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EASTERN DISTRICT OF LA.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

FELONY

BILL OF INFORMATION FOR WIRE FRAUD

UNITED STATES OF AMERICA

* CRIMINAL NO. **16-080**

v.

* SECTION: **SECT.N MAG4**

JOHN F. KELLY, III

* VIOLATION: **18 U.S.C. § 1343**

*

* * *

The United States Attorney charges that:

COUNT 1 – WIRE FRAUD

A. AT ALL TIMES MATERIAL HEREIN:

General Overview of Tax Sales

1. Property owners in Louisiana, Georgia, Indiana, and Florida are responsible for paying property taxes to the local political subdivision responsible for collecting property taxes.
2. Property owners who fail to pay their property taxes are subject to having their properties sold at a tax sale auction. These delinquent properties are sold to the public for the amount of delinquent taxes due, plus any accrued interest, penalties, and costs assessed to the property.

3. At a public tax sale auction, registered bidders place bids on properties being sold at the tax sale.

4. The winning bidder pays the amount due from the tax sale and is awarded a tax sale certificate or tax lien upon the property.

5. However, following the tax sale, the property owner has a time period set by law in which to redeem the property from the tax sale purchaser. To redeem the property and retain full title to the property, the property owner (or other interested party) must reimburse the tax sale purchaser the tax sale purchase price, plus the fees and the statutory interest penalty that has accrued against the property owner from the date of the tax sale to the date the property is redeemed.

6. If the tax sale property is not redeemed within the redemptive period, the tax sale purchaser can initiate legal action to acquire clear title to the property or to force a sale of the property, dependent upon the jurisdiction in which the property resides.

Background

7. In or around 2010 and continuing through 2014, **JOHN F. KELLY, III (KELLY)** operated a tax sale investment business. **KELLY's** business model consisted of soliciting monies from investors, and using these funds to purchase tax sale certificates or liens from the political subdivision responsible for property tax collection and tax sales. **KELLY's** sales pitch emphasized a quick rate of return for the investor because property owners (or some other third party) routinely redeem tax sale properties prior to the expiration of the redemptive period, which causes the tax sale purchaser to be paid back. The statutorily-provided interest penalty and fees paid by the redeeming party to the tax sale purchaser guaranteed the tax sale investor a quick and profitable rate of return on their investment.

8. **KELLY** also controlled, operated, and used a number of companies in the Eastern District of Louisiana to facilitate the scheme to defraud. The companies include, but are not limited to, Webster Street Properties, VPJ Tax Asset Fund I, JFK Capital, JFK Capital Management, JFK Capital Holdings, JFK Capital Advisors, Union Capital, Pinnacle NTAF, JFK Capital Holdings, Julia Street Holdings, Kelly Family Properties, State Street Development, Delord Street Properties, JFK Properties, Cherokee Properties 302, Cherokee Properties 202, Tryfekta Development, National Tax Asset Fund I and II, JFK 220-222 Vine, and JFK Development.

Investor Fund A, Investor Fund B, and Investor Fund C

9. In 2011, and continuing through 2013, Investor Fund A, Investor Fund B, and Investor Fund C (Investor Funds) forwarded monies to defendant **KELLY** as investment capital for **KELLY** to deploy and invest at tax sales in Louisiana, Georgia, Florida, and Indiana on their behalf.

B. THE SCHEME TO DEFRAUD

10. Beginning in 2011 and continuing through 2015, in the Eastern District of Louisiana and elsewhere, defendant **KELLY** knowingly and willfully devised and intended to devise a scheme and artifice to defraud the Investor Funds and to obtain money and property by means of false and fraudulent promises, pretenses and material misrepresentations.

11. It was part of the scheme and artifice to defraud that **KELLY** solicited and used funds provided by the Investor Funds by falsely representing that the funds would only be used to conduct transactions related to the acquisition and disposition of tax sale certificates and liens acquired in Louisiana, Georgia, Florida, and Indiana. As a result of his false representations, **KELLY** deployed investor funds at tax sales in Louisiana, Georgia, Florida and Indiana.

12. It was further part of the scheme and artifice to defraud that **KELLY** used interstate wire communications and electronic wire transfers of monies across state lines to carry out the scheme. These electronic communications and wire transfers travelled across state lines from outside the State of Louisiana and into the Eastern District of Louisiana.

13. It was further part of the scheme and artifice to defraud that **KELLY** fraudulently diverted monies belonging to the Investor Funds for his own personal use and benefit.

14. It was further part of the scheme and artifice to defraud that **KELLY** fraudulently diverted monies belonging to the Investor Funds to pay off personal loans and to purchase real estate properties in New Orleans that he titled in the name of separate corporate entities he controlled.

15. It was further part of the scheme and artifice to defraud that **KELLY** made materially false representations to the investors and reassured them their funds were fully deployed and invested in tax sale properties owned by the Investor Funds.

C. THE USE OF WIRE TRANSMISSIONS

16. **KELLY**'s false representations caused Investor Funds to be wired in interstate commerce from outside the State of Louisiana and into the Eastern District of Louisiana. **KELLY** also caused electronic signals and sounds to be transmitted by means of interstate wire communications across state lines from within the Eastern District of Louisiana to outside of the State of Louisiana through electronic communications with the Investor Funds. These interstate wire transmissions furthered the scheme to defraud.

17. From 2011 through 2013, in the Eastern District of Louisiana and elsewhere, defendant **KELLY**, for the purpose of executing and attempting to execute the scheme and artifice to defraud the Investor Funds and to obtain money by means of false and fraudulent representations, did knowingly and with the intent to defraud, cause to be transmitted, in

interstate commerce, certain writings, signs, signals, and sounds by means of wire and radio communication, from outside the State of Louisiana and into the Eastern District of Louisiana; to wit, and solely as examples: on or about June 17, 2011, and in furtherance of the scheme to defraud, **KELLY** caused Investor Fund A to electronically wire a payment of approximately \$378,312.04 in interstate commerce from a bank account in Mississippi to a **KELLY** controlled bank account in the Eastern District of Louisiana; on or about January 14, 2013, and in furtherance of the scheme, **KELLY** caused approximately \$326,614.09 of Investor Fund B monies to be electronically wired in interstate commerce from a financial account in Georgia to a **KELLY** controlled bank account in the Eastern District of Louisiana; on or about June 5, 2013, and in furtherance of scheme to defraud, **KELLY** caused a false accounting document related to Investor Fund C's investment portfolio to be electronically transmitted in interstate commerce via e-mail from the Eastern District of Louisiana to Mississippi.

All in violation of Title 18, United States Code, Section 1343.

NOTICE OF FORFEITURE

1. The allegations of Count 1 of this Bill of Information are realleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 18, United States Code, Sections 1343 and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c).

2. As a result of the offense alleged in Count 1, defendant, **JOHN F. KELLY, III**, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c), any and all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Section 1343.

3. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

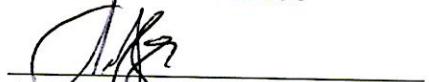
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot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

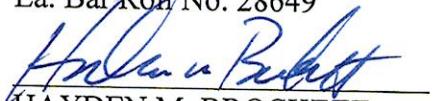
it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Sections 1343 and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c).

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New Orleans, Louisiana
April 27, 2016

