

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : Hon.
 :
 v. : Crim. No. 21-
 :
 BARTON SCHACK : 18 U.S.C. § 1349

INFORMATION

The Defendant having waived in open court prosecution by Indictment, the Acting United States Attorney for the District of New Jersey charges:

Count One
(Conspiracy to Commit Bank Fraud)

Relevant Individuals and Entities

1. At all times relevant to this Information:
 - a. Regent Medical Properties (“Regent”) was a property management company located in Glen Rock, New Jersey.
 - b. Sovereign Medical Services, and affiliates (“Sovereign”), was a network of multi-specialty, out-patient medical practices headquartered in Glen Rock, New Jersey, with various practice locations.
 - c. Co-conspirator 1 was the founder and chief executive officer of both Regent and Sovereign.
 - d. Defendant BARTON SCHACK (“SCHACK”) was a resident of Ringwood, New Jersey, and employed by Regent, including as Regent’s chief investment officer.
 - e. The Mortgage Loan was a \$91.5 million loan, which closed on or about April 29, 2016, secured by thirteen medical office buildings in New

Jersey, New York, and Florida (the “Medical Properties”). The Medical Properties were largely multi-tenant spaces, and Sovereign made up approximately half of all tenants across the Medical Properties. The borrowers in the Mortgage Loan were thirteen separate special purpose entities—all Delaware limited liability companies that were majority-owned by Co-conspirator 1—one for each collateral property (collectively, the “Borrowers”).

f. Lender 1 was a financial institution, as defined by Title 18, United States Code, Section 20, namely a mortgage lending business located in Delaware, that provided approximately \$81.5 million in secured financing for the Mortgage Loan.

g. Servicer 1 was a financial institution insured by the Federal Deposit Insurance Corporation, as defined by Title 18, United States Code, Section 20, that served as Lender 1’s servicer for the Mortgage Loan.

The Mortgage Loan Agreement

2. The Mortgage Loan involved an agreement between the Borrowers and Lender 1. Approximately fifty percent of the tenants in the Medical Properties were controlled by Sovereign. Regent served as manager of the Medical Properties. Thus, Co-conspirator 1 controlled 1) the Borrowers, 2) approximately half of the tenants paying rent to the Borrowers, and 3) Regent, the property manager responsible for collecting rent.

3. In order to obtain the approximately \$91.5 million in financing, the Borrowers agreed to certain terms, many of which were designed to mitigate the

risks associated with the large number of tenants that were affiliated with Co-conspirator 1, including the following:

a. **Cash management.** The Borrowers and Regent agreed to direct tenants to pay all rent and associated charges directly into a “lockbox” bank account (the “Lockbox”), not accessible to the Borrowers or Regent. Any rents received by the Borrowers or Regent would be deposited into the Lockbox within one business day. Funds deposited in the Lockbox would be applied in accordance with the Mortgage Loan agreement, e.g., to make payments on the Mortgage Loan. After appropriate disbursements were completed, any remaining funds would be released to the Borrowers.

b. **Monthly reports.** The Borrowers agreed to send Servicer 1 a variety of financial data each month, including operating statements “to fairly represent the financial position” of the Medical Properties, balance sheets, budget comparisons, aged receivables, and rent rolls. Each statement would be accompanied by an officer’s 1) certification that “such items are true, correct, accurate, and complete and fairly present the financial condition” of the Borrowers, and 2) a statement as to whether there existed a “Default or Event of Default” on the Mortgage Loan. The Mortgage Loan agreement defined “Default” as any event that with the giving of notice or the passage of time would lead to an “Event of Default,” and thus trigger an acceleration of payments.

c. **Annual audits.** The Borrowers agreed to submit audited annual financial statements for the Medical Properties within 120 days after each calendar year.

4. The Mortgage Loan closed on or about April 29, 2016. The loan had a five-year maturity date, and a thirty-year amortization (repayment) schedule.

**Securitization of The Mortgage Loan
And Subsequent Financial Submissions**

5. Shortly after the closing of the Mortgage Loan, in or around May 2016, Lender 1 sold approximately \$70 million of its interest into a securitization along with other, separate mortgage loans to become part of a larger “collateralized mortgage-backed security” loan (“CMBS Loan 1”). Lender 1 also sold its remaining approximately \$11.5 million interest in the Mortgage Loan into a similar securitization in or around July 2016 (“CMBS Loan 2”). Servicer 1 was the master servicer for both CMBS Loan 1 and CMBS Loan 2, and thus responsible for administration of the Mortgage Loan, including monitoring the loan’s performance and reviewing the monthly financial submissions.

6. Beginning in or around May 2016, until at least in or around November 2018, Regent began sending monthly financial statements to Servicer 1, per the Mortgage Loan agreement. These monthly financial statements included a certification of accuracy—and of the lack of any default—and were signed by either SCHACK or Co-conspirator 1.

Bankruptcy of Borrowers

7. The Borrowers quickly fell behind on the Mortgage Loan payments. By in or around June 2019, approximately three years after the closing of the Mortgage Loan, the Borrowers were sixty days behind on loan payments, and administration of the loan was referred to a special servicer.

