

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

Grand Jury N-09-4

UNITED STATES OF AMERICA

CRIMINAL NO. 3:10CR093(AWT)

v.

SYED A. BABAR, a/k/a "Ali," "Asad,"
THOMAS E. GALLAGHER,
MORRIS I. OLMER,
DAVID AVIGDOR,
NATHAN M. RUSSO,
RAB NAWAZ,
MARSHALL ASMAR,
WENDY WERNER,
REHAN QAMER and
MOHAMMAD SALEEM,

VIOLATIONS:

18 U.S.C. § 371 (conspiracy)
18 U.S.C. § 1343 (wire fraud)
18 U.S.C. § 1341 (mail fraud)
18 U.S.C. § 1001 (false statements to the
government)
18 U.S.C. § 1503 (obstruction of justice)

Defendants.

SECOND SUPERSEDING INDICTMENT

The Grand Jury charges:

COUNT ONE – Conspiracy

18 U.S.C. § 371

The Defendants

1. At all times relevant to this Indictment, defendant **SYED A. BABAR** (a/k/a "Ali," "Asad") was the *de facto* leader and organizer of the conspiracy. BABAR recruited straw buyers (that is, buyers in name only), found sellers, and orchestrated and directed the creation and flow of fictitious documentation and information that was needed to obtain the fraudulent residential real estate loans. BABAR also directed and oversaw the distribution of the fraud proceeds after a loan for a property had been fraudulently obtained and the closing had taken place.

2. At all times relevant to this Indictment, **THOMAS E. GALLAGHER** was a real estate appraiser doing business under the name of Autumn Appraisals, LLC, located in West Haven,

Connecticut. GALLAGHER created fraudulently inflated appraisals of residential real estate in exchange for payments, often in cash, of thousands of dollars per property, well beyond the basic appraisal fee of about \$375 that was disclosed in appraisals and on the HUD-1.

3. **MORRIS I. OLMER**, though not licensed as an attorney since on or about February 15, 2007, at various times relevant to this Indictment, acted as and held himself out to be a lawyer. OLMER had an office at 419 Whalley Avenue, Suite 200, in New Haven, Connecticut.

4. At all times relevant to this Indictment, **DAVID AVIGDOR** was an attorney licensed to practice law in the State of Connecticut. AVIGDOR shared office space with OLMER at 419 Whalley Avenue, Suite 200, in New Haven. AVIGDOR joined OLMER not long after OLMER lost his law license. OLMER and AVIGDOR were involved with many of the closings on the fraudulent transactions involved in the conspiracy. Their role included distributing the fraudulent loan proceeds through AVIGDOR's lawyer's trust account, or "IOLTA," and creating false HUD-1 settlement statements.

5. At all times relevant to this Indictment, **NATHAN M. RUSSO** was a mortgage broker employed by Action Mortgage Corp., a licensed mortgage broker in Cranston, Rhode Island. RUSSO brokered loans to residential real estate lenders, and he collected substantial fees in connection with the closings of real estate transactions that had been executed based on materially false and fraudulent representations.

6. At all times relevant to this Indictment, **RAB NAWAZ** operated a private business in Waterford, CT, and purchased and sold real estate to straw buyers and provided other assistance to BABAR and the conspiracy.

7. At all times relevant to this Indictment, **MARSHALL ASMAR** and **WENDY WERNER** sold real estate to straw buyers.

8. At all times relevant to this Indictment, **REHAN QAMER** and **MOHAMMED SALEEM** served as straw buyers.

Federal Housing Administration Mortgage Insurance

9. Through its Section 203(b) Program (the “Program”), the United States Department of Housing and Urban Development (“HUD”) provides mortgage loan insurance for qualifying residential real estate loans to individuals with low or moderate incomes. The insurance is provided through the Federal Housing Administration (“FHA”), a component of HUD, and the loans are financed through private financial institutions. Generally, the Program provides mortgage loan insurance for the purchase of one to four family properties. The Program provides mortgage insurance for the loan amount used to purchase real property.

10. HUD approves certain banks and mortgage companies as “direct endorsement lenders” to underwrite, approve and close Section 203(b) mortgage loans. Direct endorsement lenders submit such mortgage loans to HUD for FHA insurance. For each qualifying loan closed by direct endorsement lenders, HUD issues mortgage insurance certificates upon submission to HUD of a case binder containing, among other things, loan documents, closing materials and documents relating to the creditworthiness of the borrower.

