

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
1511 PONTIAC AVENUE, BLDG. 69-2
CRANSTON, RHODE ISLAND 02920

IN THE MATTER OF: :

RISING FINANCIAL CORPORATION, and: :
FRANCESCO FRANCO, :

DBR Nos. 15BK001 and
15BK002

RESPONDENT. :
:

DECISION AND ORDER OF REVOCATION

Hearing Officer: Ellen R. Balasco, Esq.

Hearing Held: November 24, 2015

Appearances:

For Respondent: Respondent appeared *pro se*.

For the Department: Elizabeth Kelleher Dwyer, Esq.

I. INTRODUCTION

Francesco Franco (“Respondent”) was held two licenses issued under the authority of the Banking Division of the Rhode Island Department of Business Regulation (“Department”). One license is that of Mortgage Loan Originator NMLS #22186, issued pursuant to R.I. Gen. Laws § 19-14.10-4. The other is that of Loan Broker, No. 20062127LB, issued pursuant to R.I. Gen. Laws § 19-14-2. Respondent Francesco Franco is the sole controlling person and qualifying individual of Rising Financial Corporation.

On or about July 29, 2015, the Banking Division was informed that Respondent Franco was indicted in the United State District Court on one count of Conspiracy to Commit Bank Fraud. The Division also learned that Respondent Franco pleaded guilty to Conspiracy to

Commit Bank Fraud in the United States District Court on September 25, 2015, in the matter of *United States of America v. Franchesco Franco*, case number CR 15 73M.

In response to that information, the Director issued Orders to Show Cause, Notices of Hearing and Appointment of Hearing Officer in two separate cases presented by the Banking Division, as cited above. In its' Order to Show Cause, the Division set forth its allegation that the conspiracy to commit bank fraud charge to which Respondent pleaded guilty arose from fraud committed in mortgage loan financing.

II. JURISDICTION

The Department has jurisdiction over this matter pursuant R.I. Gen. Laws § R.I. Gen. Laws §§ 19-14.1, 19-14.2 and, 19-14.10, and Department Banking Regulation 6 - *Lenders, Loan Brokers, Small Loan Lenders and Mortgage Loan Originators*.

III. ISSUES PRESENTED

The issues presented in this matter are whether or not Respondent's Loan Broker license and Mortgage Loan Originator license should both be revoked based on his guilty plea in a Federal criminal action, in accordance with the provisions of R.I. Gen. Laws § 19-14.1 *et seq.*

IV. MATERIAL FACTS AND TESTIMONY

The Department presented two (2) documents to support its case to revoke Respondent's licenses. The Respondent offered testimony in which he conceded the validity and applicability of the Federal and Rhode Island laws cited by the Division's prosecutor, and in which he offered to voluntarily surrender his licenses.

The Division's counsel presented a true copy of the United States District Court criminal Information charging form, issued by the United States Attorney's Office, dated July 29, 2015. The form showed that the offense charged against this Respondent was one count of Conspiracy

to Commit Bank Fraud, a felony, in violation of 18 U.S.C. §1349/4. The charging form stated that the Respondent was represented by named counsel relative to the indictment. Attached to that document was a News Release issued by the Department of Justice's USAO office for the District of Rhode Island, which outlined the charges against this Respondent, and stated that this Respondent pleaded guilty to the conspiracy to commit bank fraud charge for his "participation with a local real estate attorney and others in a scheme to defraud Flagstar Bank, by filing a fraudulent mortgage loan application in the name of a person known to him who had recently died." These documents were marked as Full Exhibits, and Respondent did not object. (Exhibit #1 is attached hereto and incorporated herein by reference.)

The Division also proffered a copy of R.I. Gen. Laws § 19-14.10-6, which serves to adopt as State law the Secure and Fair Enforcement for Mortgage Licensing ("S.A.F.E. Act"); *12 U.S.C. Chapter 51*.

During the hearing, the Respondent made a sworn statement in which he substantiated that he had, in fact, pleaded guilty to the crime described in the attached Indictment on September 25, 2015. He further indicated that he agreed and understood that the provisions of the S.A.F.E. Act applied to his circumstances in this matter, and that the State of Rhode Island is bound by Federal law accordingly.

He testified that though he had not yet done so, he intended to pursue an action in the United States District Court to withdraw his guilty plea relative to this charge, and to ask that the conviction be vacated.

