United States District Court
District of New Jersey

UNITED STATES OF AMERICA	: Hon. Joseph A. Dickson
v.	: Mag. No. 13- 6504 (JAD)
PAUL CHEMIDLIN, Jr., JOSEPH DIVALLI, CARMINE FUSCO, JOSE MARTINS, JOSE LUIS SALGUERO BEDOYA, a/k/a "Jose Salguero," and KENNETH SWEETMAN	: **CRIMINAL COMPLAINT**

I, Ryan D. Fahy, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A.

I further state that I am a Special Agent with the Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHMENT B.

continued on the attached pages and made a part hereof.

Ryan D. Fahy

Ryan D. Fahy
Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

January 23, 2013 at 4:55pm
Date

Newark, New Jersey
City and State

Hon. Joseph A. Dickson
United States Magistrate Judge
Name & Title of Judicial Officer

Signature of Judicial Officer

ATTACHMENT A

From at least as early as in or about March 2011 through in or about July 2012, in the District of New Jersey and elsewhere, defendants:

Paul Chemidlin, Jr.,
Joseph DiValli,
Carmine Fusco,
Jose Martins,
Jose Luis Salguero Bedoya, a/k/a "Jose Salguero," and
Kenneth Sweetman

did knowingly and intentionally conspire and agree with each other and with others to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, which scheme and artifice would affect financial institutions, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, pictures, and sounds, contrary to 18 U.S.C. § 1343.

In violation of 18 U.S.C. § 1349.

ATTACHMENT B

I, Ryan D. Fahy, a Special Agent with the Federal Bureau of Investigation, having conducted this investigation and discussed this matter with other law enforcement officers who have participated in the investigation, have knowledge of the facts set forth below. Because this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included every detail of every aspect of the investigation.

The Defendants

At all times relevant to this Complaint:

defendant Paul Chemidlin, a resident of Morganville, New Jersey, provided fraudulent real estate appraisals for the conspirators although he was not a licensed real estate appraiser;

defendant Joseph DiValli, a resident of Jackson, New Jersey, was employed as a loan officer at Mortgage Company 1, a Northern New Jersey mortgage brokerage company;

defendant Carmine Fusco, a resident of East Hanover, New Jersey, conducted fraudulent real estate closings for the conspirators although he was not a licensed attorney or title agent;

defendant Jose Martins, a resident of Newark, New Jersey, was an employee of Bank 1 who facilitated certain financial transactions for the conspirators;

defendant Jose Luis Salguero Bedoya, also known as "Jose Salguero," a resident of Elizabeth, New Jersey, was a real estate investor;

defendant Kenneth Sweetman, a resident of Lyndhurst and Nutley, New Jersey, conducted fraudulent real estate closings for the conspirators although he was not a licensed attorney or title agent.

Mortgage Lending Generally

1. Mortgage loans are loans funded by banks, mortgage companies, and other financial institutions ("lenders"), to enable borrowers to finance the purchase of real estate property, giving the lenders a secured interest in the property. In deciding whether borrowers meet the lenders' income, credit eligibility, and down payment requirements, the lenders evaluate the financial representations made in the loan applications and other documents submitted by the borrowers, and assess the value of the property securing the loan.

2. A common type of mortgage loan is issued in connection with an insurance program administered by the Federal Housing Administration ("FHA"), which is a division of the United States Department of Housing and Urban Development. The FHA encourages lenders to make mortgage loans to qualified borrowers by protecting against loan defaults through a government-backed payment guarantee if the borrower defaults on a mortgage loan. The FHA has certain requirements that must be met before it will guarantee a mortgage loan.

3. Another common type of mortgage loan is called a "conventional" mortgage loan. Lenders underwrite and fund conventional mortgage loans using their own funds and credit lines. After funding a conventional mortgage loan, a lender either services the loan during the mortgage loan period or sells the loan to other institutional investors in the secondary market.

4. The mortgage companies referred to herein were "financial institutions," as defined in 18 U.S.C. § 20, because they were "mortgage lending businesses," as defined in 18 U.S.C. § 27. The mortgage companies were organizations which financed or refinanced debts secured by interests in real estate property, and their activities affected interstate commerce.

Short Sales Generally

5. A short sale is a type of real estate transaction in which the property is sold for less than the amount owed by the seller on the underlying mortgage on the property. A short sale

involves an agreement between the seller ("mortgagor") and the lender ("mortgagee") who holds a mortgage on the property, whereby the mortgagee agrees to release its mortgage in exchange for payment of less than the total amount owed on the mortgage. Following the closing of a short sale transaction, the closing agent is required to record the deed in the official records of the relevant county agency in order to properly reflect the occurrence of the short sale on the date of the transaction, the parties involved, and the amount paid by the buyer.

