

FILED

FEB - 8 2019

AT 8:30 *110 pm* *JB*
WILLIAM T WALSH
CLERK

2011R00346/KVD/CLD

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	
	:	
v.	:	Crim. No.
	:	
PHILIP PUCCIO, JR.,	:	18 U.S.C. § 1349
a/k/a "Philip Puccio," and	:	18 U.S.C. § 1344
RAFAEL PERALTA	:	18 U.S.C. § 2
	:	
	:	

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark,
charges:

COUNT ONE
(Conspiracy to Commit Bank Fraud)

1. At various times relevant to this Indictment:

The Defendants

a. Defendant PHILIP PUCCIO, JR. ("PUCCIO") was a loan officer at two mortgage brokerage firms and controlled, had a financial interest in and was associated with several home repair and remodeling companies, including Puccio Remodeling, LLC ("Puccio Remodeling"). PUCCIO resided in Saddle Brook, New Jersey.

b. Defendant RAFAEL PERALTA ("PERALTA") controlled, had a financial interest in and was affiliated or associated with several home repair and remodeling companies, including Puccio Remodeling and a financial

services company, ATLAREP Financial Group, LLC (“ATLAREP”). PERALTA resided in Clifton and Garfield, New Jersey.

Relevant Individuals and Entities

c. Co-Conspirator 1 (“CC-1”), a co-conspirator not named as a defendant herein, was an attorney who conducted the closings of real estate transactions and resided in Montville, New Jersey.

d. Joseph Soprano (“Soprano”), a co-conspirator not named as a defendant herein, was an unlicensed real estate appraiser who resided in New Jersey.

e. Puccio Remodeling was a limited liability company in New Jersey whose resident agent was PUCCIO and whose Chief Executive Officer was PERALTA. PUCCIO and PERALTA controlled certain bank accounts for Puccio Remodeling.

f. ATLAREP was a limited liability company that was owned by PERALTA that purportedly provided financial services. PERALTA controlled a bank account for ATLAREP.

g. Victim Lenders 1, 2 and 3 (collectively, the “Victim Lenders”) were financial institutions as defined in 18 U.S.C. § 20.

Background

2. The Federal Housing Administration (“FHA”) was a part of the United States Department of Housing and Urban Development. FHA provided mortgage insurance on loans made by FHA-approved lenders, including insurance for FHA Home Equity Conversion Mortgages (HECM), more

commonly known as reverse mortgages. A reverse mortgage was a home loan that enabled homeowners to convert their equity into cash. The homeowner/borrower did not repay the loan until the borrower died or sold the home.

3. There were borrower, property and financial eligibility requirements that had to be met before a borrower qualified for an FHA-insured HECM. The borrower had to be 62 years of age or older. The mortgage amount borrowed had to be based on, among other things, the lesser of the appraised value of the property or the HECM FHA mortgage limit.

4. Typically, individuals who sought a HECM submitted either a Uniform Residential Loan Application Form 1003 ("Form 1003") or a Form 1009 (collectively, "Loan Applications") to their lender. The Loan Applications were standard forms and, for HECM borrowers, sought material information about the borrower's income, assets, estimated appraised value or present market value of their residence, monthly expenses, and liabilities. The appraised value of the property and the equity available in the home were the primary factors that influenced a lender's determination of whether and in what amount it would provide the applicant a HECM loan.

5. A HUD-1 Settlement Statement ("HUD-1") was a standardized form that itemized the receipt and disbursement of funds at a residential real estate closing. For HECMs, HUD-1s were used by a settlement or closing agent ("closing agent"), who may be an attorney, to provide the homeowner in the transaction with a complete list of incoming receipts and outgoing proceeds. A

preliminary HUD-1 reflecting the disbursements to be made at closing was sent to the lender for approval. At closing, the borrower/homeowner and closing agent certified that the information contained in the HUD-1 was true and correct.

6. Lenders relied on the HUD-1 when approving and funding loans and instructed settlement agents to accept and disburse funds consistent with the representations on the HUD-1.

The Conspiracy

7. Between in or about November 2007 and in or about December 2010, in Essex County, in the District of New Jersey, and elsewhere, the defendants,

PHILIP PUCCIO, JR.
a/k/a "Philip Puccio," and
RAFAEL PERALTA,

did knowingly and intentionally conspire and agree with each other and with others to execute and attempt to execute a scheme and artifice to defraud financial institutions, namely the Victim Lenders, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of the Victim Lenders, by means of materially false and fraudulent pretenses, representations, and promises, contrary to Title 18, United States Code, Section 1344.

Goal of the Conspiracy

8. It was the goal of the conspiracy for PUCCIO, PERALTA, and others to unlawfully enrich themselves by submitting and causing to be submitted false and fraudulent documents to the Victim Lenders to influence the Victim Lenders' decisions to approve and fund HECMs for the homeowners and to then divert the fraudulently obtained HECM proceeds for their own use and benefit.