In his testimony, the Respondent offered to voluntarily surrender his licenses, as this would not have such a negative effect on his professional reputation as a revocation order would. Counsel for the Division objected to the surrender, and asked that both licenses held by the Respondent be revoked immediately. The Hearing Officer did grant this request, and advised the

Respondent that both licenses were revoked, effective on the date of the hearing. He was further advised that he may re-apply for a license with the banking division if his criminal conviction was, in fact, vacated by the Federal Court, and if he met all other qualifications at the time of application.

The Respondent stated that he currently had “loans in process” and he understood that he needed to withdraw the applications for those loans immediately, or have another duly licensed mortgage loan originator take them over, based on the revocation.

V. STANDARD OF REVIEW FOR AN ADMINISTRATIVE HEARING

It is well settled that in formal or informal adjudications modeled on the federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving party. 2 Richard J. Pierce, *Administrative Law Treatise* § 10.7 at 759 (2002). In this case, the proponent of this enforcement action is the Department. Unless otherwise specified, a preponderance of the evidence is generally required in order to prevail. *Id.* at 763-766; see also, *Lyons v. Rhode Island Pub. Employees Council* 94, 559 A.2d 130, 134 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases); *Parker v. Parker*, 238 A.2d 57, 60 (R.I. 1968) (“satisfaction by a ‘preponderance of the evidence’ [is] the recognized burden [of proof] in civil actions”). This means that, for each element to be proven, the fact finder must believe that the facts asserted by the proponent are more probably true than false. See *Parker*, 238 A.2d at 60. When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. *Narragansett Electric. Co. v. Carbone*, 898 A.2d 87, 100 (R.I. 2006).

VI. DISCUSSION

Rhode Island law authorizes the Division of Banking to oversee the licensure and regulation of mortgage loan originators and loan brokers. (*R. I. Gen. Laws § 19-14-1 et seq.*)

In examining Title 19, Chapter 14, it is clear that the legislature intended to place express requirements upon loan originators and lenders by enacting a comprehensive statutory scheme to insure that this sector of the mortgage lending industry is comprised of licensees who are competent, financially responsible, honest and trustworthy, and who will not pose a threat to the public interest. The Department is provided numerous grounds in that chapter upon which to deny, revoke or suspend an application or license.

Among the grounds upon which a decision to revoke or suspend may be made is upon proof that “any fact or condition exists which, if it had existed at the time of the original application for the license, would have warranted the director in refusing originally to issue the license.” (R.I. Gen. Laws § 19-14-13).

Additional, R.I. Gen. Laws § 19-14-7 provides that a loan broker license may only be approved if the Department find that the “financial responsibility, experience, character and general fitness of the applicant’s officers are such as to command the confidence of the community and to warrant belief that the business will be operated fairly, honestly and efficiently.”

Regarding mortgage loan originator licensing, R.I. Gen. Laws § 19-14.10-6 provides that such a license may not be approved if the applicant has been convicted of a felony in a domestic foreign or military court. The Department has clearly established that this Respondent did, in fact, plead guilty to a criminal felony in the United States District Court on September 25, 2015, resulting in a conviction.

Section 8 of the Department's Regulation 6 - *Lenders, Loan Brokers, Small Loan Lenders and Mortgage Loan Originators Criminal Backgrounds* provides that, pursuant to R.I. Gen. Laws § 19-14.10-6 and the SAFE Act (the Secure and Fair Enforcement for Mortgage Licensing Act, comprising §§ 1501-1517 of the Housing and Economic Recovery Act of 2008, Public Laws 110-289), an applicant is not eligible for licensure if (s)he has been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven (7) year period preceding the date of the application for licensing and registration; or at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

Both the testimony of the Respondent in which he acknowledged his guilty plea to a criminal felony of conspiracy to commit bank fraud, and the documentary evidence presented by the Department during the hearing clearly establish that this Respondent does not meet the qualifications for licensing as either a mortgage loan originator or a loan broker, as set forth in Rhode Island General Laws, Regulations and United States law.

VII. FINDINGS OF FACT

1. The Director issued Orders to Show Cause, Notices of Hearing and Appointment of Hearing Officer in two separate cases presented by the Banking Division on November 9, 2015.
2. A full evidentiary hearing was held on November 24, 2015 before the undersigned Hearing Officer.
3. The Respondent appeared on his own behalf at the hearing, and admitted freely and voluntarily that he had pleaded guilty to one count of conspiracy to commit bank fraud in the

U.S. District Court for the District of Rhode Island on September 25, 2015, which resulted in his conviction on that charge.

