

DCP:NMA
F. #2021R00772

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
----- X

UNITED STATES OF AMERICA

I N D I C T M E N T

- against -

MARAT LERNER,

Defendant.

Cr. No. _____
(T. 18, U.S.C., §§ 981(a)(1)(C),
982(a)(1), 982(b)(1), 1343, 1349,
1957(a), 2 and 3551 et seq.; T. 21,
U.S.C., § 853(p); T. 28, U.S.C.
§ 2461(c))

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THE GRAND JURY CHARGES:

INTRODUCTION

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

I. The Defendant

1. The defendant MARAT LERNER was a resident of Brooklyn, New York. LERNER was the principal of the Lerner Group and the president and chief executive officer of Liberty One Funding Corporation (“Liberty One”).

II. Relevant Individuals and Entities

2. The Lerner Group was a mortgage modification and credit solutions business operating in New York. The defendant MARAT LERNER was the principal of the Lerner Group.

3. Liberty One was a New York corporation authorized to do business under the assumed name “Testoni & Villa PLL.”

4. Co-Conspirator-1, an individual whose identity is known to the Grand Jury, was an administrative assistant employed by the defendant MARAT LERNER and the Lerner Group and a resident of Brooklyn, New York.

5. Victim-1, an individual whose identity is known to the Grand Jury, was a client of the defendant MARAT LERNER and the Lerner Group. Victim-1 was a resident of Brooklyn, New York.

6. Financial Institution-1, Financial Institution-2 and Financial Institution-3, entities the identities of which are known to the Grand Jury, conducted business in several states, including New York.

III. The Fraudulent Scheme

7. In or about and between August 2016 and January 2021, both dates being approximate and inclusive, the defendant MARAT LERNER, together with Co-Conspirator-1 and others, engaged in a scheme to defraud certain clients of the Lerner Group (the "Victims") through material misrepresentations and omissions relating to, among other things, how the Victims' money would be used and by misappropriating the Victims' funds.

8. As a part of the scheme, the defendant MARAT LERNER would enter into agreements to assist the Victims with mortgage modifications to lower their mortgage balance and/or monthly mortgage payments in exchange for a fee. LERNER instructed the Victims not to contact their mortgage banks directly and would also request the Victims' bank account numbers and routing numbers, which he claimed to need to make any necessary payments on the Victims' behalf. LERNER, Co-Conspirator-1 and others informed the Victims that they needed to make payments on their mortgages to one or more escrow agents that would hold the funds until their mortgages had been modified. LERNER identified one such escrow

agent as “Testoni & Villa PLLC,” “Testoni & Villa PLL” or “Testoni & Vill PLL” (together “Testoni & Villa”). Although LERNER and his co-conspirators claimed LERNER had no relationship with Testoni & Villa, in fact and as described above, Testoni & Villa was an assumed name for Liberty One, which was controlled by LERNER.

9. The defendant MARAT LERNER and his co-conspirators then used LERNER’s access to the Victims’ bank account numbers and routing numbers to draft bank checks, drawn on the Victims’ accounts, which were made out to Testoni & Villa or the Victims’ mortgage banks. LERNER falsely claimed to the Victims that he was transferring the funds to an escrow agent or to the Victims’ mortgage banks, but in fact, the bank checks were deposited into a bank account at Financial Institution-1 in the name of Liberty One and Testoni & Villa (the “Liberty One Account”), an account that LERNER controlled. Instead of using the money to pay the Victims’ mortgage banks or holding it in escrow as represented, LERNER misappropriated the Victims’ funds, using the money for business expenses and personal purposes, including luxury goods and expensive meals, a BMW automobile, on-line dating applications and purchases. LERNER also transferred at least \$672,412 from the Liberty One Account to other accounts in his name or withdrew the money in cash.

10. For example, between approximately April 2017 and November 2019, the defendant MARAT LERNER and others acting at his direction caused at least 95 bank checks from Victim-1’s accounts at Financial Institution-2 and Financial Institution-3 to be deposited in the Liberty One Account and another account at Financial Institution-1 in LERNER’s name (the “Lerner Account”) totaling \$194,579.35. The bank checks were made out to Victim-1’s mortgage banks or to Testoni & Villa. During the same period, LERNER paid approximately \$6,525.32 to Victim-1’s mortgage banks.

11. To conceal the fraud, the defendant MARAT LERNER and his co-conspirators created fraudulent documents from Testoni & Villa. For instance, in or about September 2020, LERNER sent Victim-1 two letters from Testoni & Villa acknowledging receipt of the funds transferred from Victim-1's accounts at Financial Institution-2 and Financial Institution-3 (the "Testoni Letters"). Among other things, the Testoni Letters falsely claimed that: (i) Testoni & Villa held the funds on behalf of Victim-1's mortgage banks; (ii) the funds "in your escrow account will be applied to your remaining [mortgage] loan balance, as applicable"; and (iii) Testoni & Villa was transferring the funds to the mortgage banks. The Testoni Letters purported to be from an attorney named "Robert Francis." LERNER also provided Victim-1 with an address for Testoni & Villa in Grandville, Michigan. The Testoni Letters did not disclose LERNER's connection to Testoni & Villa or the fact that LERNER controlled the Liberty One Account.

