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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL A. ZIMMERMAN,

Defendant.

REDACTED

Criminal Action No. 13-

**INDICTMENT**

The Grand Jury for the District of Delaware charges that:

**INTRODUCTION**

*Information Relevant to All Counts*

At all times material to this indictment:

1. Defendant Michael A. Zimmerman (“Zimmerman” or “defendant”) was the owner and President of BBC Properties, Inc. (“BBC”), a real estate development company located in Dover, Delaware.
2. Through BBC, defendant undertook numerous business ventures and real estate development projects, consisting of commercial and residential development, commercial and residential leasing, and marina development and operations in Delaware, Maryland, Florida, and the Bahamas.
3. Defendant established separate limited liability corporations (“LLCs”) and partnerships for each of his real estate development projects. In some instances, defendant was 100% owner of a particular LLC, while in others he took on additional partner(s).

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4. Partner A was a realtor and partner in several projects with Zimmerman, including but not limited to Salt Pond Plaza, LLC.

5. Partner B was a general contractor and partner in several projects with Zimmerman, including but not limited to TBC Enterprises, LLC; North Dover Holdings, LLC; and Shoppes at Fieldstone Village, LLC.

6. BBC Employee A was an employee and bookkeeper for BBC and Zimmerman's various related entities who also managed Zimmerman's personal bank accounts.

7. Wilmington Trust Co. (also referred to as "WTC" or the "Bank"), headquartered in Wilmington, Delaware, was a financial institution, as defined by Title 18, United States Code, Section 20, with deposits insured by the Federal Deposit Insurance Corporation.<sup>1</sup> WTC provided financing to each of the Zimmerman-related projects, as set forth more fully below.

8. Bank Employee A was a Relationship Manager at WTC who was responsible for initiating and managing the Bank's relationship with the Zimmerman-related projects.

9. Salt Pond Plaza, LLC ("Salt Pond") was a limited liability corporation established for the purpose of developing a commercial center adjacent to the Salt Pond Community and Golf Course in Ocean View, Delaware (the "Salt Pond project"). Zimmerman owned an 89% interest in Salt Pond, while Partner A owned an 11% interest. Between January 10, 2007, and December 10, 2009, Zimmerman and Partner A obtained three loans from WTC totaling approximately \$12,231,123.00 to develop the Salt Pond project.

10. Compass Pointe, LLC ("Compass Pointe") was a limited liability corporation established for the purpose of developing a commercial project on North State Street in Dover, Delaware (the

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<sup>1</sup>Beginning in or around December 2008, WTC also participated in the Department of the Treasury's Troubled Asset Relief Program.

“Compass Pointe project”). Zimmerman owned a 50% interest in Compass Pointe, while the remaining 50% interest was owned by RTZ Associates, LLC (“RTZ”). RTZ, in turn, was owned by the RJZ Investment Trust (49.5% interest), the TJZ Investment Trust (49.5% interest), and Zimmerman (1%). The RJZ Investment Trust and the TJZ Investment Trust are trusts that were established for the benefit of Zimmerman’s family members. Between July 25, 2007, and June 16, 2009, Zimmerman obtained four loans from WTC totaling approximately \$7,702,017.00 to develop the Compass Pointe project.

11. Shoppes at Fieldstone Village, LLC (“Shoppes at Fieldstone”) was a limited liability corporation established for the purpose of building a shopping center at the intersection of Route 13 and Fork Branch Road in Dover, Delaware (the “Shoppes at Fieldstone project”). The entity North Dover Holdings, LLC owned a 100% interest in Shoppes at Fieldstone. North Dover Holdings, LLC was wholly owned by TBC Enterprises, Inc. (“TBC”). Zimmerman and Partner B, in turn, each owned a 50% interest in TBC. Thus, Zimmerman and Partner B each owned a 50% interest in the Shoppes at Fieldstone. Between January 17, 2008, and December 9, 2009, Zimmerman and Partner B obtained three loans from WTC totaling approximately \$17,323,549.34 to develop the Shoppes at Fieldstone project.

12. The Salt Pond, Compass Pointe, and Shoppes at Fieldstone projects shall hereinafter collectively be referred to as the “Zimmerman-related projects.”

13. On March 30, 2011, the Bank sold the debt associated with the Zimmerman-related projects, as well as the debt associated with other projects in which Zimmerman was a partner, to a third party buyer. Both in connection with the sale and prior to this time, the Bank incurred a loss on the three Zimmerman-related projects in excess of \$26,000,000.00. This amount includes a loss on the Salt Pond project in excess of \$9,600,000.00; a loss on the Shoppes at Fieldstone project in excess of \$11,500,000.00; and a loss on the Compass Pointe project in excess of \$5,500,000.00.