4. The Respondent was advised by the undersigned Hearing Officer at the conclusion of the evidentiary hearing that his licenses were both revoked, effective the date of the hearing.

5. The facts contained in Sections IV and VI are incorporated by reference herein and adopted as findings of fact.

VIII. CONCLUSIONS OF LAW

In accordance with the testimony and facts presented:

1. The Department has jurisdiction over this matter as set forth in Section II, *supra*.
2. Under the standard set forth in Section V and the statutory framework and analysis set forth in Section VI, the Department established by a preponderance of the evidence that Respondent's mortgage loan originator license and his loan broker license should be revoked for cause in adherence to the provisions of R.I. Gen. Laws § 19-14.10-1 *et seq.* and Banking Regulation 6.

IX. RECOMMENDATION

Based on the above analysis, and due consideration of the facts presented, the Hearing Officer recommends that the Director of the Department of Business Regulation enter an Order revoking both the mortgage loan originator license and the loan broker license of Respondent Franchesco Franco, and Rising Tide Financial Corporation, effective retroactively to November 25, 2015.

Dated: 23 March 2016



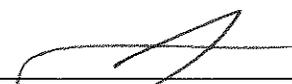
Ellen R. Balasco, Esq.
Hearing Officer

ORDER OF THE DIRECTOR

I have read the Hearing Officer's Decision and Order in this matter, and I hereby take the following action with regard to her recommendations:

- ADOPT
- REJECT
- MODIFY

DATED: 3/24/16

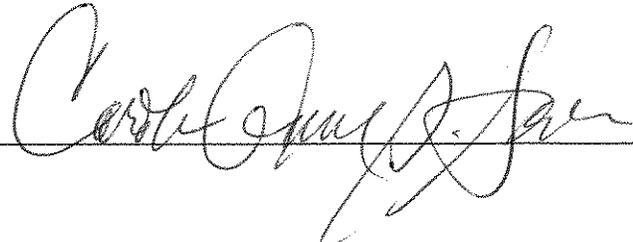


Macky McCleary
Director

THIS DECISION CONSTITUTES A FINAL DECISION OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO RHODE ISLAND GENERAL LAWS TITLE 42, CHAPTER 35. AS SUCH, THIS DECISION MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MAY BE COMPLETED BY FILING A PETITION FOR REVIEW IN SAID COURT.

CERTIFICATION

I hereby certify on this 24th day of March, 2016, that a copy of the within Decision and Order of Revocation was sent by first class mail, postage prepaid, Franchesco Franco at 11 South Angell Street, #175, Providence, Rhode Island and sent by electronic mail to the following parties at the Department of Business Regulation: Elizabeth Kelleher Dwyer, Esq., Deputy Director, Ellen R. Balasco, Esq., Deputy Chief of Legal Services, and Rachel Chester, Insurance Analyst.



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

BY: INFORMATION INDICTMENT COMPLAINT CASE NO. _____

Matter Sealed: Juvenile Other than Juvenile
 Pre-Indictment Plea Superseding Defendant Added
 Indictment Charges/Counts Added
 Information

USA vs.
 Defendant: Franchesco Franco



Name of District Court, and/or Judge/Magistrate Location (City)
 UNITED STATES DISTRICT COURT
 DISTRICT OF RHODE ISLAND Divisional Office

REDACTED

Name and Office of Person Furnishing Information on THIS FORM: PETER F. NERONHA
 U.S. Atty Other U.S. Agency
 Phone No. (401) 709-5000
 Name of Asst. U.S. Attorney (If assigned): Sandra R. Hebert

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)
HUD OIG

Social Security number _____

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

this person/proceeding transferred from another district per (circle one) FRCP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:
 U.S. Atty Defense

this prosecution relates to a pending case involving this same defendant. (Notice of Related Case must still be filed with the Clerk.)

prior proceedings or appearance(s) before U.S. Magistrate Judge regarding this defendant were recorded under

SHOW DOCKET NO.
15-MJ-00114

MAG. JUDGE CASE NO.
Judge P. Sullivan

DEFENDANT

Issue: Warrant Summons

Location Status:

Arrest Date _____ or Date Transferred to Federal Custody _____

Currently in Federal Custody
 Currently in State Custody
 Writ Required
 Currently on bond
 Fugitive

Defense Counsel (if any): James McCormick, Esq.

