

AO 257 (Rev. 6/78)

**DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT**BY: ☐ COMPLAINT ☐ INFORMATION ☒ INDICTMENT  
☐ SUPERSEDING**OFFENSE CHARGED**

See Attachment

- ☐ Petty  
☐ Minor  
☐ Misdemeanor  
☒ Felony

PENALTY: See Attachment

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

MAR 27 2014

DEFENDANT - U.S.

RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND

DISTRICT COURT NUMBER

CR14-00169

JSW

**PROCEEDING**

Name of Complainant Agency, or Person (&amp; Title, if any)

Federal Bureau of Investigation

☐ person is awaiting trial in another Federal or State Court, give name of court

☐ this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

☐ this is a reprosecution of charges previously dismissed which were dismissed on motion of:

☐ U.S. ATTORNEY ☐ DEFENSE
SHOW  
DOCKET NO.
☐ this prosecution relates to a pending case involving this same defendant
MAGISTRATE  
CASE NO.
☐ prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person

Furnishing Information on this form MELINDA HAAG

☒ U.S. Attorney ☐ Other U.S. Agency

Name of Assistant U.S.

Attorney (if assigned)

Asst U.S. Atty Andrew Huang

**DEFENDANT****IS NOT IN CUSTODY**

Has not been arrested, pending outcome this proceeding.

- 1) ☒ If not detained give date any prior summons was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

**IS IN CUSTODY**

- 4) ☐ On this charge
- 5) ☐ On another conviction } ☐ Federal ☐ State
- 6) ☐ Awaiting trial on other charges

If answer to (6) is "Yes", show name of institution

Has detainer been filed? ☐ Yes ☐ No

If "Yes" give date filed

DATE OF  
ARREST

Month/Day/Year

Or... if Arresting Agency &amp; Warrant were not

DATE TRANSFERRED  
TO U.S. CUSTODY

Month/Day/Year

☐ This report amends AO 257 previously submitted
**ADDITIONAL INFORMATION OR COMMENTS****PROCESS:**
☒ SUMMONS ☐ NO PROCESS\* ☐ WARRANT

Bail Amount: \_\_\_\_\_

If Summons, complete following:

☐ Arraignment ☒ Initial Appearance

Defendant Address:

c/o John Paul Reichmuth, AFPD  
 555 12th Street, Suite 650, Oakland, CA 94607

\* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: 4/2/2014 @ 9:30 a.m. Before Judge: Kandis A. Westmore

Comments:

*United States v. Benny Chetcuti, Jr.*  
PENALTY SHEET ATTACHMENT

Maximum Penalties for Counts One and Two (18 U.S.C. § 1343 – Wire Fraud):

- (1) 20 years imprisonment;
- (2) Fine of \$250,000 or twice the gross pecuniary gain or twice the gross pecuniary loss, whichever is greater, resulting from the offense;
- (3) 3 years of supervised release;
- (4) \$100 mandatory special assessment;
- (5) Restitution; and
- (6) Forfeiture

# United States District Court

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

VENUE: Oakland

**CR14-00169**

**JSW**

UNITED STATES OF AMERICA,

v.

BENNY CHETCUTI, Jr.,

**FILED**

MAR 27 2014

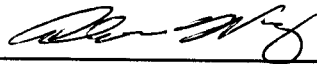
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

DEFENDANT.

**INDICTMENT**

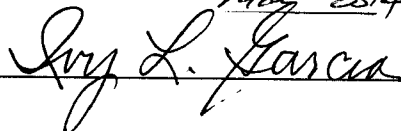
18 U.S.C. § 1343 – Wire Fraud; 18 U.S.C. § 981(a)(1)(C),  
28 U.S.C. § 2461(c) – Criminal Forfeiture

A true bill.



Foreman

Filed in open court this 27<sup>th</sup> day of  
May 2014.



Clerk

Kandice West Bail, \$ Summons

MELINDA HAAG (CABN 132612)  
United States Attorney

**FILED**

**MAR 27 2014**

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

**JSW**

**CR14-00169**  
No. CR ..

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENNY CHETCUTI, Jr.,

Defendant.

VIOLATIONS: 18 U.S.C. § 1343 – Wire Fraud;  
18 U.S.C. § 981(a)(1)(C), 28 U.S.C. § 2461(c) –  
Criminal Forfeiture

OAKLAND VENUE

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment unless otherwise specified:

1. Since in or around 1998, defendant BENNY CHETCUTI, Jr. operated a real estate investment business known as Chetcuti & Associates (“C&A”), which was initially a sole proprietorship and which he incorporated in the State of California in or about 2002.
2. C&A had its principal place of business in Walnut Creek, California.
3. C&A was in the business of purchasing homes, renovating them, and selling them for a profit within a relatively short time period.

INDICTMENT

1           4.     As part of his real estate investment business, defendant CHETCUTI also exercised  
2 control and participated in other real estate investment entities, including, but not limited to, 55-63A  
3 Woodward Street Partners, L.P., Jomorson Properties, and BKCM Enterprises, Inc.

4           5.     Defendant CHETCUTI obtained funding for his real estate investment business, in part,  
5 by recruiting private investors to loan money ("private lenders") for purchasing and renovating  
6 properties and for general business expenses. Some of these loans purported to be secured by interests  
7 in specific real property; others were unsecured loans.

