

FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

2015 MAY 13 PM 12:06

UNITED STATES OF AMERICA

v.

DAVID W. GRIFFIN

CASE NO. 8:15-cr

157 ↑ 277 naf  
18 U.S.C. § 1341  
18 U.S.C. § 157  
18 U.S.C. § 1028(A)  
18 U.S.C. § 152(2)  
18 U.S.C. § 981(a)(1)(C) [Forfeiture]  
28 U.S.C. § 2461(c) [Forfeiture]

**INDICTMENT**

The Grand Jury charges:

**A. Introduction**

At times material to this indictment:

1. Bay 2 Bay Area Holding Group, LLC ("Bay2Bay") was a Florida Limited Liability Company located in Tampa, FL. David W. Griffin was the managing member of Bay2Bay.
2. Business Development Consultants, LLC ("BDC") was a Florida Limited Liability Company located in Tampa, FL. David W. Griffin was the managing member of BDC.
3. DPath Doc Prep, LLC ("DPath") was a Florida Limited Liability Company based in Tampa, FL. DPath employees were instructed by David W. Griffin to type, notarize, witness and file documents.

4. The Office of The United States Trustee ("U.S. Trustee") was a component of the U.S. Department of Justice responsible for overseeing the administration of bankruptcy cases and private trustees.

5. The Federal Housing Administration ("FHA") was a component of the United States Department of Housing and Urban Development that provided mortgage insurance on loans made by FHA-approved lenders throughout the United States and its territories. If a loan fell into foreclosure, the lender made a claim to FHA, which paid any losses including costs associated with foreclosure.

6. The Federal National Mortgage Association (Fannie Mae) was a government-sponsored enterprise chartered by Congress with a mission to provide liquidity, stability, and affordability to the United States housing and mortgage markets. Fannie Mae purchased loans from lenders, packaged the loans into securitizations and then guaranteed the principal and interest of the mortgage loans for investors in its securitizations.

7. CitiMortgage, Bank of New York Mellon and Litton Loan Servicing were lenders, trustees, or mortgage loan servicers ("creditors") who had a secured interest in the real property relevant to this indictment.

**B. The Scheme to Defraud**

8. Beginning on a date in or around September 2012, and continuing through in or about January 2015 in the Middle District of Florida, defendant DAVID W. GRIFFIN knowingly and with intent to defraud, devised, and intended to devise a scheme and artifice to defraud distressed homeowners seeking

assistance with their mortgage notes and foreclosure, the creditors holding those notes, the FHA who insures the mortgage notes, or Fannie Mae who guaranteed the mortgage notes, and to obtain money and property from the aforementioned victims by means of materially false pretenses, representations, promises, and omissions.

9. The purpose and the scheme of the artifice was to obtain quitclaim or warranty deeds from homeowners facing foreclosure in return for false promises to rescue their homes from foreclosure by negotiating with creditors, rent the property back to the homeowner to obtain rental income and to falsely promise that the homeowner could repurchase the property from defendant, DAVID W. GRIFFIN. To maximize the gain to the defendant, it was also a purpose of the scheme to hinder, delay, and to obstruct creditors' lawful foreclosure and eviction actions against homeowners who had defaulted on their mortgages.

**C. The Manner and Means**

10. The scheme to defraud was carried out, in substance, in the following manner:

- a. It was part of the scheme and artifice that defendant DAVID W. GRIFFIN would and did distribute and cause others to distribute advertisements, and contacted or caused others to contact distressed homeowners in person or via telephone to solicit clients with a foreclosure rescue program to save their homes from foreclosure.

- b. It was further part of the scheme and artifice that through these advertisements and direct solicitations, defendant DAVID W. GRIFFIN, and those working at his direction would and did falsely and fraudulently represent to the aforementioned victim distressed homeowners that in exchange for executing a quitclaim or warranty deed for their property to the defendant through Bay2Bay or BDC, the defendant would negotiate with the creditor to obtain the mortgage note for their home and prevent foreclosure.
- c. It was further part of the scheme and artifice that the victim homeowners would and did pay rent to the defendant while they were relying on DAVID W. GRIFFIN's promises to stop foreclosure, obtain the mortgage note and sell their houses back to them. On occasion, the clients were moved to a different home controlled by defendant, DAVID W. GRIFFIN, so that he could rent the former homeowners' property to someone else.
- d. It was further part of the scheme and artifice that defendant DAVID W. GRIFFIN, often times would and did make no effort to negotiate with the banks to save the clients from foreclosure and obtain the mortgage note. This resulted in the continuation of foreclosure proceedings by creditors.

