

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN FRANCISCO

FILED
MAR 18 2014
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

v.

CR 14 139

BIJAN MADJLESSI, DAVID LONICH,
SEAN CUTTING, and BRIAN MELLAND

SI

DEFENDANT(S). 

INDICTMENT

VIOLATIONS:

18 U.S.C. § 1349- Bank/Wire Fraud Conspiracy; 18 U.S.C. § 1343- Wire Fraud;
18 U.S.C. § 1344- Bank Fraud; 18 U.S.C. § 371- Conspiracy to Make False
Statements to Bank; 18 U.S.C. § 1956(h)- Money Laundering Conspiracy;
18 U.S.C. § 1957- Money Laundering; 18 U.S.C. § 371- Conspiracy to Misapply
Bank Funds; 18 U.S.C. § 1005- False Bank Entries; 18 U.S.C. § 1512(c)- Attempted
Obstruction of Justice; 18 U.S.C. § 2- Aid, Abet, and Cause;
18 U.S.C. § 982(a)(1), 982(a)(2)(A)- Forfeiture Allegations

A true bill.

J. Schen

Foreman

Filed in open court this 18 day of

Mar 2014

J. Faulk

Clerk

Bail, \$

no bail

*arrest warrants as to
all 4 defendants*

[Signature]

Nathanael Cousins
United States Magistrate Judge

|-m31v

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 [REDACTED]

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DEFENDANT - U.S. **BIJAN MADJLESSI**
DISTRICT COURT NUMBER

CR 14 DEFENDANT 139

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CLERK, U.S. DISTRICT COURT
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PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
SIGTARP, FDIC-OIG, and FHFA-OIG
 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 re prosecution 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 }

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 & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY Month/Day/Year

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) Robert D. Rees

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 * Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment
Defendant Address: _____ Date/Time: _____ Before Judge: _____
Comments: PLEASE FILE UNDER SEAL

PENALTY SHEET ATTACHMENT (Charges and Maximum Penalties by Defendant)
BIJAN MADJLESSI (28 Counts)

COUNT 1: Wire/Bank Fraud Conspiracy—18 U.S.C. § 1349

30 Years Imprisonment
5 Years Supervised Release
\$1,000,000 Fine

COUNT 2: Bank Fraud—18 U.S.C. § 1344

30 Years Imprisonment
5 Years Supervised Release
\$1,000,000 Fine

COUNTS 3-8: Wire Fraud Affecting Financial Institution—18 U.S.C. § 1343

30 Years Imprisonment
5 Years Supervised Release
\$1,000,000 Fine

COUNT 9: False Statements to Bank Conspiracy—18 U.S.C. § 371

5 Years Imprisonment
3 Years Supervised Release
\$250,000 Fine

COUNT 10: Money Laundering Conspiracy—18 U.S.C. § 1956(h)

10 Years Imprisonment
3 Years Supervised Release
\$250,000 or twice the derived property Fine

COUNTS 11-22: Money Laundering—18 U.S.C. § 1957

10 Years Imprisonment
3 Years Supervised Release
\$250,000 or twice the derived property Fine

COUNTS 24-28: False Bank Entries—18 U.S.C. § 1005

30 Years Imprisonment
5 Years Supervised Release
\$1,000,000 Fine

COUNT 29: Attempted Obstruction of Justice—18 U.S.C. § 1512(c)

20 Years Imprisonment
3 Years Supervised Release
\$250,000 Fine

As to all Counts:

\$100 Special Assessment
Potential Immigration and Deportation Consequences

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
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OFFENSE CHARGED

See attachment

- Petty
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SAN FRANCISCO DIVISION

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

DEFENDANT - U.S.