The Mortgage Fraud Conspiracy

6. The investigation has uncovered evidence that the defendants have conspired with each other and others to obtain mortgage loans through fraudulent means. As described below, in furtherance of the conspiracy, the defendants submitted and caused to be submitted to mortgage lenders materially false and fraudulent mortgage loan applications, supporting documents, and closing documents in order to obtain mortgage loan proceeds which they used for their own financial gain. The conspirators used various means to execute the scheme, including:

a. **Fraudulent Gift Funds:** To show that the borrower had the funds necessary to purchase the property, the defendants prepared and submitted fraudulent gift letters falsely stating that the borrower was obtaining the funds necessary to close from a relative or friend in the form of a gift. On or before the date of closing, the defendants obtained cashier's checks and deposited them into accounts controlled by defendants Fusco and Sweetman for the closing. However, these checks were funded by deposits made by defendant Salguero and his associates into third party bank accounts for the purpose of concealing that the seller, typically defendant Salguero, was the source of the borrower's down payment.

b. **False Appraisals:** To support inflated property values and therefore obtain mortgage loans in larger amounts, defendant DiValli and defendant Salguero obtained false appraisal reports from defendant Chemidlin, who is not a licensed appraiser. Defendant Chemidlin submitted false appraisal reports using the stolen identities of two licensed appraisers, J.D. and H.F. For certain transactions, FHA regulations required two independent appraisals in order for the mortgage loan to be approved by the lender and FHA; in such transactions, defendant Chemidlin prepared both fraudulent appraisals and used a different false identity for each.

c. **Misleading shell companies:** In furtherance of the conspiracy, defendants Fusco and Sweetman formed limited liability companies ("LLCs") in the names of companies similar to those of licensed title companies. Defendants Fusco and Sweetman then opened bank accounts in the LLC names to conceal their identity and to control the receipt and distribution of fraudulently obtained mortgage loan proceeds.

d. **False closing documents:** Defendants Fusco and Sweetman submitted and caused to be submitted false and fraudulent documents that misrepresented defendant Salguero's ownership in the properties as well as the disposition of mortgage loan proceeds related to the transactions. Defendants Fusco and Sweetman distributed fraudulently obtained mortgage loan proceeds to themselves and to other members of the conspiracy and concealed those distributions by failing to include them on the HUD-1 Settlement Statements that they submitted and caused to be submitted.

7. The investigation has identified numerous properties involved in the conspiracy, including a property located on Smith Street, Elizabeth, New Jersey.

<u>Smith Street, Elizabeth, New Jersey: The Original Purchase</u>

8. On or about September 23, 2011, defendant Salguero purchased a property located

on Smith Street, Elizabeth, New Jersey (the "Smith Street Property") from two sellers for $115,000 in a short sale approved by a large bank and mortgage lender. The closing was completed by an attorney with offices in Englewood Cliffs, New Jersey. On or about September 27, 2011, defendant Salguero paid for the Smith Street Property by a wire transfer in the amount of $118,394.01 from a bank account ending *9526 he held at Bank 1, in the name of New Jersey Real Estate Holding, a company that defendant Salguero owned (the "NJREH Account").

9. On or about October 7, 2011, a deed dated September 23, 2011, was recorded in the Public Land Records, Union County Clerk's Office, Union County, New Jersey for the sale of the Smith Street Property from the seller to defendant Salguero in the amount of $115,000. The attorney who handled the closing prepared the deed.

Smith Street, Elizabeth, New Jersey: The Fraudulent Sale

10. On or about November 14, 2011, less than two months after he bought the Smith Street Property, defendant Salguero sold the Smith Street Property to D.O. for $260,000. To fund the purchase, defendants obtained an FHA insured mortgage loan in the name of D.O. in the amount of $253,409. Defendant DiValli acted as the loan officer for the mortgage. DiValli's employer, Mortgage Company 1, initially funded the loan through a warehouse line of credit that it maintained with a bank ("Warehouse") based in Pennsylvania.

11. Defendants Chemidlin, DiValli, Fusco, Salguero, and Sweetman submitted and caused to be submitted numerous fraudulent misrepresentations to Mortgage Company 1, Warehouse, a mortgage company in Louisiana that bought the loan ("Mortgage Company 2"), and FHA in order to obtain the FHA-insured mortgage loan in the name of D.O.

