

ATTACHMENT A

Between in or about September 2015, and on or about December 30, 2015, in Hudson, Mercer, and Monmouth Counties, in the District of New Jersey, and elsewhere, defendant

OSBADO HERNANDEZ

knowingly made false statements for the purpose of influencing the action of the Victim Bank, the accounts of which were then insured by the Federal Deposit Insurance Corporation, upon an application, loan, and a change and extension of the same, in connection with the release of a loan on a property located in Keansburg, New Jersey, in that defendant Hernandez falsely represented: (1) that he had no money immediately available to apply toward his mortgage delinquency, when, in fact, defendant Hernandez had additional assets in a savings account; and (2) that defendant Hernandez would not remain in the property for longer than 90 days, when, in fact, defendant Hernandez intended to occupy the property indefinitely.

In violation of Title 18, United States Code, Section 1014 and Section 2.

ATTACHMENT B

I, Thomas Mahoney, am a Supervisory Special Agent at the U.S. Attorney's Office for the District of New Jersey, having personally participated in an investigation of the conduct of defendant OSBADO HERNANDEZ, and having spoken with other law enforcement officers and individuals, have knowledge of the following facts. Because this Complaint is submitted for the limited purpose of establishing probable cause, I have not included all facts known to me concerning this investigation. The contents of documents and the actions, statements, and conversations of individuals referenced below are provided in substance and in part, unless otherwise indicated.

Defendants and Relevant Individuals and Entities

1. At all times relevant to this Complaint:
 - a. Defendant HERNANDEZ resided in Keansburg, New Jersey, at a property (the "Short Sale Property") and was employed by the Hudson County Sheriff's Office (the "HCSO").
 - b. "Buyer" resided in Fairlawn, New Jersey.
 - c. "Broker" was a licensed real estate broker and the registered agent of a real estate company located in Jersey City, New Jersey.
 - d. "Victim Bank" was a federally regulated national banking association, the accounts of which were then insured by the Federal Deposit Insurance Corporation, making it a "financial institution" as that term is defined in Title 18, United States Code, Section 20. The Victim Bank held a lien on the Short Sale Property.

The Short Sale Process

2. A mortgage loan is funded by financial institutions, such as the Victim Bank, to enable borrowers to finance the purchase of real estate property, giving the lender a secured interest in the property. Borrowers are then required to make regular, typically monthly, payments to the lender to pay down the principal and interest owed on the mortgage.
3. Absent a "mortgage modification," where the lender agrees to adjust the borrowers' repayment schedule, distressed and delinquent borrowers who are unable to make their mortgage payments face foreclosure or a short sale.

4. “Foreclosure” allows the lender to take possession of the property, evict the borrowers, and sell the property in an attempt to recoup what the lender is owed.

5. A “short sale” refers to a type of real estate transaction in which a mortgaged property is sold to a buyer for less than the amount owed by the seller on the underlying mortgages on the property (the “Short Sale Price”) but allows the lender to avoid a costly and time-consuming foreclosure process. If approved by the lender, the purchase agreement between the buyer and the seller results in the release of the lender’s mortgage interest, in exchange for the buyer’s payment of the Short Sale Price to the lender and the seller’s conveyance of the deed to the buyer.

The Victim Bank’s Mortgage on the Short Sale Property

11. On or about December 4, 2006, defendant HERNANDEZ purchased the Short Sale Property for approximately \$239,900. In order to finance the purchase of the Short Sale Property, defendant HERNANDEZ obtained a mortgage loan from the Victim Bank in the amount of approximately \$191,920 (the “Mortgage”). Under the terms of the Mortgage, defendant HERNANDEZ was required to make monthly payments to the Victim Bank.

12. In or about December 2014, defendant HERNANDEZ was behind on the mortgage payments that he owed to the Victim Bank. Starting on or about February 18, 2015, the Victim Bank demanded full payment of what defendant HERNANDEZ still owed on the Mortgage, which continued to accrue interest, in the amount of approximately \$248,169. In or about April 2015, the Victim Bank began the foreclosure process for the Short Sale Property.

13. Records from the Victim Bank show that on or about June 12, 2015, the Short Sale Property was appraised and valued at approximately \$123,900. On or about June 17, 2015, the outstanding balance on the Mortgage, inclusive of late fees, was approximately \$252,357.