DAVID LONICH

DISTRICT COURT NUMBER

CR 14 139

DEFENDANT

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- 1) Has not been arrested, pending outcome this proceeding. 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
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Has detainer been filed? Yes No

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PROCEEDING

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SIGTARP, FDIC-OIG, and FHFA-OIG

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

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Furnishing Information on this form MELINDA HAAG

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

Robert D. Rees

ADDITIONAL INFORMATION OR COMMENTS

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PENALTY SHEET ATTACHMENT (Charges and Maximum Penalties by Defendant)
DAVID LONICH (28 Counts)

COUNT 1: Wire/Bank Fraud Conspiracy—18 U.S.C. § 1349

30 Years Imprisonment
5 Years Supervised Release
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COUNT 2: Bank Fraud—18 U.S.C. § 1344

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COUNTS 3-8: Wire Fraud Affecting Financial Institution—18 U.S.C. § 1343

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COUNT 9: False Statements to Bank Conspiracy—18 U.S.C. § 371

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COUNT 10: Money Laundering Conspiracy—18 U.S.C. § 1956(h)

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COUNTS 24-28: False Bank Entries—18 U.S.C. § 1005

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As to all Counts: \$100 Special Assessment
Potential Immigration and Deportation Consequences

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BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

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See attachment

[REDACTED]
 Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

See attachment

CR

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

NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DEFENDANT - U.S.

SEAN CUTTING

DISTRICT COURT NUMBER

14

139

DEFENDANT **SI**

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

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U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

Robert D. Rees

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PENALTY SHEET ATTACHMENT (Charges and Maximum Penalties by Defendant)
SEAN CUTTING (28 Counts)

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30 Years Imprisonment
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COUNT 2: Bank Fraud—18 U.S.C. § 1344

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COUNTS 3-8: Wire Fraud Affecting Financial Institution—18 U.S.C. § 1343

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COUNT 9: False Statements to Bank Conspiracy—18 U.S.C. § 371

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COUNT 10: Money Laundering Conspiracy—18 U.S.C. § 1956(h)

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COUNTS 11-22: Money Laundering—18 U.S.C. § 1957

10 Years Imprisonment
3 Years Supervised Release
\$250,000 or twice the derived property Fine

COUNT 23: Misapply Bank Funds Conspiracy—18 U.S.C. § 371

5 Years Imprisonment
3 Years Supervised Release
\$250,000 Fine

COUNTS 24-28: False Bank Entries—18 U.S.C. § 1005

30 Years Imprisonment
5 Years Supervised Release
\$1,000,000 Fine

As to all Counts: \$100 Special Assessment
Potential Immigration and Deportation Consequences

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

See attachment



- Petty
- Minor
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- Felony

PENALTY:

See attachment

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

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

FILED
MAR 18 2014

DEFENDANT - U.S.

BRIAN MELLAND

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

DISTRICT COURT NUMBER

CR 14 139

PROCEEDING

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

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Furnishing Information on this form MELINDA HAAG

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned)

Robert D. Rees

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SUMMONS NO PROCESS* WARRANT

Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

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

Defendant Address:

Date/Time: _____ Before Judge: _____

Comments: PLEASE FILE UNDER SEAL

PENALTY SHEET ATTACHMENT (Charges and Maximum Penalties by Defendant)
BRIAN MELLAND (23 Counts)

COUNT 1: Wire/Bank Fraud Conspiracy—18 U.S.C. § 1349
30 Years Imprisonment
5 Years Supervised Release
\$1,000,000 Fine

COUNT 2: Bank Fraud—18 U.S.C. § 1344
30 Years Imprisonment
5 Years Supervised Release
\$1,000,000 Fine

COUNTS 3-8: Wire Fraud Affecting Financial Institution—18 U.S.C. § 1343
30 Years Imprisonment
5 Years Supervised Release
\$1,000,000 Fine

COUNT 9: False Statements to Bank Conspiracy—18 U.S.C. § 371
5 Years Imprisonment
3 Years Supervised Release
\$250,000 Fine

COUNT 10: Money Laundering Conspiracy—18 U.S.C. § 1956(h)
10 Years Imprisonment
3 Years Supervised Release
\$250,000 or twice the derived property Fine

COUNTS 11-22: Money Laundering—18 U.S.C. § 1957
10 Years Imprisonment
3 Years Supervised Release
\$250,000 or twice the derived property Fine

COUNT 23: Misapply Bank Funds Conspiracy—18 U.S.C. § 371
5 Years Imprisonment
3 Years Supervised Release
\$250,000 Fine

As to all Counts: \$100 Special Assessment
Potential Immigration and Deportation Consequence

MELINDA HAAG (CABN 132612)
United States Attorney



FILED
MAR 18 2014
RICHARD W. WITTEBERG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CR 14 139