- e. It was further part of the scheme and artifice that the defendant DAVID W. GRIFFIN, prevented creditors from lawfully foreclosing on the victims' former properties, by filing or causing to be filed, fraudulent bankruptcies on behalf of the victims without their knowledge or consent. The signatures on the sham bankruptcy petitions were forgeries or the clients were tricked by the defendant or individuals working at the defendant's direction into signing a petition without being told that a bankruptcy petition would be filed. The sole purpose of these fraudulent bankruptcy petitions was to invoke the automatic stay provision of federal bankruptcy law which brings an immediate halt to any foreclosure actions against a debtor's property.
- f. It was further part of the scheme and artifice that after defendant, DAVID W. GRIFFIN, or individuals working at his direction filed a fraudulent bankruptcy petition, they would take the bankruptcy petition receipt to the Clerk of Court at the Hillsborough County Court located in Tampa, FL in order to prevent lawful eviction and foreclosure proceedings by creditors.
- g. It was further part of the scheme and artifice that, defendant David W. Griffin and individuals working at his direction had no intention of pursuing these sham bankruptcy proceedings.

Defendant DAVID W. GRIFFIN sometimes filed or caused individuals working at his direction to file subsequent fraudulent bankruptcy petitions in the victim clients names to further forestall lawful foreclosures and evictions in order to keep collecting additional rent from the client.

**COUNT ONE**

**(Mail Fraud – 18 U.S.C. § 1341)**

11. In or about June 2014, at Tampa, in the Middle District of Florida, Tampa Division, and elsewhere,

DAVID W. GRIFFIN,

defendant, herein, for the purpose of executing the aforesaid scheme and artifice, and attempting to do so, knowingly caused to be delivered by U.S. Mail according to the direction thereon, an envelope addressed to client J.A. at an address in Hillsborough County, Florida on or about June 12, 2014.

In violation of Title 18, United States Code, Section 1341.

**COUNTS TWO THROUGH TEN**

**(Bankruptcy Fraud – 18 U.S.C. § 157)**

12. Paragraphs 1 through 11 of the indictment are fully incorporated herein as if fully set forth.

13. At all times relevant to this indictment, defendant DAVID W. GRIFFIN was the founder and managing member of Bay2Bay, LLC and BDC, LLC operating in Tampa, FL, that were offering foreclosure rescue programs to distressed homeowners.

14. At all times relevant to this indictment, Section 110 of the United States Bankruptcy Code required bankruptcy preparers to sign petitions that they had prepared and disclose any fee paid to them for the preparation of the bankruptcy provision

15. Defendant DAVID W. GRIFFIN prepared or, caused others working at his direction to prepare bankruptcy petitions for clients in GRIFFIN's foreclosure rescue program. The purpose of these petitions was to prevent foreclosure and thereby defraud creditors and continue to collect fees from defrauded homeowners.

16. Defendant DAVID W. GRIFFIN forged, or caused others working at his direction to forge, the debtor's signature on the prepared bankruptcy petition.

17. Once the fraudulent petitions were prepared, defendant DAVID W. GRIFFIN, or someone acting at his direction would file the petitions with the United States Bankruptcy Court for the Middle District of Florida.

18. To continue to postpone the foreclosure and defraud clients and creditors, defendant DAVID W. GRIFFIN or others working at his directions would sometimes file more than one sham bankruptcy petition for the same client.

19. One or about the dates set forth below, in the Middle District of Florida, defendant,

DAVID W. GRIFFIN,

having devised a scheme and artifice to defraud distressed homeowners, creditors, FHA, and Fannie Mae holding or guaranteeing residential mortgage notes, and for the purpose of executing and concealing such a scheme and

artifice, and attempting to do so, filed and caused to be filed bankruptcy petitions under Title 11 of the United States Code:

<b>Count</b>	<b><u>Date of Filing</u></b>	<b><u>Bankruptcy Filing</u></b>	<b><u>Creditor/ Guarantor</u></b>
Two	12/5/2013	Voluntary Bankruptcy Petition in the name of M.F., Case No. 8:13-bk-15976-CPM filed in the U.S. Bankruptcy Court, M.D. Florida	Fannie Mae
Three	1/6/2014	Voluntary Bankruptcy Petition in the name of F.B.S, Case No. 8:14-bk-00065KRM filed in the U.S. Bankruptcy Court, M.D. Florida	Bank of New York Mellon
Four	1/30/2014	Voluntary Bankruptcy Petition in the name of C.H., Case No. 8:14-bk-01052-CRM filed in the U.S. Bankruptcy Court, M.D. Florida	FHA/HUD
Five	4/22/2014	Voluntary Bankruptcy Petition in the name of R.W. , Case No. 8-14-bk-04420-KRM filed in the U.S. Bankruptcy Court, M.D. Florida	Fannie Mae
Six	06/5/2014	Voluntary Bankruptcy Petition in the name of Q.K., Case No. 8:14-bk-06565-KRM filed in the U.S. Bankruptcy Court, M.D. Florida	Bank of New York Mellon
Seven	6/10/2014	Voluntary Bankruptcy Petition in the name of J.A., Case No. 8:14-bk-06696-CPM filed in the U.S. Bankruptcy Court, M.D. Florida	Litton Loan Servicing, LP
Eight	07/17/2014	Voluntary Bankruptcy Petition in the name of C.H., Case No. 8:14-bk-08229-KRM filed in the U.S. Bankruptcy Court, M.D. Florida	FHA/HUD
Nine	7/17/2014	Voluntary Bankruptcy Petition in the name of J. P., Case No. 8:14-bk-08226-KRM filed in the U.S. Bankruptcy Court, M.D. Florida	Fannie Mae
Ten	10/02/2014	Voluntary Bankruptcy Petition in the name of R.W., Case No. 8:14-bk-11670-CPM filed in the U.S. Bankruptcy Court, M.D. Florida	Fannie Mae