Smith Street, Elizabeth, NJ: The False Loan Application

12. Defendant DiValli completed a mortgage loan application in the name of D.O. that

contained numerous false statements and was supported by numerous false documents including false bank statements and a false gift certification.

13. Defendant DiValli and his co-conspirators submitted and caused to be submitted false bank statements for a bank account in the name of D.O. in support of the loan application. The bank statements were for two months and falsely stated the balance in the account to be more than $2,000. In fact, on each of the statement closing dates the account balance in the referenced bank account was less than $20. The bank statements were fraudulently altered to inflate the balance.

14. A gift certification submitted to Mortgage Company 1 with D.O.'s loan application, and later submitted to Mortgage Company 2 and FHA, stated that the down payment for D.O. would be provided through a $10,000 gift purportedly from D.O.'s cousin, F.R. In fact, the down payment was funded by defendant Salguero as follows:

a. On or about October 31, 2011, a withdrawal of $9,800 was made from defendant Salguero's NJREH Account ending in *9526 (the same account defendant Salguero used to fund the purchase of the Smith Street Property). Defendant Martins was the bank employee who handled the transaction.

b. Minutes later, $9,000 was deposited into an account held at Bank 1 in the name of F.R. Defendant Martins also handled the deposit transaction. A cashier's check in the amount of $10,000 was then generated from the account of F.R. payable to the order of "FORTRESS TITLE" and stating "GIFT FOR [. . .] SMITH STREET." Again, defendant Martins handled the transaction. This cashier's check was deposited into an account controlled by defendant Fusco.

c. Defendant Martins prepared and signed a letter dated October 31, 2011 verifying that F.R. was the holder of the bank account, that the account was opened on September 6, 2011, and falsely stated that the account held a current balance of $11,113.47, which was inflated. Defendant Martins also was the bank employee who handled the original opening of the account in the name of F.R. on September 6, 2011.

d. On October 31, 2011, at the time of the $9,000 deposit into the account of F.R., the balance in the account was only $1,113.47. The deposit resulted in a balance of $10,113.47 for only the time between the deposit and the issuance of the cashier's check. After the issuance of the cashier's check, the remaining balance in the account was only $103.47. The balance in the account remained $103.47 until November 14, 2011, the date of the fraudulent closing on the Smith Street Property.

Smith Street: The Fraudulent Title Documents

15. Generally, the FHA will not insure a mortgage if the seller has owned the property for less than 90 days before the sale for which FHA mortgage loan insurance is sought. The fraudulent November 14, 2011, sale to D.O. occurred less than 90 days after defendant Salguero bought the Smith Street Property on September 23, 2011. Therefore, the mortgage loan in D.O.'s name did not qualify as an FHA loan.

16. To make the mortgage loan in D.O.'s name eligible for FHA loan insurance, the defendants conspired to deceive the lender and the FHA into believing that defendant Salguero bought the Smith Street Property on or about July 27, 2011, more than 90 days before the November 14, 2011, sale of the property from defendant Salguero to D.O.

17. Defendants Fusco and Sweetman submitted and caused to be submitted to Mortgage Company 1 and Warehouse both before and after the November 14, 2011 closing on the sale of the Smith Street Property fraudulent title reports purporting to show that defendant

Salguero had bought the Smith Street Property on July 27, 2011, including as follows:

a. Defendants Fusco and Sweetman prepared and submitted a title insurance commitment dated October 8, 2011, representing that defendant Salguero had bought the Smith Street Property on July 27, 2011. In fact, the deed recorded in the Union County Clerk/ Register's Office on October 7, 2011, shows the proper purchase date of September 23, 2011, as alleged in Paragraph 8.

b. Defendants Fusco and Sweetman prepared and submitted a fraudulently altered copy of the deed. The fraudulently altered deed states that defendant Salguero bought the Smith Street Property on July 27, 2011.

c. Defendants Fusco and Sweetman prepared and submitted, and defendant Salguero signed, an Affidavit of Title dated November 14, 2011, representing that defendant Salguero bought the Smith Street Property on July 27, 2011. The notary listed on the Affidavit of Title was defendant Sweetman's family member.

Smith Street: The Fraudulent Appraisals

18. Because the sale from defendant Salguero to D.O. on November 14, 2011, was less than 120 days after the July 27, 2011, date when defendant Salguero purportedly bought the Smith Street Property, FHA regulations required that the sale price for the Smith Street Property be supported by two separate appraisals conducted by two different appraisers.