The False Statements

14. On or about June 20, 2015, defendant HERNANDEZ signed a proposed contract of sale for the Short Sale Property to the Buyer in the amount of approximately \$70,000. On or about July 17, 2015, the Broker sent a copy of the signed contract of sale to the Victim Bank on behalf of defendant HERNANDEZ.

15. On or about August 31, 2015, the Victim Bank notified defendant HERNANDEZ through the Broker that additional documents were required in order to review the proposed short sale transaction, including, but not limited to, bank statements, a signed listing agreement showing that the Property was

currently for sale, and a signed letter from defendant HERNANDEZ declining “retention options,” meaning alternatives to a sale that would have allowed defendant HERNANDEZ to continue to live in the Short Sale Property.

16. In or about September and October 2015, from Hudson County, New Jersey, the Broker sent the Victim Bank the requested documents on behalf of defendant HERNANDEZ. Defendant HERNANDEZ made various misrepresentations through the Broker in order to obtain the Victim Bank’s approval for the fraudulent short sale, including:

- a. On or about September 4, 2015, defendant HERNANDEZ signed a hardship assistance package where he falsely stated that he intended to sell the Short Sale Property. Through the Broker, defendant HERNANDEZ submitted approximately three months of checking account statements to the Victim Bank but fraudulently withheld information regarding the availability of additional funds, including in a savings account, having a balance of approximately \$28,511.69 on or about September 11, 2015.
- b. On or about September 25, 2015, defendant Hernandez signed a second copy of the hardship assistance package where he falsely stated that he had \$0 in funds immediately available to apply toward his mortgage delinquency, when in fact, defendant Hernandez knew that, as of on or about September 30, 2015, he had approximately \$28,911.69 in a savings account that he failed to disclose to the Victim Bank.
- c. Also in or about September and October 2015, the Broker submitted two letters on behalf of defendant HERNANDEZ stating, in pertinent part, “I wish to sell this house and move on with my life.”

17. On or about October 23, 2015, the Victim Bank rejected the proposed short sale in the amount of approximately \$70,000 and counter-offered that it would consider a Short Sale Price in the amount of approximately \$95,000.

18. On or about October 27, 2015, defendant HERNANDEZ accepted the Victim Bank’s counteroffer by causing the Broker to send a copy of a revised contract of sale for the Short Sale Property signed by both defendant HERNANDEZ and the Buyer in the amount of approximately \$95,000.

19. On or about December 30, 2015, the closing for the short sale of the Property took place in Pennington, New Jersey. During the closing, defendant HERNANDEZ and the Buyer executed a short sale affidavit, as

required by the Victim Bank, which was notarized and sworn to under penalty of perjury. The affidavit contained a false representation that defendant Hernandez falsely agreed that he would not remain in the Short Sale Property for longer than 90 days, even though defendant HERNANDEZ intended to remain in the Short Sale Property indefinitely.

20. Defendant HERNANDEZ and the Buyer also executed a new deed for the Short Sale Property, representing that defendant HERNANDEZ was transferring ownership of the Short Sale Property to the Buyer.

21. Also on or about December 30, 2015, defendant HERNANDEZ and the Buyer caused approximately \$83,048 to be wired to the Victim Bank.

22. On or about January 20, 2016, the Victim Bank sent a copy of the Discharge of the Mortgage to defendant HERNANDEZ.

23. Following the short sale transaction, despite the representations that defendant HERNANDEZ made to the Victim Bank, the Buyer never took possession of the Property, and defendant HERNANDEZ continued to live at the Short Sale Property.

24. On or about December 30, 2019, defendant HERNANDEZ was interviewed by law enforcement officers. During the interview, defendant HERNANDEZ stated that the Short Sale Property lost value and that he owed more on his mortgage than the Short Sale Property was worth. Defendant HERNANDEZ admitted to asking the Victim Bank to refinance but that the Victim Bank refused to allow him to do so because he had good credit. Defendant HERNANDEZ stated that his HCSO co-worker, the Buyer's common-law husband, offered to buy the Short Sale Property. Defendant HERNANDEZ admitted to continuing to live at the Short Sale Property following the short sale transaction.

25. In consideration for the fraudulent short sale, the Victim Bank discharged approximately \$98,036.30 of debt against defendant HERNANDEZ.