

New York County **District Attorney's Office**

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Manhattan District Attorney Robert M. Morgenthau announced today the indictment of 13 individuals and a mortgage company for perpetrating over \$100 million in mortgage fraud over a four-year period in the New York City metropolitan area. In addition, 12 individuals have already waived indictment and pleaded guilty to felonies relating to their participation in the fraud scheme.

The indictment charges 13 individuals and the mortgage company, AFG FINANCIAL GROUP, INC., with enterprise-wide mortgage fraud, larceny, scheme to defraud and conspiracy involving 19 fraudulent mortgage transactions. The defendants include 11 individuals, including 10 employees of the mortgage company, as well as bank employees, appraisers, and three attorneys. Two of the defendants are also among the defendants who already pleaded guilty. The crimes charged in the indictment occurred between June 2005 and July 2007, with the bulk of the fraudulent closings occurring from mid-2005 through the end of 2007.

The 10-month investigation leading to today's indictment revealed that AFG Financial Group (AFG), along with its co-conspirators and accomplices, located distressed residential real estate properties in New York City and surrounding areas and then engaged in a fraudulent scheme to steal millions of dollars from lending banks in Manhattan and elsewhere using those properties. The conspirators caused the banks to front millions of dollars to finance purchases of the properties and then walked away with most of the cash, leaving behind over-valued properties and worthless mortgage papers.

AFG was located in Garden City, Long Island, and was the primary vehicle of the fraudulent scheme. AFG held itself out as a mortgage broker. It was founded by defendants AARON HAND, EUGENE CULBREATH and ERIC SHIELDS. HAND was the principal and ultimately controlled the criminal enterprise. CULBREATH and FRANK MIALE were the principal lieutenants; MIALE was the day-to-day operations, including supervising the execution of fraudulent real estate mortgage transactions. SHIELDS was the CEO and held AFG's mortgage broker license. He also participated in and ran some of the sham mortgage transactions.

The AFG Criminal Enterprise represented to lending institutions that it put together arms-length residential real estate transactions financed by secured mortgages. In fact, AFG's business model was focused solely on defrauding the lending banks of millions of dollars. AFG paid property locators, including defendants JERRY STRKLJA and MARIA ALBERTINA, to find properties suitable for sale. Generally these were properties owned by people in financial distress. AFG paid recruiters, including defendant MATEO, DARLITA BOSTIC, ALLYSON HINDS, RAJMOHAN AUTAR and GIOVANNI MUNIVE, to find straw buyers – people with good credit ratings but little cash who would be the putative buyers at the real estate closings. The straw buyers were told they had to participate in risk-free real estate transactions. They were often told that the transactions would help distressed homeowners keep their homes, while earning the straw buyer and other investors a healthy return on their investment. Instead, after payment, the straw buyers received nothing. Because the defendants failed to make any mortgage payments after the closings, the mortgage loans went quickly into default and the straw buyers' credit ratings were ruined. And, the sellers' mortgages were foreclosed.

Once a straw buyer had been recruited and matched to a specific property, the AFG Criminal Enterprise used forgeries to enhance the fraud by falsifying the straw buyer's loan worthiness. Defendants MATTHEW MCDERMOTT, WAYNE SILENTI, TRAPANI and CHRISTOPHER CARR and other AFG employees created forged documents such as W-2's and bank statements to enhance the straw buyer's apparent income and assets so they could borrow more money. They also assembled the false loan packages and presented them to lenders, assisted in the sham closings, and helped launder the stolen funds. Corrupt property appraisers, including defendant STEPHEN MARTINI, provided written appraisals that inflated the apparent values of the properties beyond their true market value. AFG employees, including defendant JENNIFER SCHIFF, provided documents verifying that the forged bank statements were authentic. Finally, AFG submitted the fraudulent applications with false statements and forged documents to mortgage lenders, including Countrywide Home Loans or New Century Mortgage Corp. where defendants JEFFREY PHELAN and PATRICK KUHL were employees. In exchange for a share in the illicit proceeds, PHELAN, KUHL and other still-uncharged lending institution employees received kickbacks. Loan applications were processed quickly and without proper diligence or investigation.

At the sham real estate closings, AFG brought in lawyers to play the roles of legal counsel for buyers, sellers and lenders. Instead of looking after their clients' interests, these lawyers made sure that the closings went smoothly, that no one asked questions, and that the principals of AFG received the lion's share of the funds obtained from the defrauded banks. Defendants MIALE and FRED LAX generally represented the banks. In so doing, they betrayed their clients and caused their clients' financial ruin. ZIROGIANNIS and LAX also ran title companies that were employed as part of the scheme.

They received into their title company escrow accounts closing funds from the banks that were, according to the documents, supposed to go to the sellers of the properties. Instead, ZIROGIANNIS and LAX re-directed these funds to themselves. They controlled by the principal members of AFG. Defendants EDMOND BEROOKHIM, KENNETH LAW and KATHLEEN SCARF were also AFG to represent buyers and sellers at the sham closings, a role sometimes played by LAX and ZIROGIANNIS as well. They often did not meet or communicate with their so-called clients until the day of the closings, did not negotiate closing documents, and generally betrayed their clients' interests and were paid off by AFG for their efforts. In addition, defendant SCARF posed as a real estate agent at the closings and received a portion of the closing funds that was then laundered.