19. In furtherance of the conspiracy, and to deceive the lender and the FHA into believing that the loan complied with FHA regulations, defendant Chemidlin prepared two fraudulent appraisal reports that appeared to be from two independent real estate appraisers.

a. The first appraisal report was dated November 8, 2011, and listed the appraiser preparing the report as J.D., a licensed real estate appraiser. The appraisal report included a certification bearing the electronic signature of J.D. and valued the Smith Street Property at $285,000 as of November 3, 2011. The company, company address, telephone number, and email address listed for J.D. on the appraisal report were all those of defendant Chemidlin. Mortgage Company 1, defendant DiValli's employer, was listed as the "Lender/client" for whom the appraisal report was prepared.

b. The second appraisal report was dated November 10, 2011 and listed the appraiser preparing the report as H.F., a licensed real estate appraiser. The appraisal report included a certification bearing the electronic signature of H.F. and valued the Smith Street Property at $275,000 as of November 5, 2011. The company address and email address listed for H.F. on the appraisal report were all those of defendant Chemidlin. Mortgage Company 1, defendant DiValli's employer, was listed as the "Lender/client" for whom the appraisal report was prepared.

c. Both appraisal reports, purportedly prepared by two different appraisers, used many of the same photographs of the Smith Street Property.

20. On or about November 11, 2011, defendant Chemidlin cashed a check dated the same date made payable to "PC APPRAISALS" in the amount of $5,000 from defendant Salguero. Defendant Salguero wrote the check from an account he held at Bank 1 ending in *9462.

Smith Street: The Fraudulent Closing

21. In addition to the false title report documentation noted above, defendants Fusco and Sweetman falsely made it appear that the transaction was closed by an attorney with the initials D.W., when in fact it was closed by defendants Fusco and Sweetman through accounts to which only they had access.

22. On or about November 14, 2012, in reliance on the fraudulent representations made

by the defendants, Warehouse funded the loan in D.O.'s name by a wire transfer in the amount of $244,885.26 from an account in Pennsylvania to an account ending in *4756 that defendant Fusco held at a bank in New Jersey.

23. Defendant Fusco distributed the fraudulent loan proceeds, and the $10,000 from the cashier's check representing the "gift," among the defendants and others as follows:

a. On or about November 17, 2011, defendant Salguero received a wire transfer in the amount of $230,535.64 into an account ending in *8366 that defendant Salguero held in the name of New Jersey Real Estate Holdings, LLC. Defendant Salguero used these proceeds to fund other fraudulent transactions, including paying other conspirators and providing down payment money disguised as "gifts";

b. Defendant DiValli's employer, Mortgage Company 1, received a check for $2,509 dated November 16, 2011;

c. Defendant Fusco received three checks totaling $7,050 dated February 3, 2012, and deposited them into an account ending in *0174 that defendant Fusco held in the name of Preferred Title & Settlement Services, LLC;

d. Defendant Sweetman received two checks totaling $2,289.10 dated November 16, 2011, and payable to KS Consulting, LLC, and deposited them into an account ending in 6365 that defendant Sweetman held in the name of KS Consulting;

e. D.W., the attorney who purportedly closed the real estate transaction, received a check for $500 dated November 16, 2011;

f. P.F., a real estate agent with no apparent connection to or interest in the transaction, received a check for $10,000.

g. Each of the checks defendant Fusco used to distribute the fraudulent loan proceeds included the reference number assigned to the transaction.

24. The HUD-1 Settlement Statement that defendants Fusco and Sweetman caused to be submitted for the transaction fraudulently concealed the true disbursements of the loan proceeds from the lender and the FHA.

<u>Smith Street: Sale and Repurchase of the Loan</u>

25. On or about November 16, 2012, defendants Fusco and Sweetman sent the closing documents to Mortgage Company 1 via an overnight delivery. Mortgage Company 1, in turn, sent the closing documents to Mortgage Company 2 in Louisiana.

26. On or about November 30, 2011, Mortgage Company 1 facilitated the sale of the loan from Warehouse to Mortgage Company 2 in Louisiana. To purchase the loan, Mortgage Company 2 executed a wire transfer in the amount of $264,989.93 from an account it held at a bank in Texas to Warehouse's account at a bank in Pennsylvania.

27. Mortgage Company 2 later attempted to sell the loan to Bank 1. During Mortgage Company 2's quality control review, it discovered the properly filed deed showing that defendant Salguero had bought the Smith Street Property on September 23, 2011, not on July 27, 2011, as the fraudulent closing documents purported to show. This meant that the loan was not eligible for FHA insurance. The prospective purchaser declined to buy the loan.

