



# DEPARTMENT OF JUSTICE

United States Attorney James P. Kennedy, Jr.  
Western District of New York

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## **ROBERT MORGAN, THREE OTHERS INDICTED IN MULTI-MILLION DOLLAR MORTGAGE FRAUD SCHEME**

BUFFALO, N.Y.--U.S. Attorney James P. Kennedy, Jr. announced today that a federal grand jury has returned a 114-count superseding indictment charging Robert Morgan, Frank Giacobbe, Todd Morgan, and Michael Tremiti, with conspiracy to commit wire fraud and bank fraud for their roles in a half billion dollar mortgage fraud scheme. The defendants each face various additional charges such as wire and bank fraud, and money laundering. Todd Morgan and Robert Morgan are also charged with wire fraud conspiracy to defraud insurance companies. The charges carry a maximum penalty of 30 years in prison and a fine in the amount of double the loss caused by the crimes, which is currently estimated to exceed \$25,000,000.

During the course of the conspiracy:

- Robert Morgan was the managing member and chief executive officer of Morgan Management. In addition to his role with Morgan Management, he controlled and managed owned a substantial portfolio of real estate holdings;
- Frank Giacobbe owned and operated Aurora Capital Advisors, identified himself as the Principal, and employed others to assist him in brokering, and attempting to broker real estate loans;
- Todd Morgan was employed at Morgan Management, and worked as a Project Manager at the company; and

- Michael Tremiti was employed at Morgan Management, and worked as Director of Finance for the company.

Assistant U.S. Attorneys John D. Fabian and Douglas A.C. Penrose, who are handling the case, stated that according to the superseding indictment, between 2007 and June 2017, the defendants conspired with Kevin Morgan, Patrick Ogiony, Scott Cresswell, and others to fraudulently obtain moneys, funds, credits, assets, securities, and other property from financial institutions such as Arbor Commercial Mortgage, LLC and Berkadia Commercial Mortgage, LLC, and government sponsored enterprises, including Federal Home Loan Mortgage Corporation (Freddie Mac), and the Federal National Mortgage Association (Fannie Mae).

The defendants provided false information to financial institutions and government sponsored enterprises overstating the incomes of properties owned by Morgan Management or certain principals of Morgan Management. The false information induced financial institutions to issue loans: (1) for greater values than the financial institutions would have authorized had they been provided with truthful information; and (2) that the financial institutions would not have issued at the time of issuance had they been provided with truthful information. These properties included:

- The Preserve at Autumn Ridge, Watertown, NY;
- The Eden Square Apartments, Cranberry Township, Pennsylvania;
- The Rochester Village Apartments at Park Place, Cranberry Township, Pennsylvania;
- The Reserve at Southpointe, Canonsburg, Pennsylvania;
- 7100 South Shore Drive Apartments, Chicago, Illinois;
- The Avon Commons Apartments, Avon, NY;
- The Morgan Bay Apartments, Houston, Texas;
- Brookwood on the Green, Syracuse, NY;
- The Creek Hill Apartments, Rochester, NY;
- Hickory Hollow, Rochester, NY;
- The Knollwood Manor Apartments, Rochester, NY;
- The Links at Centerpointe, Canandaigua, NY;
- The Nineteen North Apartments, Pittsburgh, Pennsylvania;
- The Overlook at Golden Hills, Lexington, South Carolina;
- The Penbrooke Meadows Apartments, Rochester, NY;
- The Trails of North Hills Apartments, Raleigh, North Carolina;
- The Rivers Pointe Apartments, Syracuse, NY;
- The Union Square Apartments, Rochester, NY;

- The View at MacKenzi, York, Pennsylvania; and
- The Villas of Victor, Rochester, NY.

