

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

| | | |
|---------------------------------|----------|-------------------------------------------------|
| UNITED STATES OF AMERICA | : | CRIMINAL NO. <u>10-</u> |
| v. | : | DATE FILED: <u>April 22, 2010</u> |
| FRANK J. D'ATTILO | : | VIOLATIONS: |
| MICHAEL GIELLO | : | 18 U.S.C. § 1341 (mail fraud - 2 counts) |
| JASON MEGOW | : | 18 U.S.C. § 2 (aiding and abetting) |
| | : | Notice of forfeiture |
| | : | |

INDICTMENT

COUNTS ONE AND TWO

THE GRAND JURY CHARGES THAT:

The Defendants

At all times material to this indictment:

1. Defendant FRANK J. D'ATTILO was the owner and operator of Provident Financial Group ("PFG"), a mortgage brokerage firm. Defendant D'ATTILO originated and processed mortgage loan applications with the goal of closing as many mortgage loans as possible.
2. Defendant MICHAEL GIELLO worked as a mortgage broker and loan officer at PFG. Defendant GIELLO was paid 20 percent of the commissions for each loan he closed.
3. Defendant JASON MEGOW worked as a loan processor at PFG. His duties included finding lenders to fund mortgage loans brokered by PFG and preparing paperwork in connection with loans.

The Scheme

4. From in or about January 2004, to in or about February 2007, defendants

**FRANK J. D'ATTILO,
MICHAEL GIELLO, and
JASON MEGOW**

devised and intended to devise, and aided and abetted the devising of, a scheme to defraud mortgage lenders and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

It was part of the scheme that:

5. Defendants FRANK J. D'ATTILO, MICHAEL GIELLO, and JASON MEGOW created false documents to use in applying for mortgages which, among other things: (a) overstated borrowers' income; (b) falsely showed that borrowers had rental histories; and (c) showed that properties were income-producing rental properties when they were not. These false documents made borrowers appear more creditworthy than they were, thereby misleading financial institutions and their agents into funding mortgage loans.

6. Many of the borrowers who received loans from PFG did not know that defendants FRANK J. D'ATTILO, MICHAEL GIELLO, and JASON MEGOW created these false documents and submitted them to lenders on behalf of the borrowers.

7. Defendants FRANK J. D'ATTILO, MICHAEL GIELLO, and JASON MEGOW created and had borrowers sign, at or before the closing of the mortgage loans, second mortgages payable by the borrowers to defendant D'ATTILO, which were concealed from the lenders making the mortgage loan.

8. Defendants FRANK J. D'ATTILO, MICHAEL GIELLO, and JASON MEGOW fraudulently dated the signatures of these secret second mortgages to make it appear that they had been entered into after the closing of the mortgage loan.

9. Defendants FRANK J. D'ATTILO, MICHAEL GIELLO, and JASON MEGOW had the secret second mortgages recorded and perfected so that a lien existed on the property in defendant D'ATTILO's name.

10. Defendants FRANK J. D'ATTILO, MICHAEL GIELLO, and JASON MEGOW knew that in the ordinary course of recording the secret second mortgages, the settlement agent who conducted the closings on the properties mailed the secret second mortgages to the appropriate recorder of deeds using the United States Mails or Federal Express.

11. Defendants FRANK J. D'ATTILO, MICHAEL GIELLO, and JASON MEGOW made or caused to be made coupon payment books for the borrowers in order to use in making payments to defendant D'ATTILO on the second mortgages. At the defendants' direction, these coupon books were sent to borrowers' via the United States Mails or Federal Express.

12. On or about the following dates, in the Eastern District of Pennsylvania and elsewhere, defendants

**FRANK J. D'ATTILO,
MICHAEL GIELLO, and
JASON MEGOW,**

for the purpose of executing the scheme described above, and attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered to borrowers by United States Mail and by Federal Express as described below:

| COUNT | DATE | Item Mailed |
|-------|-----------------------------------|--------------------------------------------------------------------------------|
| One | May 5, 2005 | Coupon payment book for secret second mortgage sent to borrowers T.K. and E.K. |
| Two | Between June 15 and July 15, 2005 | Coupon payment book for secret second mortgage sent to borrower V.R-K. |

All in violation of Title 18, United States Code, Sections 1341 and 2.

NOTICE OF FORFEITURE

THE GRAND JURY FURTHER CHARGES THAT:

1. As a result of the violations of Title 18, United States Code, Section 1341 set forth in this indictment, defendants

**FRANK J. D'ATTILO,
MICHAEL GIELLO, and
JASON MEGOW**

shall forfeit to the United States of America any property constituting, or derived from, proceeds obtained directly or indirectly from the commission of such offenses.

2. If any of the property described above, as a result of any actor omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred to, sold to, or deposited with a third party;
- c. has been placed beyond the jurisdiction of this 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 intention of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), 28 U.S.C.
§ 2461, and United States Code, Section 853.

A TRUE BILL:

GRAND JURY FOREPERSON

MICHAEL L. LEVY
United States Attorney