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SI

11	UNITED STATES OF AMERICA,	)	CASE NO.
12	Plaintiff,)	
13		)	<u>VIOLATIONS:</u> 18 U.S.C. § 1349—Bank/Wire
14	v.	)	Fraud Conspiracy; 18 U.S.C. § 1343—Wire Fraud; 18
15		)	U.S.C. § 1344—Bank Fraud; 18 U.S.C. § 371—
16	BIJAN MADJLESSI,	)	Conspiracy to Make False Statements to Bank; 18
17	DAVID LONICH,	)	U.S.C. § 1956(h)—Money Laundering Conspiracy;
18	SEAN CUTTING, and	)	18 U.S.C. § 1957—Money Laundering; 18 U.S.C.
19	BRIAN MELLAND,	)	§ 371—Conspiracy to Misapply Bank Funds; 18
20	Defendants.	)	U.S.C. § 1005—False Bank Entries; 18 U.S.C.
		)	§ 1512(c)—Attempted Obstruction of Justice; 18
		)	U.S.C. § 2—Aid, Abet, and Cause; 18 U.S.C.
		)	§§ 982(a)(1), 982(a)(2)(A)—Forfeiture Allegations
		)	SAN FRANCISCO VENUE

INDICTMENT

The Grand Jury charges:

Introductory Allegations

During all times relevant to this Indictment:

1. Defendant BIJAN MADJLESSI was an individual who resided in and around Marin County, California. MADJLESSI operated real estate and construction businesses, including Masma Construction.
2. Defendant DAVID LONICH was an individual who resided in and around Sonoma

1 County, California. LONICH was an attorney who worked for MADJLESSI.

2 3. Defendant SEAN CUTTING was an individual who resided in and around Sonoma
3 County, California. CUTTING worked in the banking industry.

4 4. Defendant BRIAN MELLAND was an individual who resided in and around Sonoma
5 County, California. MELLAND worked in the banking industry.

6 5. The Park Lane Villas (“PLV”) real estate project was a mixed-use development in Santa
7 Rosa, California, with two phases, the West and the East.

8 6. Sonoma Valley Bank was a bank based in Sonoma County, California, that failed in or
9 about August 2010. Until it failed, it was insured by the Federal Deposit Insurance Corporation
10 (“FDIC”) and was a member of the Federal Home Loan Bank of San Francisco. Sonoma Valley Bank
11 received \$8.65 million in funds from the Troubled Asset Relief Program (“TARP”) and failed to pay all
12 of the required dividends on that investment. After Sonoma Valley Bank failed, it did not repay the
13 funds it had received from TARP. When it failed, Sonoma Valley Bank had multiple outstanding loans
14 to MADJLESSI and his associated entities, including a loan related to the PLV. CUTTING was
15 President and Chief Executive Officer of Sonoma Valley Bank until it failed. MELLAND was Senior
16 Vice President and Chief Loan Officer of Sonoma Valley Bank through in or about March 2010.

17 The Scheme to Defraud

18 7. From no later than approximately March 2009 until approximately September 2012, the
19 defendants devised and executed a material scheme to defraud Sonoma Valley Bank and others and to
20 obtain money from Sonoma Valley Bank and others by means of materially false and fraudulent
21 pretenses, representations, and promises and by omissions and concealment of material facts.
22 Specifically, the defendants worked to obtain a loan for an entity called 101 Houseco, LLC (“101
23 Houseco”) falsely claiming that company was controlled by J.H., but knowing that J.H. was a straw and
24 that 101 Houseco was actually controlled by MADJLESSI and LONICH. The defendants used the
25 proceeds of the loan to purchase from the FDIC the rights to a prior loan on which MADJLESSI had
26 defaulted. This allowed MADJLESSI to gain ownership and control of PLV East, and ultimately to
27 refinance that property at a favorable interest rate through federal government lender Freddie Mac in
28 September 2012.

Manner and Means of the Scheme to Defraud

1
2 8. In or around April 2008, MADJLESSI defaulted on an IndyMac Bank loan of more than
3 \$30,000,000 that he had personally guaranteed and had been used to fund construction of PLV East. In
4 May 2008, IndyMac bank filed a civil lawsuit seeking recovery of the loan proceeds. By July 2008,
5 IndyMac Bank had failed. The FDIC took over as Receiver of Institution, and decided to auction the
6 loan through a contractor, The Debt Exchange, also known as DebtX.