**COUNT 1**

**(Conspiracy to Commit Bank Fraud)**

**The Conspiracy**

14. From on or about December 27, 2006, through on or about February 27, 2009, in the District of Delaware, defendant Michael A. Zimmerman knowingly and intentionally combined, conspired, confederated and agreed with others known and unknown to the grand jury to commit an offense against the United States, to wit: bank fraud, that is, to knowingly execute a scheme and artifice to defraud a financial institution, to wit, Wilmington Trust Company, and to obtain any of the moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, a financial institution, to wit, Wilmington Trust Company, by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Sections 1344, 1349, and 2.

**The Purposes of The Conspiracy**

15. The purposes of the conspiracy included, but were not limited to, the following: (1) defendant and his co-conspirators submitted fraudulent construction draw requests to the Bank in connection with the Zimmerman-related projects and thereby obtained loan proceeds to use for purposes other than those set forth in the draw requests; (2) defendant and his co-conspirators caused the Bank to advance funds to defendant and his co-conspirators that were not permitted under the terms of an equity takeout provision in the Salt Pond project loan agreement; and (3) defendant and his co-conspirators retained project funds from a lease payment for their own personal use in contravention of the terms of the Shoppes at Fieldstone project loan agreement.

*The Ways, Manner, and Means of the Conspiracy*

16. The ways, manner and means by which the defendant and his co-conspirators sought to accomplish the conspiracy included, but were not limited to, the following:

17. From on or about July 18, 2007, through on or about November 5, 2008, defendant and others, including but not limited to BBC Employee A and Partner B, submitted or caused to be submitted, at least seven fraudulent construction draws to the Bank. At a minimum, defendant caused five fraudulent draws to be submitted to the Bank on the Salt Pond project; one fraudulent draw to be submitted on the Compass Pointe project; and one fraudulent draw to be submitted on the Shoppes at Fieldstone project.

18. The fraudulent construction draws included: (A) requests to pay particular "soft costs" – i.e., costs associated with professional services, such as architectural, engineering, real estate, and legal work – for work that was not actually performed; (B) the submission of duplicate invoices for construction draws on multiple occasions; (C) requests for the payment of costs ostensibly incurred on the Zimmerman-related projects, using invoices associated with costs for unrelated projects; and (D) the use of a fictitious invoice to request payment for work not actually performed.

19. At a minimum, the fraudulent draw requests for the three projects totaled approximately \$1,251,068.20.

20. Bank Employee A caused the Bank to fund these construction draws.

21. Defendant, Partner A, and Partner B then used loan proceeds for purposes unrelated to those set forth in the construction draw requests.

22. In addition to the fraudulent construction draw requests, defendant misappropriated Bank funds on two occasions in contravention of the loan agreements for the Salt Pond project and Shoppes at Fieldstone project, respectively.

Conduct in Furtherance of the Conspiracy

In furtherance of the conspiracy and to effectuate the purposes thereof, the following acts, among others, were committed in the District of Delaware:

23. On or about July 18, 2007, Zimmerman and BBC Employee A submitted to the Bank a fraudulent construction draw request for \$357,500.00. The conspirators represented that these loan proceeds would be used to fund various soft costs relating to the Salt Pond project. Instead, Zimmerman directed that the loan proceeds be used for other purposes, which they were, including the payment of a check to Zimmerman in the amount of \$309,834.40, a check to Partner A in the amount of \$34,426.05, and a check to BBC in the amount of \$13,239.55.

24. On or about November 30, 2007, Zimmerman and BBC Employee A submitted to the Bank a fraudulent construction draw request for \$225,000.00. The conspirators represented that these loan proceeds would be used to fund various soft costs relating to the Salt Pond project. Instead, Zimmerman directed that a portion of the loan proceeds be used for other purposes, which they were, including the payment of two checks to Zimmerman in the total amount of \$133,500.00 and a check to Partner A in the amount of \$16,500.00.

25. From in or around January 11, 2008, and continuing until on or about January 16, 2008, defendant caused the Bank to fund an equity takeout for the Salt Pond project in the amount of \$1,000,000.00. Defendant was aware that he was not entitled to such funds without securing leases for two Salt Pond pad sites pursuant to the terms of the Salt Pond loan agreement. After the Bank funded the equity takeout, defendant caused Salt Pond to issue checks as follows: (1) a check to defendant in the amount of \$216,712.00; (2) a check to BBC in the amount of \$673,288.00; and (3) a check to Partner A in the amount of \$110,000.00.

26. On or about April 17, 2008, Zimmerman and BBC Employee A submitted to the Bank a fraudulent construction draw request for \$150,000.00. The conspirators represented that these loan proceeds would be used to fund various architectural and engineering costs previously incurred in connection with the Salt Pond project. Instead, Zimmerman directed that the loan proceeds be used for another purpose, which they were, namely the payment of a check to Zimmerman in the amount of \$150,000.00. Zimmerman ultimately used the \$150,000.00 loan proceeds to purchase one share of stock in Bird Cay, Ltd., a corporation in the Bahamas.