To facilitate the conspiracy:

- Morgan Management provided property management, accounting, and financial reporting services for the properties owned by limited liability companies controlled by defendant Robert Morgan.
- The defendants conspired to manipulate income and expenses for properties to meet debt service coverage ratios (“DSCRs”) required by lending institutions. The manipulation included, among other things, removing expenses from information reported to lenders and keeping two sets of books for at least 70 properties, with one set of books containing true and accurate figures and a second set of books containing manipulated figures to be provided to lenders in connection with servicing and re-financing loans.
- The defendants conspired to present lending institutions with false and fraudulent inflated construction contracts and invoices that falsely reported to the lending institution that the contractor constructing a property was being paid more than the contractor was actually being paid.
- The defendants provided false information to financial institutions and government sponsored enterprises that overstated net incomes of properties and thereby induced financial institutions to: (1) issue loans (a) for greater values than financial institutions would have authorized had they been provided with truthful information; and (b) that the financial institutions would not have issued at the time of issuance had they been provided with truthful information; and (2) forgo contractual rights that would have inured to the financial institutions had the defendants and Morgan Management presented accurate financial information to the financial institutions.
- The defendants employed various mechanisms to mislead inspectors, appraisers, financial institutions and government sponsored enterprises with respect to the occupancy of properties.
- The defendants falsely inflated the amounts owed on properties, by among other things, (1) providing false documentation of obligations purportedly associated with the properties, (2) misrepresenting the actual purchase prices of properties by providing false contracts and contract prices, and (3), as set forth above, presenting false construction contracts and invoices.

In the wire fraud conspiracy to defraud insurers, Todd Morgan and Robert Morgan are accused of conspiring with Kevin Morgan and Scott Cresswell to present false and inflated contracts and invoices for repairs to insurers after damages to properties in Robert Morgan's real estate portfolio. These properties include the Summerwood Apartments in Merrillville, Indiana; the Eden Square Apartments in Cranberry Township, Pennsylvania; and at thirty-four properties in the Rochester, New York area after a March 2017 windstorm in that area.

The defendants are also charged with money laundering conspiracy for engaging in monetary transactions in excess of \$10,000 using the proceeds of wire fraud and bank fraud.

The total loss sustained by financial institutions and government sponsored enterprises throughout the mortgage fraud scheme is currently estimated to exceed \$25,000,000. The loss resulting from the insurance fraud scheme is currently estimated at approximately \$3,000,000.

The defendants made an initial appearance before U.S. Magistrate Judge Michael J. Roemer and were released on conditions.

“The charges announced today reflect this Office's commitment to ensuring that those who do business with the mortgage, banking, and insurance industries act with honesty and integrity,” stated U.S. Attorney Kennedy. “The scope of the dishonesty and deceit alleged here—both in a geographic sense as well as in terms of the dollar value of the mortgages and properties involved—was expansive. This type of fraud strikes at the very heart of those industries, and I commend the FBI and the FHFA-OIG for the significant resources they devoted to this investigation in order to reveal the full scope of the illegal conduct alleged in this superseding indictment.”

“Today's charges allege Robert Morgan-and the men he surrounded himself with in business-worked hard with a desire to creatively subvert the integrity of the financial industry," said FBI Buffalo Special Agent-in-Charge Gary Loeffert. “In response, we worked just as hard and creatively to put a stop to it. We hope the indictment returned in this case helps to educate and protect the tens of thousands of investors who own mortgage-backed securities.”

Richard Parker, Acting Deputy Inspector General for Investigations for the Federal Housing Finance Agency, Office of Inspector General (FHFA-OIG), said, “the financing of multifamily loans is a significant segment of Fannie Mae's and Freddie Mac's portfolio. As these charges demonstrate, FHFA-OIG will work with our partners in law enforcement

to investigate and hold accountable those who seek to victimize the entities regulated by FHFA.”

Defendants Kevin Morgan and Patrick Ogiony were previously convicted of conspiracy to commit bank fraud, and defendant Scott Cresswell was previously convicted of conspiracy to commit wire fraud for their roles in the multi-million dollar fraud scheme. All three defendants are awaiting sentencing.

The superseding indictment is the result of an investigation by the Federal Bureau of Investigation, under the direction of Special Agent-in-Charge Gary Loeffert, and the Federal Housing Finance Agency, Office of Inspector General, under the direction of Special Agent-in-Charge Robert Manchak, Northeast Region.

The fact that a defendant has been charged with a crime is merely an accusation and the defendant is presumed innocent until and unless proven guilty.

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