The Conspiracy

11. Beginning in at least August 2006, and continuing to in or about May 2010, the exact dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, the defendants,

**SYED A. BABAR,
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NATHAN M. RUSSO,
RAB NAWAZ,
MARSHALL ASMAR,
WENDY WERNER,
REHAN QAMER and
MOHAMMAD SALEEM**

did unlawfully, knowingly and intentionally conspire, combine, confederate and agree with each other and others, both known and unknown to the Grand Jury, to

a. defraud the United States by impairing, impeding, obstructing, and defeating, through deceitful and dishonest means, the lawful government functions of HUD and the FHA in connection with mortgage loan insurance issued by the FHA, and

b. commit offenses against the United States, namely,

i. to devise and intend 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, and for the purpose of executing and attempting to execute the scheme and artifice, did knowingly: (i) place in any post office and authorized depository for mail matter, any matter and thing whatever to be sent and delivered by the Postal Service; (ii) deposit and cause to be deposited any matter and thing whatever to be sent and delivered by any private and commercial interstate carrier; and (iii) cause to be delivered by mail and private and commercial interstate carrier, according to the direction thereon, any such matter and thing, that is, checks, correspondence, invoices, memoranda, and other documents, in violation of Title 18, United States Code, Section 1341;

ii. to devise and intend 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, and for the purpose of executing and attempting to execute the scheme and artifice did knowingly transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Section 1343.

iii. in a matter within the jurisdiction of HUD, an agency of the executive branch of the Government of the United States, that is, mortgage loans insured by the FHA, did knowingly and willfully make and cause to be made a materially false, fictitious and fraudulent statement and representation, in violation of Title 18, United States Code, Section 1001.

Purpose of the Conspiracy

12. The purpose of the conspiracy was for defendants and their co-conspirators to enrich themselves by obtaining millions of dollars in residential real estate loans, including loans insured by the FHA, through the use of sham sales contracts, false loan applications and fraudulent property appraisals, and to conceal the conspiracy from others.

Manner And Means Of The Conspiracy

The manner and means by which the defendants and others, both known and unknown to the Grand Jury, sought to accomplish the objects of the conspiracy included the following:

13. It was part of the conspiracy that BABAR and others would and did recruit and pay straw purchasers to nominally purchase homes.

14. It was part of the conspiracy that BABAR and others would and did direct and cause the straw purchasers to enter into sales contracts with sellers of residential real estate, such as NAWAZ, ASMAR and WERNER, for a price higher than the actual price that the seller would receive.

15. It was part of the conspiracy that RUSSO and others, with input from BABAR and others, would and did prepare loan applications for the buyers, which would include false and fraudulent information concerning, among other things, the buyers' employment, income, assets and liabilities, previous property ownership and intention to make the properties their primary residences.

16. It was part of the conspiracy that the loan applications prepared by RUSSO and others would and did contain false and fraudulent supporting documentation, including false letters from fictitious employers, false earnings statements, and fraudulent bank records.

17. It was part of the conspiracy that GALLAGHER, working with BABAR and others, would and did issue false and fraudulent appraisals of properties being purchased and, through RUSSO, cause them to be submitted to lenders in order to justify the inflated sales prices and the loan amounts being sought to fund the purchases, including loans insured by the FHA.

18. It was part of the conspiracy that BABAR and a co-conspirator known to the Grand Jury formed a fictitious construction company called Sheda Telle Construction, LLC ("Sheda Telle Construction"), in order to divert fraud proceeds to it and, in some cases, to falsely justify the artificially inflated sales prices of properties based on renovations purportedly made, but that in fact did not occur.

19. It was part of the conspiracy that many of the closings that would and did occur after a lender had approved a loan would be conducted by OLMER, with the closing documents signed by AVIGDOR. The loan proceeds were distributed by interstate wire on many occasions to the IOLTA account of AVIGDOR.

20. It was part of the conspiracy that AVIGDOR and others as the settlement agents would and did sign materially false HUD-1 settlement statements that either falsely stated that funds were being distributed to sellers that were in fact being distributed to Sheda Telle Construction, or that funds were being distributed to Sheda Telle Construction for renovations to the properties that did not occur.

21. It was part of the conspiracy that BABAR and his co-conspirators would and did distribute the fraud proceeds among themselves.

22. It was part of the conspiracy that, contrary to the representations made on the loan applications, the straw purchasers would not and did not occupy the houses as their primary residences, but rather would default on the loans obtained and let the houses go into foreclosure.