7 9. Defendants MADJLESSI, LONICH, CUTTING, and MELLAND then conspired to have
8 MADJLESSI bid on and obtain this defaulted loan contrary to FDIC regulations and through a straw
9 borrower, J.H.

10 10. As part of that effort, in March 2009, LONICH created an entity called 101 Houseco, and
11 installed J.H. as its nominal owner. In fact, J.H. was a straw who exercised no meaningful control of
12 101 Houseco; instead, MADJLESSI and LONICH exerted control of the company. In March 2009, J.H.
13 signed a document effectively assigning his ownership interest in 101 Houseco to MADJLESSI's
14 daughter at any time upon her signature.

15 11. To fund the bid for the defaulted IndyMac loan, MADJLESSI approached Sonoma
16 Valley Bank executives CUTTING and MELLAND seeking a loan for 101 Houseco. Knowing that J.H.
17 was a straw, CUTTING and MELLAND took steps to authorize that loan, which was initially disbursed
18 to 101 Houseco in March 2009. Between March 2009 and November 2009, with CUTTING's and
19 MELLAND's assistance, the loan balance to 101 Houseco increased from an initial balance of less than
20 \$5,500,000 to a final balance of almost \$9,500,000. Of the final balance, more than \$4,000,000 was
21 used to purchase MADJLESSI's defaulted IndyMac loan through DebtX and more than \$4,500,000
22 went to Masma Construction, a company controlled by MADJLESSI.

23 12. Through DebtX, 101 Houseco became the winning bidder of MADJLESSI's defaulted
24 IndyMac loan in or about March 2009. In or about January 2010, MADJLESSI and LONICH, utilizing
25 J.H., caused 101 Houseco to settle the pending civil suit relating to that loan with MADJLESSI,
26 foreclose on PLV East, and thereby obtain title to the project.

27 13. In order to obtain Freddie Mac refinancing, between approximately 2009 and 2011,
28 MADJLESSI, LONICH, and CUTTING took steps to purchase PLV East units that had been sold as

1 residential condominiums prior to the start of this scheme and then transfer them to 101 Houseco so that
2 the residential portion of PLV East could be converted to an apartment complex. MADJLESSI and
3 LONICH helped accomplish these purchases by fraudulently utilizing straw purchasers and by obtaining
4 a loan from a New York-based firm for 101 Houseco fraudulently utilizing J.H. as a straw borrower.
5 CUTTING helped accomplish the purchases by issuing letters on Sonoma Valley Bank letterhead falsely
6 stating that potential buyers had sufficient funds available at Sonoma Valley Bank for purchase.

7 14. In or about September 2012, MADJLESSI and LONICH obtained refinancing on the
8 PLV East from Freddie Mac.

9 15. In furtherance of their scheme, the defendants made material misrepresentations, and
10 omitted and concealed material facts, including the following:

11 a. MADJLESSI, LONICH, CUTTING, and MELLAND falsely claimed to Sonoma
12 Valley Bank that J.H. was the borrower behind 101 Houseco for a loan it sought, knowing that
13 MADJLESSI and LONICH were the true borrowers as the individuals in actual control of 101 Houseco;

14 b. CUTTING and MELLAND recommended to Sonoma Valley Bank's loan
15 committee that it should make the loan to 101 Houseco without disclosing their knowledge that
16 approving the loan would likely violate the bank's legal lending limit to MADJLESSI and his related
17 entities;

18 c. LONICH falsely claimed to a DebtX representative that J.H. was the bidder as
19 101 Houseco for MADJLESSI's defaulted IndyMac loan, knowing that MADJLESSI and LONICH
20 were the true bidders as the individuals in actual control of 101 Houseco;

21 d. CUTTING, using Sonoma Valley Bank letterhead, falsely claimed in letters
22 intended for sellers of PLV East Condominiums that potential buyers had assets at Sonoma Valley Bank
23 that they did not, while MADJLESSI and LONICH falsely claimed that potential buyers were
24 individuals when in fact they were straws used by 101 Houseco to regain control of all PLV East units;

25 e. MADJLESSI and LONICH falsely claimed to a New York-based firm that J.H.
26 was the borrower behind 101 Houseco for a loan it sought, knowing that MADJLESSI and LONICH
27 were the true borrowers as the individuals in actual control of 101 Houseco; and

28 f. MADJLESSI and LONICH, while negotiating and obtaining refinancing for PLV

1 East, omitted the material fact 101 Houseco and this scheme were the subjects of a criminal
2 investigation and falsely claimed that MADJLESSI was unaffiliated with 101 Houseco.