8. In or around February 2020, the Borrowers declared bankruptcy.

The Scheme to Defraud

9. From in or around September 2015 through in or around July 2018, in Bergen County, in the District of New Jersey and elsewhere, the defendant,

BARTON SCHACK,

did knowingly and intentionally conspire and agree with Co-conspirator 1 and others to execute and attempt to execute a scheme and artifice to defraud financial institutions, namely Lender 1 and Servicer 1, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of financial institutions, namely Lender 1 and Servicer 1, by means of materially false and fraudulent pretenses, representations, and promises, contrary to Title 18, United States Code, Section 1344.

Goal of the Conspiracy

10. It was the goal of the conspiracy for SCHACK and Co-conspirator 1 to enrich themselves by fraudulently obtaining the \$91.5 million Mortgage Loan from Lender 1 and others and then diverting funds required to be paid to the Lockbox—instead using those funds for Regent’s operating expenses and Co-conspirator 1’s personal expenses.

Overview of the Conspiracy

11. It was part of the conspiracy that:

a. In the months leading up to the Mortgage Loan closing on or about April 29, 2016, SCHACK conspired with Co-conspirator 1 and others to use fraudulent representations to obtain the \$91.5 million Mortgage Loan from Lender 1 and others. In particular, SCHACK and Co-conspirator 1 exploited the

fact that, through Sovereign, Co-conspirator 1 controlled approximately half of the tenants in the Medical Properties. First, SCHACK and Co-conspirator 1 misrepresented the physical occupancy status of certain affiliated tenants. Second, SCHACK and Co-conspirator 1 inflated the value of the Medical Properties by presenting misleading information on their rental income.

b. After the Mortgage Loan closing in or around April 2016, through in or around July 2018, SCHACK and Co-conspirator 1 continued their scheme to conceal the actual financial status of the Medical Properties by submitting fraudulent financial statements to Servicer 1 on a monthly basis. Those misrepresentations allowed SCHACK and Co-conspirator 1 to avoid accelerated payment on the Mortgage Loan.

c. Finally, after the Mortgage Loan closing, SCHACK and Co-conspirator 1 diverted rent payments owed through the Lockbox procedure specified in the Mortgage Loan agreement. Instead, SCHACK and Co-conspirator 1 used the funds for both Regent's operating expenses and Co-conspirator 1's personal expenses, including credit card bills of up to approximately \$80,000 per month and private jet payments.

Additional Manner and Means of the Conspiracy

12. It was further part of the conspiracy that:

Misrepresentations Prior To The Mortgage Loan Closing

a. Prior to the Mortgage Loan closing, SCHACK and Co-conspirator 1 submitted and caused others to submit misleading historical

operating statements for the Medical Properties to Lender 1 that overstated rental income paid by affiliated tenants.

b. Prior to the Mortgage Loan closing, SCHACK and Co-conspirator 1 misrepresented to Lender 1 the physical occupancy status of certain spaces rented by affiliated tenants. For example, on or about April 25, 2016, SCHACK fraudulently wrote in an email to Lender 1 that the Sovereign-leased space at one of the Medical Properties was “not dark,” and that “[n]ot all of the offices are utilized full time.” In fact, certain spaces at the referenced Medical Property rented to Sovereign tenants were not being utilized at all.

Lockbox Diversion

c. After the Mortgage Loan closed, Co-conspirator 1 directed SCHACK and others to divert tenant rent payments from the Lockbox. Instead of paying rent to the Lockbox, tenant payments flowed either through Regent’s accounts or directly to a bank account that was used to fund, among other personal expenses, Co-conspirator 1’s personal credit card bills and to write checks to Co-conspirator 1’s spouse (“Bank Account 1”). Through such means, Co-conspirator 1 diverted millions of dollars in rental payments from the Lockbox over the course of the Mortgage Loan for his own personal use.

Misrepresentations After the Mortgage Loan Closing

d. After the closing of the Mortgage Loan, SCHACK certified dozens of monthly financial statements sent to Servicer 1 that contained a variety of false statements. For example, the certifications falsely represented that the accompanying financial statements were accurate. However, the statements

consistently listed hundreds of thousands of dollars in accounts receivable for uncollected rental payments for Sovereign tenants, when in reality SCHACK and Co-conspirator 1 knew—because Co-conspirator 1 controlled these tenants—there was no reasonable expectation of ever collecting those unpaid rents. Including those receivables on the Borrowers' balance sheets allowed SCHACK and Co-conspirator 1 to present the appearance of consistent income (receivables were included in income) as part of a scheme to mislead Servicer 1.

e. The certifications accompanying the financial statements also represented that no default existed, when in fact beginning at least as early as in or around 2017, SCHACK and Co-conspirator 1 knew the Borrowers were in default due to, among other reasons, the 1) Lockbox diversion, and 2) failure to provide audited annual financial statements to Servicer 1.

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

FORFEITURE ALLEGATION AS TO COUNT ONE


1. As a result of committing the offense charged in Count One of this Information, defendant BARTON SCHACK shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of the offense charged in Count One of this Information.

Substitute-Asset Provision
(Applicable to All Forfeiture Allegations)

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,

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) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such defendant up to the value of the forfeitable property described above.


RACHAEL A. HONIG
Acting United States Attorney

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INFORMATION FOR

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RACHAEL A. HONIG
ACTING UNITED STATES ATTORNEY
FOR THE DISTRICT OF NEW JERSEY

ANDREW MACURDY
ASSISTANT U.S. ATTORNEY
NEWARK, NEW JERSEY
(973) 645-2700
