Connecticut, the defendant Timothy W. BURKE, during and in relation to felony violations enumerated in 18 U.S.C. § 1028A(c), to wit, mail fraud as alleged in Counts Two through Six and wire fraud as alleged in Count Seven of this Superseding Indictment, knowingly transferred, possessed, and used, and caused to be transferred, possessed, and used, without lawful authority, a means of identification of another actual person, to wit, the name and signature of "M. Soler."

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

COUNT NINE

(Tax Evasion – Evasion of Payment – Burke)

55. The allegations in paragraphs 1 through 54 of this Superseding Indictment are realleged and incorporated by reference as though set out in full in this count.

56. From on or about May 2007 to in or about November 19, 2015, in the District of Connecticut and elsewhere, the defendant Timothy W. BURKE did willfully attempt to evade and defeat the payment of a large part of the income tax due and owing by him to the United States for the calendar year set forth for calendar years 1994, 1995, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2007, 2010, 2011, and 2012, in the amount of \$1,029,584.58, by the following affirmative acts of evasion:

- a. Instructing tenants to pay rent in cash;
- b. Depositing rental income into a nominee bank account with other individuals as signatories;
- c. Structuring multiple cash deposits under \$10,000 at multiple bank branches to avoid the filing of Currency Transaction Reports (“CTRs”); and
- d. Holding real property in a nominee name.

All in violation of Title 26, United States Code, Section 7201.

COUNTS TEN through TWELVE
(Money Laundering – Burke)

57. The allegations in paragraphs 1 through 56 of this Superseding Indictment are realleged and incorporated by reference as though set out in full in these counts.

58. On or about the dates listed below, in the District of Connecticut and elsewhere, the defendant Timothy W. BURKE, knowing that the property involved in the financial transactions listed below represented the proceeds of some form of unlawful activity, to wit, mail fraud charged in Counts Two through Six and wire fraud charged in Count Seven, conducted and caused to be conducted each of the following financial transactions which in fact involves the proceeds of unlawful activity knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of unlawful activity, in that BURKE cashed the following checks from the account indicated in each count below:

Count	Date	Account	Transaction	Amount of Transaction
10	5/2/2012	Birmingham Investments LLC account at TD Bank ending in 2447	Check 5229 to M.B. cashed at Check Casher #1	\$589.00
11	7/20/2015	Quality Asset Management Services LLC account at People's United Bank ending in 4207	Check 1604 to Birmingham Investments, LLC cashed at Check Casher #2	\$3,550.00
12	8/25/2015	Quality Asset Management Services LLC account at People's United Bank ending in 4207	Check 1794 to Birmingham Investments, LLC cashed at Check Casher #2	\$5,750.00

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

/s/ A TRUE BILL

 FOREPERSON

UNITED STATES OF AMERICA

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DEIRDRE M. DALY
UNITED STATES ATTORNEY

 _____

DAVID T. HUANG
ASSISTANT U.S. ATTORNEY