3 COUNT ONE: (18 U.S.C. § 1349 – Conspiracy to Commit Wire and Bank Fraud)

4 16. Paragraphs 1 through 15 are realleged and incorporated herein by reference.

5 17. Between in or about March 2009 and in or about September 2012, in the Northern
6 District of California and elsewhere, the defendants,

7 BIJAN MADJLESSI,
8 DAVID LONICH,
9 SEAN CUTTING, and
BRIAN MELLAND,

10 did knowingly conspire to: (1) devise a material scheme and artifice to defraud, and to obtain money
11 and property from Sonoma Valley Bank, a financial institution, and others by means of materially false
12 and fraudulent pretenses, representations, and promises, and by omission and concealment of material
13 facts, and, for the purpose of executing such scheme and artifice, knowingly cause interstate wires; and
14 (2) execute and attempt to execute a material scheme and artifice to defraud, and to obtain money, funds,
15 credits, assets, securities, and other property owned by and under the custody and control of Sonoma
16 Valley Bank, a financial institution, by means of materially false and fraudulent pretenses,
17 representations, and promises, and by omission and concealment of material facts, in violation of 18
18 U.S.C. §§ 1343 and 1344, all in violation of Title 18, United States Code, Section 1349.

19 COUNT TWO: (18 U.S.C. §§ 1344 & 2 – Bank Fraud)

20 18. Paragraphs 1 through 15 are realleged and incorporated herein by reference.

21 19. Between in or about March 2009 and in or about November 2009, in the Northern
22 District of California and elsewhere, the defendants,

23 BIJAN MADJLESSI,
24 DAVID LONICH,
25 SEAN CUTTING, and
BRIAN MELLAND,

26 did knowingly execute and attempt to execute a material scheme and artifice to defraud, and to obtain
27 money, funds, credits, assets, securities, and other property owned by and under the custody and control
28 of Sonoma Valley Bank, a financial institution, by means of materially false and fraudulent pretenses,

1 representations, and promises, and by omission and concealment of material facts, and did aid, abet,
 2 counsel, command, induce, procure, and cause the same, in violation of Title 18, United States Code,
 3 Sections 1344 and 2.

4 COUNTS THREE THROUGH EIGHT: (18 U.S.C. §§ 1343 & 2 – Wire Fraud)

5 20. Paragraphs 1 through 15 are realleged and incorporated herein by reference.

6 21. Between in or about March 2009 and in or about September 2012, in the Northern
 7 District of California and elsewhere, the defendants,

8 BIJAN MADJLESSI,
 9 DAVID LONICH,
 SEAN CUTTING, and
 10 BRIAN MELLAND,

11 having devised and intended to devise a material scheme and artifice to defraud, and to obtain money
 12 and property from Sonoma Valley Bank, a financial institution, and others by means of materially false
 13 and fraudulent pretenses, representations, and promises, and by omission and concealment of material
 14 facts, did, for the purpose of executing such scheme and artifice, knowingly cause the interstate wires
 15 listed below, and did aid, abet, counsel, command, induce, procure, and cause the same, in violation of
 16 Title 18, United States Code, Sections 1343 and 2:

<u>COUNT</u>	<u>DATE</u>	<u>DESCRIPTION OF WIRE</u>
THREE	3/12/2009	Email from LONICH to K.D. of The Debt Exchange, Boston, Massachusetts, with an attached letter from the Law Office of David Lonich.
FOUR	3/12/2009	Email from LONICH to K.D. and cc'ing J.H. with an attached letter from the Law Office of David Lonich stating LONICH represents J.H. and concurs with every statement made by J.H. in the Purchaser Eligibility Certification to purchase FDIC's IndyMac Note.
FIVE	3/12/2009	Fax by J.H., from Florida to Massachusetts, to K.D. containing a Purchaser Eligibility Certification to bid on FDIC's IndyMac Note.
SIX	3/23/2009	Wire transfer of \$320,021.19 from Sonoma Valley Bank, 101 Houseco account #1653555 to Citibank, N.A., Debt Exchange account #1255230144 for the purchase of FDIC's IndyMac Note.
SEVEN	3/30/2009	Wire transfer of \$3,780,190.70 from Sonoma Valley Bank to Citibank, N.A. Debt Exchange account 1255230144 for the purchase of FDIC's IndyMac Note.
EIGHT	10/18/2010	Email from LONICH to Terra Capital Partners, New York, regarding 101 Houseco, the foreclosure, and payments made to Masma Construction.

1 COUNT NINE: (18 U.S.C. § 371 – Conspiracy to Make False Statements to a Bank)

2 22. Paragraphs 1 through 15 are realleged and incorporated herein by reference.

3 23. Between in or about March 2009 and in or about November 2009, in the Northern
4 District of California and elsewhere, the defendants,

5 BIJAN MADJLESSI,
6 DAVID LONICH,
7 SEAN CUTTING, and
8 BRIAN MELLAND,

9 did knowingly conspire to make knowingly false statements to Sonoma Valley Bank, which was then
10 insured by the FDIC, for the purpose of influencing the actions of that bank in any way, and did acts to
11 effectuate the purpose of that conspiracy as detailed in paragraphs 1 through 15, in violation of 18
12 U.S.C. § 1014, all in violation of Title 18, United States Code, Section 371.

13 COUNT TEN: (18 U.S.C. § 1956(h) – Conspiracy to Commit Money Laundering)

14 24. Paragraphs 1 through 15 are realleged and incorporated herein by reference.

15 25. Between in or about March 2009 and in or about November 2009, in the Northern
16 District of California and elsewhere, the defendants,

17 BIJAN MADJLESSI,
18 DAVID LONICH,
19 SEAN CUTTING, and
20 BRIAN MELLAND,

21 did knowingly conspire to engage in monetary transactions in the United States involving criminally
22 derived property of a value greater than \$10,000, and that was derived from the commission of specified
23 unlawful activity set forth in Counts Two Through Eight above, in violation of 18 U.S.C. § 1957, all in
24 violation of Title 18, United States Code, Section 1956(h).

25 COUNTS ELEVEN THROUGH TWENTY-TWO: (18 U.S.C. §§ 1957 & 2 – Money Laundering)

26 26. Paragraphs 1 through 15 are realleged and incorporated herein by reference.

27 27. On or about the dates set forth below, in the Northern District of California and
28 elsewhere, the defendants,

BIJAN MADJLESSI,
DAVID LONICH,
SEAN CUTTING, and
BRIAN MELLAND,

1 did knowingly engage in the monetary transactions in the United States listed below, knowing each
 2 involved criminally derived property of a value greater than \$10,000, and that was derived from the
 3 commission of the specified unlawful activity set forth in Counts Two Through Eight above, and did aid,
 4 abet, counsel, command, induce, procure, and cause the same, in violation of Title 18, United States
 5 Code, Sections 1957 and 2:

<u>COUNT</u>	<u>DATE</u>	<u>TRANSACTION</u>
ELEVEN	3/29/2009	Check # 85835 in the amount of \$100,000, drawn on Vineyard Bank account number 4159659 held in the name of House Construction and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction
TWELVE	4/2/2009	Wire transfer in the amount of \$355,000, drawn on Vineyard Bank account number 4159659 held in the name of House Construction and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
THIRTEEN	4/29/2009	Wire transfer in the amount of \$290,000, drawn on Vineyard Bank account number 4159659 held in the name of House Construction and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
FOURTEEN	5/8/2009	Wire transfer in the amount of \$1,194,000, drawn on Vineyard Bank account number 4159659 held in the name of House Construction and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
FIFTEEN	6/8/2009	Wire transfer in the amount of \$195,000, drawn on Vineyard Bank account number 4159659 held in the name of House Construction and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
SIXTEEN	7/8/2009	Wire transfer in the amount of \$63,047.56, drawn on Vineyard Bank account number 4159659 held in the name of House Construction and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
SEVENTEEN	9/10/2009	Wire transfer in the amount of \$175,000, drawn on Bank of America account number 11805-67210, held in the name of 101 Houseco and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
EIGHTEEN	9/15/2009	Check # 1000 in the amount of \$175,000, drawn on Bank of America account number 11805-67210, held in the name of 101 Houseco and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
NINETEEN	9/17/2009	Teller deposit in the amount of \$100,000, drawn on Bank of America account number 11805-67210, held in the name of 101 Houseco and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
TWENTY	10/27/2009	Check # 1016 in the amount of \$500,000, drawn on Bank of America account number 11805-67210, held in the name of 101 Houseco and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
TWENTY-ONE	10/30/2009	Check # 1018 in the amount of \$186,000, drawn on Bank of America account number 11805-67210, held in the name of 101

		Houseco and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.
TWENTY-TWO	11/30/2009	Check # 1030 in the amount of \$69,500, drawn on Bank of America account number 11805-67210, held in the name of 101 Houseco and deposited into Bank of America account number 16916-03537, held in the name of Masma Construction.

COUNT TWENTY-THREE: (18 U.S.C. § 371 – Conspiracy to Misapply Bank Funds)

28. Paragraphs 1 through 15 are realleged and incorporated herein by reference.

29. Between in or about March 2009 and in or about November 2009, in the Northern

District of California and elsewhere, defendants

SEAN CUTTING, and
BRIAN MELLAND,

being officers, agents, and employees of Sonoma Valley Bank, which was then insured by the FDIC, did knowingly conspire to willfully, and with intent to injure and defraud that bank, misapply funds and credits in excess of \$1,000 belonging to that bank and entrusted to its care, specifically, funds disbursed in a loan to 101 Houseco, in violation of 18 U.S.C. § 656, all in violation of Title 18, United States Code, Section 371.

COUNTS TWENTY-FOUR THROUGH TWENTY-EIGHT: (18 U.S.C. §§ 1005 & 2 – False Bank Entries)

30. Paragraphs 1 through 15 are realleged and incorporated herein by reference.

31. On or about the dates set forth below, in the Northern District of California and elsewhere, defendants

BIJAN MADJLESSI,
DAVID LONICH, and
SEAN CUTTING

did knowingly make and cause to be made the false entries described below in books, reports, and statements of Sonoma Valley Bank, which was then insured by the FDIC, intending to injure and defraud the bank, any other company, and any individual, and did aid, abet, counsel, command, induce, procure, and cause the same, in violation of Title 18, United States Code, Sections 1005 and 2:

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<u>COUNT</u>	<u>DATE</u>	<u>FALSE ENTRY</u>
TWENTY-FOUR	10/28/2009	Letter on Sonoma Valley Bank letterhead, signed by CUTTING, falsely stating that an individual then had at least \$142,900 in assets at Sonoma Valley Bank
TWENTY-FIVE	10/28/2009	Letter on Sonoma Valley Bank letterhead, signed by CUTTING, falsely stating that an individual then had at least \$164,700 in assets at Sonoma Valley Bank
TWENTY-SIX	11/10/2009	Letter on Sonoma Valley Bank letterhead, signed by CUTTING, falsely stating that an individual then had at least \$164,700 in assets at Sonoma Valley Bank
TWENTY-SEVEN	11/12/2009	Letter on Sonoma Valley Bank letterhead, signed by CUTTING, falsely stating that an individual then had at least \$172,000 in assets at Sonoma Valley Bank
TWENTY-EIGHT	11/17/2009	Letter on Sonoma Valley Bank letterhead, signed by CUTTING, falsely stating that James House then had at least \$122,900 in assets at Sonoma Valley Bank

COUNT TWENTY-NINE: (18 U.S.C. §§ 1512(c) & 2 – Attempted Obstruction of Justice)

32. On or about May 26-27, 2011, in the Northern District of California and elsewhere, defendants

BIJAN MADJLESSI and
DAVID LONICH

did knowingly and corruptly attempt and intend to obstruct, influence, and impede an official proceeding, namely, a federal criminal grand jury investigation in the Northern District of California, and took a substantial step toward committing that crime by, among other things, instructing J.H. to claim falsely to federal agents and a grand jury that J.H. was the true owner of 101 Houseco and that J.H. had made money as its true owner, and did aid, abet, counsel, command, induce, procure, and cause the same, in violation of Title 18, United States Code, Sections 1512(c) and 2.