Overt Acts

23. In furtherance of the conspiracy, and to accomplish its purposes and objects, the defendants and their co-conspirators, both known and unknown to the Grand Jury, committed and caused others to commit at least one of the following overt acts, among others, in the District of Connecticut and elsewhere:

a. On or about August 29, 2006, BABAR deposited two checks totaling \$223,704.43 into the checking account of his business, Global Accounting and Taxation Services. Each check was written on the account of WERNER's business, Marbo Restorations, LLC, and

consisted of a portion of the proceeds from the sale of multiple houses on Lake Street in Norwich, Connecticut, which WERNER, through Marbo Restorations, LLC, had sold earlier that month to straw buyer QAMER.

b. On or about March 12, 2007, a co-conspirator known to the Grand Jury, at the direction of BABAR, opened a bank account at Bank of America for Sheda Telle Construction, LLC.

c. On or about June 27, 2007, in connection with the purchase of 104 Walnut Street, Willimantic, RUSSO submitted a residential loan application to the lender that falsely stated that the straw buyer, "K.P.," had no real estate loan liabilities, had no ownership interest in a property in the last three years, and intended to occupy the property as his primary residence.

d. On or about March 14, 2008, in connection with the closing for 75 Bradley Avenue, Meriden, AVIGDOR falsely certified that the HUD-1 accurately reflected that the seller had received or would receive \$64,995.94, when in fact AVIGDOR wired \$64,995.94 to the account of Sheda Telle Construction.

e. On or about March 17, 2008, in connection with the closing for 281 Crown Street, Meriden, AVIGDOR falsely certified that the HUD-1 accurately reflected that the seller had received or would receive \$45,537.52, when in fact AVIGDOR wired \$45,537.52 to an account of a co-conspirator known to the Grand Jury.

f. On or about September 18, 2009, in connection with an application for an FHA-insured loan, GALLAGHER issued an appraisal for a house being sold by ASMAR, 211 Lloyd Street, New Haven, which fraudulently represented that the property had been "totally gutted" and "totally rehabilitated."

g. On or about October 1, 2009, OLMER conducted the closing on 211 Lloyd Street, New Haven, which was completed on the basis of fraudulent documentation, including the loan application submitted to the lender by RUSSO for straw buyer "A.M.," which falsely indicated that A.M. worked at "Home Catering Restaurant, LLC," and that A.M. would occupy the property as A.M.'s primary residence.

h. On or about January 14, 2010, in connection with an application for an FHA-insured loan, GALLAGHER issued an appraisal for a house being sold by ASMAR, 221 Starr Street, New Haven, which falsely represented that the property had been rehabilitated and that the Sheda Telle Construction invoice in the amount of \$50,249 for the rehabilitation was "reasonable."

i. On or about January 20, 2010, BABAR instructed a co-conspirator known to the Grand Jury to use NAWAZ's business phone, speak with the lender under the fraudulent pretense of being a human resources employee of "Global Home Painting," and provide the lender with false information about a straw buyer's fictitious employment at Global Home Painting in connection with an application for an FHA-insured loan.

j. On or about May 20, 2010, after attending a hearing on May 14, 2010 in *United States v. Syed A. Babar*, 3:10CR93(AWT), NAWAZ met with a witness known to the Grand Jury and instructed the witness to provide knowingly false information in connection with that official proceeding and this Grand Jury's investigation.

All in violation of Title 18, United States Code, Sections 371 and 2.

COUNTS TWO through NINE

Wire Fraud

18 U.S.C. § 1343

24. The allegations contained in Paragraphs 1 through 23 of this Superseding Indictment are realleged as though fully set forth herein.

25. Beginning in or about August 2006, and continuing to in or about May 2010, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, the defendants,

**SYED A. BABAR,
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MORRIS I. OLMER,
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MARSHALL ASMAR,
WENDY WERNER,
REHAN QAMER and
MOHAMMAD SALEEM**

together with others known and unknown to the grand jury, knowingly and intentionally devised and intended to devise, and participated in, a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

26. For the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud, on or about the dates listed below, in the District of Connecticut and elsewhere, the defendants did knowingly cause to be transmitted by means of wire communication in interstate commerce the following, each of which constitutes a separate count of the Superseding Indictment:

Count	Date	Use of Interstate Wire
2	03/19/08	Wire of \$64,995.94 from AVIGDOR's IOLTA account at Citizen's Bank to the business checking account of Sheda Telle Construction, LLC at Bank of America in connection with a closing for 75 Bradley Ave., Meriden, CT
3	06/05/08	Wire of \$48,345.62 from AVIGDOR's IOLTA account at Citizen's Bank to the business checking account of Sheda Telle Construction, LLC at Bank of America in connection with a closing for 97 Bradford Ave., East Haven, CT
4	06/27/08	Wire of \$73,800.00 from AVIGDOR's IOLTA account at Citizen's Bank to the business checking account of Sheda Telle Construction, LLC at Bank of America in connection with a closing for 84 Forest St. Ext., East Haven, CT
5	06/27/08	Wire of \$55,200.00 from AVIGDOR's IOLTA account at Citizen's Bank to the business checking account of Sheda Telle Construction, LLC at Bank of America in connection with a closing for 61 Baxter Lane, Milford, CT
6	07/01/08	Wire of \$89,228.50 from AVIGDOR's IOLTA account at Citizen's Bank to the business checking account of Sheda Telle Construction, LLC at Bank of America in connection with a closing for 57 Bassett Street, New Haven, CT
7	07/10/08	Wire of \$67,493.04 from AVIGDOR's IOLTA account at Citizen's Bank to the business checking account of Sheda Telle Construction, LLC at Bank of America in connection with a closing for 433 Shelton Ave., New Haven, CT
8	11/20/08	Wire of \$76,591.09 from AVIGDOR's IOLTA account at Citizen's Bank to the business checking account of Sheda Telle Construction, LLC at Bank of America in connection with a closing for 88 Hazel Street, New Haven, CT
9	10/1/09	Wire of \$49,375.00 from AVIGDOR's IOLTA account at Citizen's Bank to the business checking account of Sheda Telle Construction, LLC at Bank of America in connection with a closing for 211 Lloyd Street, New Haven, CT

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT TEN
Mail Fraud
18 U.S.C. § 1341

27. The allegations contained in Paragraphs 1 through 23 of this Indictment are realleged as though fully set forth herein.

28. Beginning in or about August 2006, and continuing to at least May 2010, the precise dates being unknown to the Grand Jury, in the District of Connecticut and elsewhere, the defendants,

**SYED A. BABAR,
THOMAS E. GALLAGHER,
WENDY WERNER, and
REHAN QAMER**

knowingly and intentionally devised and intended to devise, and participated in, a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

29. It was part of the scheme and artifice that in or about August 2006, WERNER, through her company, Marbo Restorations, LLC, sold three houses on Lake Street in Norwich, Connecticut to QAMER, a straw buyer working with BABAR. The fraudulently inflated sales prices were \$260,000 (35 Lake Street), \$270,000 (37 Lake Street), and \$270,000 (41 Lake Street), and QAMER obtained residential real estate loans to purchase the houses for those amounts.

30. It was part of the scheme and artifice that in or about August 2006, WERNER, through Marbo Restorations, LLC, provided BABAR with approximately \$283,704.43 of the proceeds generated from the sale of the three houses to QAMER. BABAR deposited that money into the account of his business, Global Taxation and Accounting Services, and he wrote ten

checks to QAMER for a total amount of approximately \$179,208. QAMER defaulted on all three houses he purchased from WERNER and the houses went into foreclosure.

31. For the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud, on or about the dates listed below, in the District of Connecticut and elsewhere, the defendants SYED A. BABAR, THOMAS E. GALLAGHER, WENDY WERNER and REHAN QAMER did knowingly: (i) place in any post office and authorized depository for mail matter, any matter or thing whatever to be sent and delivered by the Postal Service; (ii) deposit and cause to be deposited any matter or thing whatever to be sent and delivered by any private and commercial interstate carrier; and (iii) cause to be delivered by mail and private and commercial interstate carrier, according to the direction thereon, the following:

COUNT	DATE	MAILING
10	Aug. 17, 2006	Closing documents relating to a real estate transaction for the property located at 35 Lake Street, Norwich, CT, sent by FedEx from a law office in CT to the lender in MA

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

COUNTS ELEVEN through FOURTEEN

False Statements
18 U.S.C. § 1001

32. The allegations contained in Paragraphs 1 through 23 of this Superseding Indictment are realleged as though fully set forth herein.

33. The Form HUD-1 for a residential real estate transaction requires the settlement agent to certify as follows: "The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement."

34. On loans that are insured by the FHA, the FHA requires that the settlement agent sign a "Certification of Settlement Agent in an FHA-Insured Loan Transaction," which is contained in an Addendum to the HUD-1. That certification provides: "To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were (i) received, or (ii) paid outside closing, and the funds received have been or will be disbursed by the undersigned as part of the settlement of this transaction."