Manner and Means of the Conspiracy

9. It was part of the conspiracy that PERALTA, PUCCIO and others solicited elderly homeowners for home repair and home remodeling work, and to apply for HECMs to fund the repairs and remodeling.

10. It was further part of the conspiracy that PERALTA, PUCCIO, Soprano, and others prepared and caused to be prepared inflated real estate appraisals that falsely increased the appraised value of the properties securing the HECMs, for the purpose of influencing the lenders' decisions regarding the loan amounts available to the homeowners.

11. It was further part of the conspiracy that PERALTA, PUCCIO, CC-1, and others submitted and caused to be submitted false and fraudulent Loan Applications to mortgage brokers and lenders on behalf of the homeowners.

12. It was further part of the conspiracy that PUCCIO, PERALTA, CC-1, and others submitted or caused to be submitted false and fraudulent HUD-1s to mortgage brokers and lenders that actively concealed the disbursement of

loan funds to PUCCIO, PERALTA, and entities over which PUCCIO and PERALTA had control.

13. It was further part of the conspiracy that PUCCIO, PERALTA, CC-1, and others used bank accounts that they controlled to deposit and disburse funds from fraudulently-obtained HECMs for their personal benefit and to further the conspiracy.

14. It was further part of the conspiracy that PUCCIO, PERALTA, CC-1, and others controlled the process by which the transactions were completed from the time the homeowners applied for HECMs to the disbursement of loan funds at closing to the further disbursement of those funds to PUCCIO, PERALTA and others.

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

COUNTS TWO THROUGH SEVEN
(Bank Fraud)

1. Paragraphs 1 through 6 and 8 through 14 of Count One of this Indictment are re-alleged and incorporated as though fully set forth in this paragraph.

2. On or about the dates set forth in the table below, in Essex County, in the District of New Jersey and elsewhere, the defendants

PHILIP PUCCIO, JR.
a/k/a "Philip Puccio," and
RAFAEL PERALTA,

did knowingly and intentionally execute and attempt to execute a scheme and artifice to defraud the Victim Lenders, namely the scheme described in Count One, and to obtain moneys, funds, credits, assets, securities, and other property by, and under the custody and control of, the Victim Lenders, by means of materially false and fraudulent pretenses, representations, and promises, by submitting and causing to be submitted false real estate appraisals and other mortgage and closing documents for Home Equity Conversion Mortgage loans for the properties and lenders identified in the table below, each constituting a separate count of this indictment:

COUNT	CLOSING DATE	PROPERTY	APPROXIMATE LOAN AMOUNT	LENDER
2	December 30, 2008	Property 1 - Lehigh Avenue, Newark, NJ	\$252,931.89	Victim Lender 1
3	March 25, 2009	Property 2 - Clinton Avenue, Newark, NJ	\$346,543.53	Victim Lender 1
4	June 3, 2009	Property 3 - Ridge Street, Newark, NJ	\$282,799.49	Victim Lender 3

5	September 25, 2009	Property 4 - Randolph Avenue, Newark, NJ	\$262,246.96	Victim Lender 2
6	November 11, 2009	Property 5 - Kansas Street, Hackensack, NJ	\$242,633.42	Victim Lender 2
7	January 22, 2010	Property 6 - William Street, Orange, NJ	\$216,271.06	Victim Lender 1

All in violation of Title 18, United States Code, Section 1344 and Section 2.

FORFEITURE ALLEGATION

1. The allegations contained in all paragraphs of Counts One through Seven of this Indictment are hereby re-alleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 28, United States Code, Section 2461(c).


2. The United States hereby gives notice to the defendants, that, upon conviction of the offenses charged in Counts One through Seven, the government will seek forfeiture from the defendants charged in each respective count, in accordance with Title 18, United States Code, Section 982(a)(2), of any and all property, real or personal, that constitutes or is derived from proceeds traceable to the violations of Title 18, United States Code, Sections 1349 and 1344 alleged in this Indictment. If by any act or omission of the defendants, any of the property subject to forfeiture described herein:

- 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 subdivided without difficulty, the United States of America will be entitled to forfeiture of substitute property up to the value of the property described above, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code Section 2461(c).

A TRUE BILL:



Foreperson


Craig Carpenito
United States Attorney

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

**PHILIP PUCCIO, JR.,
a/k/a "Philip Puccio,"
and
RAFAEL PERALTA**

A True Bill,


Foreperson

INDICTMENT FOR
18 U.S.C. §§ 1349, 1344, and 2

CRAIG CARPENITO
UNITED STATES ATTORNEY
NEWARK, NEW JERSEY

CHARLIE DIVINE AND KEVIN DI GREGORY
SPECIAL ASSISTANT U.S. ATTORNEYS
(202) 730-4948

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(Ed. 1/97)