27. On or about June 13, 2008, Zimmerman and BBC Employee A submitted to the Bank a fraudulent construction draw request for \$110,000.20. The conspirators represented that these loan proceeds would be used to fund various architectural, engineering, realty, and other costs previously incurred in connection with the Salt Pond project. Instead, Zimmerman directed that the loan proceeds be used for another purpose, which they were, namely the payment of a check to Zimmerman in the amount of \$97,900.00 and a check to Partner A in the amount of \$12,100.00. In connection with the fraudulent draw request, Zimmerman:

A. caused a fictitious invoice to be submitted in the name of an architectural firm for work that was not performed on the Salt Pond project;

B. represented that an invoice for realty fees was associated with the Salt Pond project, when, in fact, such fees were related to another project; and

C. caused invoices for engineering fees to be submitted to fund the draw request, and then later resubmitted the same invoices (which were also funded by the Bank) in connection with subsequent construction draw requests.

28. On or about October 28, 2008, Zimmerman and Partner B submitted to the Bank a fraudulent construction draw request for \$8,568.00. The conspirators represented that these loan

proceeds would be used to fund a change order associated with the Salt Pond project. Instead, Zimmerman directed that the loan proceeds be used for another purpose, which they were, namely for construction costs associated with an unrelated project.

29. On or about January 3, 2008, Zimmerman and Partner B submitted to the Bank a fraudulent construction draw request for \$100,000.00. The conspirators represented that these loan proceeds would be used to fund construction costs associated with the Compass Pointe project. Instead, Zimmerman directed that the loan proceeds be used for another purpose, which they were, namely the payment of a check to Zimmerman in the amount of \$100,000.00.

30. On or about January 3, 2008, Zimmerman and Partner B submitted to the Bank a fraudulent construction draw request for \$375,000.00. The conspirators represented that these loan proceeds would be used to fund architectural and engineering costs associated with the Shoppes at Fieldstone project. Instead, Zimmerman directed that the loan proceeds be used for another purpose, which they were, namely the payment of a check to Zimmerman in the amount of \$120,000.00, a check to Partner B in the amount of \$120,000.00, and a check to Shoppes at Fieldstone in the amount of \$135,000.00.

31. On or about February 27, 2009, defendant and Partner B misappropriated approximately \$260,000.00 in escalated lease payments received from a lessee for the Shoppes at Fieldstone project. Defendant had represented in the loan agreement for the Shoppes at Fieldstone project that the escalated lease payments would be reinvested back into that project. Rather than comply with the terms of the loan agreement, Zimmerman directed that the loan proceeds be used for another purpose, which they were, namely the payment of a check to Zimmerman in the amount of \$130,000.00 and the payment of a check to Partner B in the amount of \$130,000.00.

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



**COUNT 2**

**(False Statement to a Financial Institution)**

32. On or about July 18, 2007, in the District of Delaware, defendant Michael A. Zimmerman knowingly made a material false statement for the purpose of influencing the action of Wilmington Trust Company, an institution the accounts of which were insured by the Federal Deposit Insurance Corporation, in connection with an application, advance, or loan, in that the defendant represented that the purpose of a construction loan draw request in the amount of \$357,500.00 would be used to fund various soft costs associated with the Salt Pond project, when in truth and in fact, as the defendant well knew, the funds would not be used for such purpose.

All in violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT 3**

**(False Statement to a Financial Institution)**

33. On or about November 30, 2007, in the District of Delaware, defendant Michael A. Zimmerman knowingly made a material false statement for the purpose of influencing the action of Wilmington Trust Company, an institution the accounts of which were insured by the Federal Deposit Insurance Corporation, in connection with an application, advance, or loan, in that the defendant represented that the purpose of a construction loan draw request in the amount of \$225,000.00 would be used to fund various soft costs associated with the Salt Pond project, when in truth and in fact, as the defendant well knew, at least \$150,000.00 of such funds would not be used for such purpose.

All in violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT 4**

**(False Statement to a Financial Institution)**

34. On or about April 17, 2008, in the District of Delaware, defendant Michael A. Zimmerman knowingly made a material false statement for the purpose of influencing the action of Wilmington Trust Company, an institution the accounts of which were insured by the Federal Deposit Insurance Corporation, in connection with an application, advance, or loan, in that the defendant represented that the purpose of a construction loan draw request in the amount of \$150,000.00 would be used to fund various soft costs associated with the Salt Pond project, when in truth and in fact, as the defendant well knew, the funds would not be used for such purpose.