35. Both the HUD-1 and the FHA certification warn that it is a violation of federal criminal law to knowingly make false statements to the United States on those forms.

36. On or about the following dates, within the District of Connecticut and elsewhere, the defendants,

**SYED A. BABAR
THOMAS E. GALLAGHER,
MORRIS I. OLMER,
DAVID AVIGDOR,
NATHAN M. RUSSO, and
MARSHALL ASMAR**

in a matter within the jurisdiction of the U.S. Department of Housing and Urban Development and the Federal Housing Administration, agencies of the executive branch of the Government of the United States, did knowingly and willfully make and cause to be made a materially false, fictitious and fraudulent statement and representation, in that in the following transactions involving FHA-insured mortgage loans concerning properties at the following addresses, AVIGDOR as the settlement agent falsely certified that the HUD-1 was a true and accurate account of the transaction and that he had caused or would cause the funds listed below to be distributed to the seller, when in truth and in fact, the HUD-1 was not a true and accurate account of the transaction,

and he did not distribute those funds to the seller, but rather distributed the following funds to Sheda Telle Construction, LLC:

Count	Date	Property Address for FHA-Insured Transaction	Cash to Seller as Certified on the Form HUD-1	Funds Distributed to Sheda Telle Construction from AVIGDOR IOLTA
11	07/10/08	433 Shelton Ave., New Haven, CT	\$216,626.16	\$67,493.04
12	10/10/08	243 Starr Street, New Haven, CT	\$161,420.96	\$73,240.82
13	11/20/08	88 Hazel Street, New Haven, CT	\$90,034.60	\$76,591.09
14	10/01/09	211 Lloyd Street, New Haven, CT	\$144,763.42	\$49,375.00

All in violation of Title 18, United States Code, Sections 1001 and 2.

COUNT FIFTEEN
Obstruction of Justice
18 U.S.C. § 1503

37. The allegations contained in Paragraphs 1 through 23 of this Superseding Indictment are realleged as though fully set forth herein.

38. On or about May 14, 2010, a hearing was held in the United States District Court for the District of Connecticut. At that hearing, the government reviewed in open court evidence it had obtained during its investigation. The defendant **RAB NAWAZ** was present in the courtroom for that hearing, and thereafter met with a witness on or about May 20, 2010.

39. On or about May 20, 2010, in the District of Connecticut, the defendant,

RAB NAWAZ,

did corruptly endeavor to influence, obstruct and impede the due administration of justice in *United States v. Syed A. Babar*, 3:10CR93(AWT), in the U.S. District Court for the District of Connecticut, and Federal Grand Jury N-09-4 in the District of Connecticut, by meeting with a witness and instructing the witness to provide knowingly false information in connection with those official proceedings.

All in violation of Title 18, United States Code, Section 1503.

FORFEITURE ALLEGATION UNDER 28 U.S.C. § 2461(c) AND 18 U.S.C. § 981(a)

(Fraud Conspiracy)

Upon conviction of the offense alleged in Count 1 of this Indictment,

**SYED A. BABAR,
THOMAS E. GALLAGHER,
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MARSHALL ASMAR,
WENDY WERNER,
REHAN QAMER and
MOHAMMAD SALEEM**

the defendants herein, shall forfeit to the United States of America pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all right, title, and interest in any and all property, real or personal, which constitutes or is derived from proceeds traceable to violations of 18 U.S.C. §§ 1341 and 1343, and a sum of money equal to the total amount of proceeds obtained as a result of the offense, including but not limited to the following:

Real Property

- (a) An interest in certain real property located at 8 Orchard Street, New London, Connecticut

Personal Property

- (a) An interest in a 2007 BMW 328xi, VIN ending -2972

If any of the above-described forfeitable property, as a result of any act or omission of the defendant, cannot be located upon the exercise of due diligence, has been transferred, sold to, or deposited with a third party, has been placed beyond the jurisdiction of the court, has been substantially diminished in value, or has been commingled with other property which cannot be divided without difficulty, it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), as incorporated by Title 18, United States Code, Section 982(b), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

All in accordance with Title 18, United States Code, Section 981(a)(1), as incorporated by Title 28, United States Code, Section § 2461(c), and Rule 32.2(a), Federal Rules of Criminal Procedure.

A TRUE BILL

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FOREPERSON



NORA R. DANNEHY
DEPUTY UNITED STATES ATTORNEY



ERIC J. GLOVER
ASSISTANT UNITED STATES ATTORNEY