**COUNT ELEVEN**

**(Aggravated Identity Theft - 18 U.S.C. § 1028(A))**

20. The Grand Jury realleges and incorporates paragraphs 1 through 20 of this Indictment as though fully set forth herein.

From at least on or about January 1, 2014 through December 30, 2014, in the Middle District of Florida, and elsewhere, the defendant herein,

**DAVID W. GRIFFIN,**

did knowingly transfer, possess, and use, without lawful authority, means of identification of another person, to wit: the Social Security Number of client R.W., during and in relation to a felony violation of Title 18, United States Code, Section 157, that is, filing or causing to be filed a fraudulent voluntary bankruptcy petition as charged in Count Five of this Indictment.

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

**COUNT TWELVE**

**(False Oath or Account – 18 U.S.C. § 152(2))**

21. The Grand Jury realleges and incorporates paragraphs 1 through 11 and 14 through 19 of this Indictment as though fully set forth herein.

22. On or about December 16, 2014, within the Middle District of Florida, in or in relation to a case filed under Title 11 of the United States Code in the United States Bankruptcy Court for the Middle District of Florida, defendant,

**DAVID W. GRIFFIN,**

did knowingly and fraudulently make a false material statement under oath during his sworn testimony at a Rule 2004 Examination conducted by the U.S. Trustee,

namely, that he denied any knowledge regarding the filing of a Chapter 7 bankruptcy petition in the name of Bay2Bay (Case No. 8:14-bk-08692-CPM), when, in fact, Griffin prepared the petition, directed a DPath employee to sign his name and file this bankruptcy petition for him with the United States Bankruptcy Court for the Middle District of Florida.

In violation of Title 18, United States Code, Section 152(2).

**COUNT THIRTEEN**

**(False Oath or Account – 18 U.S.C. § 152(2))**

23. The Grand Jury realleges and incorporates paragraphs 1 through 23 of this Indictment as though fully set forth herein.

24. On or about February 13, 2015, within the Middle District of Florida, in or in relation to a case filed under Title 11 of the United States Code in the United States Bankruptcy Court for the Middle District of Florida, defendant,

DAVID W. GRIFFIN,

did knowingly and fraudulently make a false material statement under oath during his sworn testimony at a Section 341 creditors hearing conducted by the bankruptcy trustee, namely, that he denied any knowledge concerning the filing of a Chapter 7 bankruptcy petition in the name of Bay2Bay Case No. (8:14-bk-08692-CPM), when, in fact, Griffin prepared the petition, directed a DPath employee to sign his name and file this bankruptcy petition for him with the United States Bankruptcy Court for the Middle District of Florida.

In violation of Title 18, United States Code, Section 152(2).

**FORFEITURE**

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

2. From his engagement in the violations alleged in Counts One, Twelve, and Thirteen of this Indictment, the defendant,

DAVID W. GRIFFIN,

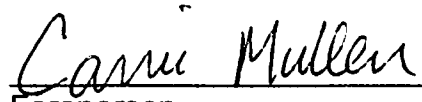
shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all of his interest in any property, real or personal, which constitutes or is derived from proceeds traceable to such violations.

3. If any of the property described above, 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,

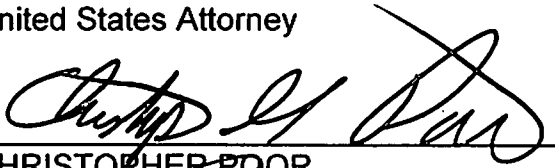
the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL,


  
Foreperson

A. LEE BENTLEY, III  
United States Attorney

By:

  
CHRISTOPHER POOR  
Special Assistant United States Attorney

By:

  
ROBERT A. MOSAKOWSKI  
Assistant United States Attorney  
Chief, Economic Crimes Section

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**UNITED STATES DISTRICT COURT**  
Middle District of Florida  
Tampa Division

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THE UNITED STATES OF AMERICA

vs.

DAVID W. GRIFFIN

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**INDICTMENT**

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Violations:

18 U.S.C. §§ 1341, 157, 1028(A), 152(2)

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A true bill,

*Cami Mullen*

Foreperson

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Filed in open court this 13TH day

of May 2015.

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Clerk

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Bail \$ \_\_\_\_\_

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