12. As a result of the fraud, Victim-1's mortgage banks initiated foreclosure proceedings. In or about and between May 2019 and December 2019, the defendant MARAT LERNER filed two Chapter 11 bankruptcy petitions in the Eastern District of New York on Victim-1's behalf to stave off foreclosure.

COUNT ONE
(Wire Fraud Conspiracy)

13. The allegations contained in paragraphs one through 12 are realleged and incorporated as if fully set forth in this paragraph.

14. In or about and between August 2016 and January 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant MARAT LERNER, together with others, did knowingly and intentionally conspire to devise a scheme and artifice to defraud one or more clients of the Lerner Group, including Victim-1, and

to obtain money and property from them by means of one ore more materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNTS TWO THROUGH SEVEN
(Wire Fraud)

15. The allegations contained in paragraphs one through 12 are realleged and incorporated as if fully set forth in this paragraph.

16. On or about the dates set forth below, within the Eastern District of New York and elsewhere, the defendant MARAT LERNER, together with others, did knowingly and intentionally devise a scheme and artifice to defraud Victim-1 and to obtain money and property from Victim-1 by means of one or more materially false and fraudulent pretenses, representations and promises, and, for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds, as set forth below:

COUNT	APPROXIMATE DATE	DESCRIPTION OF INTERSTATE WIRE TRANSMISSION
TWO	January 25, 2018	LERNER deposited into the Liberty One Account a bank check in the amount of \$3,191.33 drawn on Victim-1's account at Financial Institution-3 made out to one of Victim-1's mortgage banks
THREE	February 27, 2018	LERNER deposited into the Liberty One Account a bank check in the amount of \$1,385.86 drawn on Victim-1's account at Financial Institution-2 and made out to one of Victim-1's mortgage banks

COUNT	APPROXIMATE DATE	DESCRIPTION OF INTERSTATE WIRE TRANSMISSION
FOUR	November 29, 2018	LERNER deposited into the Liberty One Account a bank check in the amount of \$1,543.94 drawn on Victim-1's account at Financial Institution-2 and made out to one of Victim-1's mortgage banks
FIVE	March 21, 2019	LERNER deposited into the Liberty One Account a bank check in the amount of \$3,191.33 drawn on Victim-1's account at Financial Institution-2 and made out to one of Victim-1's mortgage banks
SIX	July 22, 2019	LERNER deposited into the Lerner Account a bank check in the amount of \$1,618.80 drawn on Victim-1's account at Financial Institution-2 and made out to Testoni & Villa
SEVEN	November 27, 2019	LERNER deposited into the Liberty One Account a bank check in the amount of \$1,527.87 drawn on Victim-1's account at Financial Institution-2 and made out to Testoni & Villa

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

COUNT EIGHT
(Money Laundering)

17. The allegations contained in paragraphs one through 12 are realleged and incorporated as if fully set forth in this paragraph.

18. On or about November 6, 2018, within the Eastern District of New York and elsewhere, the defendant MARAT LERNER, together with others, did knowingly and intentionally engage in one or more monetary transactions in and affecting interstate commerce in criminally derived property of a value greater than \$10,000 that was derived from specified unlawful activity, to wit: wire fraud, contrary to Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1957(a), 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS ONE THROUGH SEVEN

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

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

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be

divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Sections 982(b)(1), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

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

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT EIGHT

21. The United States hereby gives notice to the defendant that, upon his conviction of the offense charged in Count Eight, the government will seek forfeiture in accordance with Title 18, United States Code, Section 982(a)(1), which requires any person convicted of such offense to forfeit any property, real or personal, involved in such offense, or any property traceable to such property.

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

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided

without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as

incorporated by Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 982(a)(1) and 982(b)(1); Title 21, United States Code, Section 853(p))

A TRUE BILL

[REDACTED]

FOREPERSON

[REDACTED]

BREON PEACE/
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

No. _____

UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

MARAT LERNER,

Defendant.

INDICTMENT

(T. 18, U.S.C., §§ 981(a)(1)(C), 982(a)(1), 982(b)(1), 1343, 1349, 1957(a), 2
and 3551 et seq.; T. 21, U.S.C., § 853(p); T. 28, U.S.C. § 2461(c))

A true bill

Foreperson

Filed in open court this _____ day,

of _____ A.D. 20 _____

Clerk

Bail, \$ _____

Nick M. Axelrod
Assistant U.S. Attorney (718) 254-6883