FORFEITURE ALLEGATIONS: (18 U.S.C. §§ 982(a)(1) & 982(a)(2)(A))

33. The factual allegations contained in paragraphs 1 through 15 are realleged and incorporated herein by reference for the purpose of alleging forfeiture.

34. Upon a conviction of any of the offenses alleged in Counts One through Eight, the defendants,

1 BIJAN MADJLESSI,
2 DAVID LONICH,
3 SEAN CUTTING, and
4 BRIAN MELLAND

5 shall, pursuant to Title 18, United States Code, Section 982(a)(2)(A), forfeit to the United States any
6 property constituting, or derived from, proceeds obtained directly or indirectly, resulting from the
7 violations alleged in Counts One through Eight, including but not limited to:

- 8 a. a sum of money equal to the amount of proceeds obtained from said violations;
- 9 b. 3751 Sebastapol Road, Santa Rosa, California, APNS 035-920-001 through 035-
10 920-048, inclusive, 035-930-001 through 027, inclusive, and 035-940-001 through 026, inclusive and
11 035-950-001 through 013, inclusive and 035-880-008; and
- 12 c. 26 Sky Drive, Mill Valley, California.

13 35. Upon a conviction of any of the offenses alleged in Counts Ten through Twenty-two, the
14 defendants,

15 BIJAN MADJLESSI,
16 DAVID LONICH,
17 SEAN CUTTING, and
18 BRIAN MELLAND

19 shall, pursuant to Title 18, United States Code, Section 982(a)(1), forfeit to the United States any
20 property, real or personal, involved in the violations alleged in Counts Ten through Twenty-two, and
21 property traceable thereto, including but not limited to:

- 22 a. a sum of money equal to the amount of property involved in said violations;
- 23 b. 3751 Sebastapol Road, Santa Rosa, California, APNs 035-920-001 through 035-
24 920-048, inclusive, 035-930-001 through 027, inclusive, and 035-940-001 through 026, inclusive and
25 035-950-001 through 013, inclusive and 035-880-008; and
- 26 c. 26 Sky Drive, Mill Valley, California, APN 034-430-03.

27 36. If, as a result of any act or omission of any of the defendants, any of said property
28 identified above:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;

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- 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 shall, pursuant to Title 21, United States Code, Section 853(p) (as incorporated in Title 18, United States Code, Section 982(b), seek forfeiture of any other property of said defendants up to the value of the forfeitable property described above.

DATED:


A TRUE BILL.

3-18-14




 FOREPERSON

MELINDA HAAG
United States Attorney

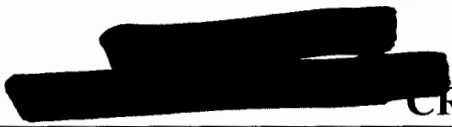


 J. DOUGLAS WILSON
 Chief, Criminal Division

(Approved as to form: )

 AUSA Rees

United States District Court
Northern District of California



CRIMINAL COVER SHEET

Instructions: Effective January 3, 2012, this Criminal Cover Sheet must be completed and submitted, along with the Defendant Information Form, for each new criminal case. Please place this form on top of the Defendant Information Form.

Case Name:

USA v. MADJLESSI, LONICH, CUTTING, & MELLAND

CR

Case Number:

14 139

SI

Total Number of Defendants:

1 _____ 2-7 8 or more _____

Is This Case Under Seal?

Yes No _____

Does this case involve ONLY charges under 8 U.S.C. § 1325 and/or 1326?

Yes _____ No

Venue (Per Crim. L.R. 18-1):

SF OAK _____ SJ _____

Is this a death-penalty-eligible RICO Act gang case?

Yes _____ No

Assigned AUSA (Lead Attorney):

R. D. Rees

Comments:

[Empty box for comments]

Date Submitted:

3/18/2014

CR14-139SI

PRINT