28. On or about February 7, 2012, Mortgage Company 2 demanded that Mortgage Company 1 repurchase the loan because it was not in compliance with FHA regulations or Mortgage Company 2's standards.

29. On or about February 14, 2012, defendant Salguero caused a wire transfer to be sent in the amount $264,965.14, from an account ending in *0934 that he held in the name of NJP Acquisitions, LLC to Mortgage Company 2's account in Texas to repurchase the mortgage loan in

D.O.'s name.

30. On or about March 21, 2012, a deed dated November 14, 2011, was filed in Union County showing the sale of the Smith Street Property from defendant Salguero to D.O. for $260,000. The deed shows that defendant Salguero bought the Smith Street Property on September 23, 2011. Defendant Fusco notarized the deed.

31. On or about July 27, 2012, a new refinancing mortgage, in the amount of $254,171, on the Smith Street Property was obtained in D.O.'s name through Mortgage Company 3. This mortgage was also fraudulent as follows:

a. The HUD-1 settlement statement falsely listed a payment to Mortgage Company 1 in the amount of $251,808.43, but this payment was not made and Mortgage Company 1 held no interest in the property at the time because defendant Salguero had repurchased the mortgage as alleged in paragraph 29. In fact, the $251,808.43 was transferred by wire into an account ending in *0175 that defendant Salguero held in the name of A M B NJ, LLC.

b. The HUD-1 settlement statement falsely stated that the borrower, D.O., paid $5,200 cash at the closing. In fact, defendant Salguero provided $3,000 of the cash at closing in the form of a cashier's check that he withdrew from an account ending in *0215 that he held in the name of New Jersey Real Estate Holdings, LLC.

32. After funding the loan, Mortgage Company 3 sold the loan to Bank 1, who bought it relying in part on the fraudulent representations in the HUD-1 settlement statement.

33. The co-conspirators have conducted more than fifteen other fraudulent real estate transactions using similar methods, including ones in which: defendants Fusco and Sweetman altered deeds; defendant DiValli acted as a loan officer and submitted fraudulent mortgage applications; defendant Chemidlin prepared fraudulent appraisals; defendant Salguero provided

down payment money supported by fraudulent gift letters; and defendant Martins was the bank employee who generated the fraudulent cashier's checks for down payments and prepared fraudulent account verification letters. The total amount of fraudulently obtained loan proceeds exceeds $5 million. Of the fraudulent mortgage loans the conspirators have obtained, at least nine properties are currently in foreclosure, arrears, or otherwise irregular status. The fraudulent transactions include but are not limited to the following properties:

a. A property on East Jersey Street, Elizabeth, NJ;

b. A property on South 7th Street, Elizabeth, NJ;

c. Two properties on Inslee Place, Elizabeth, NJ;

d. A property on Anna Street, Elizabeth, NJ;

e. Three properties on Livingston Street, Elizabeth, NJ;

f. A property on Fulton Street, Elizabeth, NJ;

g. A property on Bond Street, Elizabeth, NJ;

h. A property on Franklin Street, Elizabeth, NJ;

i. Two properties on South Park Street, Elizabeth, NJ; and

j. Two properties on Marshall Street, Elizabeth, NJ.

FORFEITURE ALLEGATION

1. The allegations contained in paragraphs 1 through 33 of this Complaint are incorporated by reference as though set forth in full herein for the purpose of noticing forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461.

2. The United States hereby gives notice to the defendants that, upon conviction of the offenses charged in the Complaint, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461, 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, Section 1349, alleged in Count 1 of this Complaint, including but not limited to the following:

3. A sum of money equal to at least $5,000,000 in United States currency;

4. All right, title, and interest of defendant Salguero, including all appurtenances and improvements thereon, in the real property located at 1247 Barbara Avenue, Union, NJ 07083;

5. All right, title, and interest of defendant Salguero, including all appurtenances and improvements thereon, in the real property located at 160 Rubino Drive, Davenport, FL 33837; and

6. All right, title, and interest of defendant Salguero, including all appurtenances and improvements thereon, in the real property located at Holly Hill Grove Road, Davenport, FL 33837, parcel 27-26-19-705000-040101 and parcel 27-26-19-705000-040230.

7. If by any act or omission of the defendants, any of the property subject to forfeiture described in paragraph 2 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, it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the property described above in paragraph 2 pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461.