All in violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT 5**

**(Money Laundering)**

35. The allegations set forth in paragraphs 26 and 34 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

36. On or about April 22, 2008, in the District of Delaware, defendant Michael A. Zimmerman did knowingly engage and attempt to engage in a monetary transaction by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, that is, the deposit of funds into a bank account, such property having been derived from a specified unlawful activity, that is, making a false statement to a financial institution, as charged in Count 4 of the Indictment.

All in violation of Title 18, United States Code, Sections 1957 and 2.

**COUNT 6**

**(False Statement to a Financial Institution)**

37. On or about June 13, 2008, in the District of Delaware, defendant Michael A. Zimmerman knowingly made a material false statement for the purpose of influencing the action of Wilmington Trust Company, an institution the accounts of which were insured by the Federal Deposit Insurance Corporation, in connection with an application, advance, or loan, in that the defendant represented that the purpose of a construction loan draw request in the amount of \$110,000.20 would be used to fund various soft costs associated with the Salt Pond project, when in truth and in fact, as the defendant well knew, the funds would not be used for such purpose.

All in violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT 7**

**(False Statement to a Financial Institution)**

38. On or about October 25, 2008, in the District of Delaware, defendant Michael A. Zimmerman knowingly made a material false statement for the purpose of influencing the action of Wilmington Trust Company, an institution the accounts of which were insured by the Federal Deposit Insurance Corporation, in connection with an application, advance, or loan, in that the defendant represented that the purpose of a construction loan draw request in the amount of \$8,568.00 would be used to fund construction costs associated with the Salt Pond project, when in truth and in fact, as the defendant well knew, the funds would not be used for such purpose.

All in violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT 8**

**(False Statement to a Financial Institution)**

39. On or about January 3, 2008, in the District of Delaware, defendant Michael A. Zimmerman knowingly made a material false statement for the purpose of influencing the action of Wilmington Trust Company, an institution the accounts of which were insured by the Federal Deposit Insurance Corporation, in connection with an application, advance, or loan, in that the defendant represented that the purpose of a construction loan draw request in the amount of \$100,000.00 would be used to fund construction costs associated with the Compass Pointe project, when in truth and in fact, as the defendant well knew, the funds would not be used for such purpose.

All in violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT 9**

**(False Statement to a Financial Institution)**

40. On or about January 15, 2008, in the District of Delaware, defendant Michael A. Zimmerman knowingly made a material false statement for the purpose of influencing the action of Wilmington Trust Company, an institution the accounts of which were insured by the Federal Deposit Insurance Corporation, in connection with an application, advance, or loan, in that the defendant represented that the purpose of a construction loan draw request in the amount of \$375,000.00 would be used to fund various soft costs associated with the Shoppes at Fieldstone project, when in truth and in fact, as the defendant well knew, the funds would not be used for such purpose.

All in violation of Title 18, United States Code, Sections 1014 and 2.

**NOTICE OF FORFEITURE**

**Forfeiture Allegation for Counts 1-4, and 6-9 (Conspiracy to Commit Bank Fraud and Making a False Statement to a Financial Institution)**

1. Upon conviction of the offenses in violation of Title 18, United States Code, Sections 1014, 1344, 1349, and 2, alleged in Counts 1-4 and 6-9 of this Indictment, defendant Michael A. Zimmerman shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violations.

If any of the forfeitable property, 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 with difficulty;

the United States of America shall be entitled to forfeiture of substitute property 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).

All pursuant to Title 18, United States Code, Section 982(a)(2)(A) and Title 28, United States Code, Section 2461(c).

**Forfeiture Allegation for Count 5 (Money Laundering)**

2. Upon conviction of the offense in violation of Title 18, United States Code, Sections 1957 and 2, alleged in Count 5 of this Indictment, defendant Michael A. Zimmerman shall forfeit to the

United States of America, pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in such offense, and any property traceable to such property.

If any of the forfeitable property, 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 with difficulty;

the United States of America shall be entitled to forfeiture of substitute property 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).

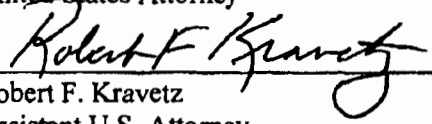
All pursuant to Title 18, United States Code, Section 982(a)(1) and Title 28, United States Code, Section 2461(c).

A TRUE BILL:

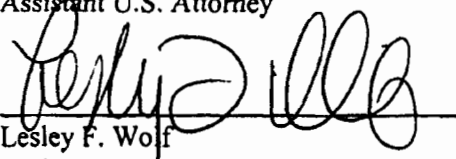
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Foreperson

CHARLES M. OBERLY, III  
United States Attorney

By:

  
Robert F. Kravetz  
Assistant U.S. Attorney

By:

  
Lesley F. Wolf  
Assistant U.S. Attorney

Dated: January 23, 2013