8           6.     Under California law, debts secured by an interest in real property may be recorded  
9 through deeds of trust. Recorded deeds of trust provide notice to subsequent, would-be lenders of  
10 interests in the property and the relative priority of existing debts. Recording of debts also ensures  
11 extinguishment of debts before title passes to a subsequent purchaser.

12                               THE SCHEME TO DEFRAUD

13           7.     Starting at a time unknown to the grand jury, but beginning at least by on or about  
14 October 15, 2002, and continuing through at least June 10, 2010, defendant CHETCUTI carried out a  
15 scheme to defraud using the following methods and means:

16               a.     As part of the scheme to defraud, defendant CHETCUTI recruited private lenders  
17 who loaned him and his businesses money in exchange for promissory notes purportedly secured  
18 by interests in real property;

19               b.     As a further part of the scheme to defraud, defendant CHETCUTI concealed and  
20 failed to disclose to said private lenders the existence and amount of loans that were senior to or  
21 higher in priority;

22               c.     As a further part of the scheme to defraud, defendant CHETCUTI falsely  
23 promised to record deeds of trust to secure the private lenders' loans;

24               d.     As a further part of the scheme to defraud, defendant CHETCUTI misrepresented  
25 how loaned monies would be used, the sales status of certain properties, and the time period for  
26 repayment of loans; and

27               e.     As a further part of the scheme to defraud, defendant CHETCUTI directed others  
28 to impersonate lenders and title company officers on the telephone and forged letters purportedly

1 written by lenders and title company officers.

2 8. As a further part of the scheme to defraud, on or about April 2, 2009, defendant  
3 CHETCUTI defrauded victim RS, an individual, of \$250,000, by making material misrepresentations,  
4 false statements, and false promises, and by omitting and concealing certain material facts, including,  
5 but not limited to, the following:

6 a. Defendant CHETCUTI falsely represented that the \$250,000 would be a loan  
7 wholly secured by an interest in real property located at 50 Willowbrook Lane, Walnut Creek,  
8 California ("50 Willowbrook Lane");

9 b. Defendant CHETCUTI falsely represented that the only other loan secured by the  
10 property was a \$600,000 purchase loan, thereby omitting and concealing the fact that additional  
11 unrecorded debts were secured by 50 Willowbrook Lane;

12 c. Defendant CHETCUTI omitted and concealed that the purchase loan was actually  
13 \$900,000;

14 d. Defendant CHETCUTI made false representations that led RS to believe that  
15 CHETCUTI would record a deed of trust to secure RS's interest in 50 Willowbrook Lane.

16 9. As a further part of the scheme to defraud, on or about July 20, 2009, defendant  
17 CHETCUTI defrauded victim TFRT, a trust, of \$300,000, by making material misrepresentations, false  
18 statements, and false promises, and by omitting and concealing certain material facts, including, but not  
19 limited to, the following:

20 a. Defendant CHETCUTI falsely represented that the \$300,000 would be a "bridge  
21 loan" for the purpose of purchasing real property located at 750 Kirkcrest Road, Danville,  
22 California; and

23 b. Defendant CHETCUTI falsely represented that the loan would be secured, in part,  
24 by at least one unit of real property located at 55-63A Woodward Street, San Francisco,  
25 California ("55-63A Woodward Street"), and that the lender holding a senior debt position  
26 secured by that property agreed that its debt would be satisfied by the sale of the other units in  
27 the building should the TFRT choose to record a grant deed for a unit in 55-63A Woodward  
28 Street.

COUNTS ONE AND TWO: (18 U.S.C. § 1343 – Wire Fraud)

10. Paragraphs One through Nine are hereby re-alleged and incorporated herein by reference.

11. On or about the dates listed below, in the Northern District of California and elsewhere, for the purpose of executing a scheme and artifice to defraud lenders and investors as to a material matter, and for obtaining money by means of materially false and fraudulent pretenses, representations, promises, and omissions, the defendant,

BENNY CHETCUTI, Jr.,

did knowingly cause to be transmitted and did aid and abet in causing to be transmitted the following wire communications in interstate commerce:

Count	Date	Description of Wire Transfer
1	April 2, 2009	\$250,000 wire transfer request originating in San Francisco, California, and resulting in processing of request by the Fedwire Funds Service facility in New Jersey
2	July 20, 2009	\$300,000 wire transfer request originating in Concord, California, and resulting in processing of request by the Fedwire Funds Service facility in New Jersey

Each in violation of Title 18, United States Code, Section 1343.

FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

12. Paragraphs One through Eleven are hereby re-alleged and incorporated herein by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

13. Upon conviction of the offenses alleged in Counts One and Two of this Indictment, the defendant,

BENNY CHETCUTI, Jr.,

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), any property, real or personal, which

constitutes or is derived from proceeds traceable to the offense.

14. 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 substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

15. All in violation of Title 18, United States Code, Sections 981(a)(1)(C) Title 28, United States Code, Section 2461(c), and Rule 32.2 of the Federal Rules of Criminal Procedure.

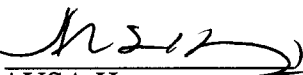
DATED: 3/27/14

A TRUE BILL.

  
FOREPERSON

MELINDA HAAG  
United States Attorney

THOMAS E. STEVENS  
Chief, Oakland Branch

(Approved as to form: )

AUSA Huang