

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO. 16-080
v.	*	SECTION: "N" (4)
JOHN F. KELLY, III	*	VIOLATION: 18 U.S.C. § 1343
	*	
	* * *	

FACTUAL BASIS

Should this matter have proceeded to trial, the United States would have proven, through the introduction of competent testimony and admissible evidence, the following facts, beyond a reasonable doubt, to support the allegations in the Bill of Information.¹

The defendant, JOHN F. KELLY, III ("KELLY"), has agreed to plead guilty as charged to the Bill of Information charging him with one count of wire fraud, in violation of Title 18, United States Code, Section 1343.

COUNT 1 - Wire Fraud

Background

In or around 2010 and continuing through 2014, KELLY operated a tax sale investment business. KELLY's business model consisted of soliciting monies from investors interested in purchasing tax sale titles 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

¹ This proffer of evidence is not intended to constitute a complete statement of facts known to the United States. The limited purpose of this factual basis is to demonstrate a sufficient legal basis for KELLY's plea of guilty to the charged offense.

expiration of the redemptive period, which causes the tax sale purchaser (i.e., the investor) to be paid back. The statutorily-provided interest, penalties, and fees paid by the redeeming party guaranteed the tax sale investor a quick and high rate of return on their investment.

KELLY also controlled, operated and used a number of companies in the Eastern District of Louisiana to facilitate the scheme to defraud his investors. The companies include, but are not limited to, 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 Properties, Kelly Family Properties, State Street Development, Webster Street Properties, 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.

General Overview of Tax Sales

Property owners in Louisiana, Georgia, Indiana, and Florida are responsible for paying property taxes to the local political subdivision responsible for collecting property taxes. 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 due on the property.

At a public tax sale auction, registered bidders place bids on properties being sold at the tax sale. The winning bidder pays the amount due from the tax sale and is awarded a tax sale certificate or tax deed to the property. However, following the tax sale, the property owner has a time period set by state law to redeem the property from the tax sale purchaser. To redeem the property and to retain full title to the property, the property owner (or some other third party) must reimburse the tax sale purchaser the tax sale purchase price, plus fees and the statutory interest rate penalty that has accrued against the property owner from the date of the tax sale to

the date the property is redeemed.

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.

Investor Fund A, Investor Fund B, and Investor Fund C (Investor Funds)

In or around June, 2011 and continuing through 2013, the Investor Funds forwarded monies to defendant KELLY as investment capital for KELLY to deploy at tax sales in Louisiana, Georgia, Florida, and Indiana on their behalf.

The Scheme to Defraud

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

As part of the scheme and artifice to defraud, KELLY solicited 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 in Louisiana, Georgia, Florida, and Indiana. As a result of his false representations, KELLY deployed investor funds at tax sales.

KELLY also made materially false representations to the investors about what tax sale properties were held and what capital he had deployed for the benefit of their respective Investment Fund. KELLY reassured the investors that their investment capital had been fully deployed and had been invested in tax sale properties owned by the Investor Funds. However, instead of deploying the investor monies for the authorized and discussed tax sale purchases or returning recovered monies to the Investor Funds, KELLY fraudulently diverted monies

belonging to the investors for his own personal use and benefit. In furtherance of the scheme, KELLY fraudulently diverted Investor Funds to pay off personal loans and to purchase real estate properties in New Orleans that he titled in separate corporate entities he controlled.


Use of the Wires

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 communications with the investors. These interstate wire transmissions furthered the scheme to defraud.²

² 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.

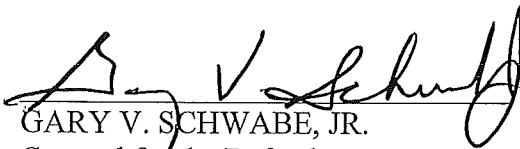
In summary, all of the evidence introduced at trial would have established the elements of the offense and proven the defendant's guilt beyond a reasonable doubt.

READ AND APPROVED:



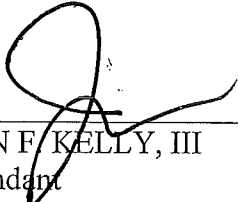
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5/25/14
Date



GARY V. SCHWABE, JR.
Counsel for the Defendant

5-25-16
Date



JOHN F. KELLY, III
Defendant

5/25/16
Date