FPD CJA RET'D
 Appointed on Target Letter

Place of offense: RHODE ISLAND County

This report amends AO 257 previously submitted

OFFENSE CHARGED - U.S.C. CITATION - STATUTORY MAXIMUM PENALTIES - ADDITIONAL INFORMATION OR COMMENTS

Total # of Counts 3

Set	Title & Section/Offense Level (Petty = 1 / Misdemeanor = 3 / Felony = 4)	Description of Offense Charged	Felony/Misd.
	18 U.S.C. §1349/4	Conspiracy to commit bank fraud: 30yrs imprisonment	<input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
		\$1,000,000 fine / 5 yrs supervised release/	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
		\$100.00 special assessment	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
			<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor

Trial: 1 week

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

CR 15 73M

UNITED STATES OF AMERICA

v.

FRANCESCO FRANCO,
Defendant.

Criminal Case No. _____

In violation of 18 U.S.C. § 1349

INFORMATION

The United States Attorney charges that:

COUNT 1
(Conspiracy to Commit Bank Fraud)

Introduction

1. At all times relevant to this Information, the defendant, FRANCESCO FRANCO ("FRANCO"), resided within the State of Rhode Island.
2. At all times relevant to this Information, FRANCO was a mortgage loan originator associated with Eagle Nationwide Mortgage Company, a mortgage broker that charged fees to arrange loans from mortgage lenders.
3. At all times relevant to this Information, Flagstar Bank, F.S.B. ("Flagstar Bank") was a federally-insured financial institution doing business in the District of Rhode Island and an approved Federal Housing Administration ("FHA") lender.
4. At all times relevant to this Information, uncharged co-conspirator #1 was a real estate attorney licensed to practice law in the State of Rhode Island and uncharged

co-conspirators #2 and #3 were recruited by FRANCO to assist in the bank fraud scheme.

5. On or about March 20, 2010, O.R., a person known to FRANCO, died.

Federal Housing Administration Mortgage Insurance

6. 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 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.

7. 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. To obtain FHA insurance, the direct endorsement lenders submit to HUD a case binder containing, among other things, loan documents, closing materials, and documents relating to the creditworthiness of the borrower. For each qualifying loan closed by a direct endorsement lender, HUD issues mortgage insurance certifications.

The Conspiracy

8. Beginning on or about January 14, 2010 and continuing until on or about June 25, 2012, in the District of Rhode Island and elsewhere, the defendant,

FRANCESCO FRANCO,

together with others known and unknown to the United States Attorney, knowingly, willfully, and unlawfully combined, conspired and agreed with each other to commit bank fraud, by knowingly executing and attempting to execute a scheme and artifice to defraud a financial institution, namely, Flagstar Bank, and to obtain moneys, funds, assets, and other property owned by, and under the custody and control of, Flagstar Bank by means of false and fraudulent pretenses, representations, and promises, contrary to 18 U.S.C. § 1344.

Purpose and Object of the Conspiracy

9. A purpose and object of the conspiracy was for FRANCO and his co-conspirators to unlawfully enrich themselves by obtaining the use and enjoyment of properties, fees and FHA-insured real estate mortgages through the use of false mortgage applications, false verification forms, false supporting documentation, and a false HUD-1 settlement statement, and to conceal the conspiracy from others.

Manner and Means of the Conspiracy

10. It was part of the conspiracy that FRANCO used the identity information of O.R. to apply for a federally insured mortgage loan to finance the purchase of 63 Wendell Street, Providence, Rhode Island.

11. It was further part of the conspiracy that FRANCO and uncharged co-conspirator #2 made or caused to be made materially false statements in the mortgage application and supporting documentation, such as tax returns, pay stubs, verification letters and bank statements, submitted to Flagstar Bank in support of the mortgage loan obtained in O.R.'s name in connection with the purchase of 63 Wendell Street.

12. It was further part of the conspiracy, that uncharged co-conspirator #3 attended the closing held at the office of uncharged co-conspirator #1. At closing, uncharged co-conspirator #3 signed mortgage loan documents in the name of O.R. and in the presence of uncharged co-conspirator #1, who was the closing attorney and the notary public on the loan.

13. It was further part of the conspiracy that FRANCO executed and caused to be executed fraudulent property deeds transferring title of 63 Wendell Street to himself and subsequently to a corporation formed by uncharged co-conspirator #1.

Acts in Furtherance of the Conspiracy

In furtherance of the conspiracy and to accomplish its objectives and purposes, at least one of the following overt acts, among others, was committed by one or more of the co-conspirators in the District of Rhode Island and elsewhere:

14. On or about January 14, 2010, FRANCO, a loan originator associated with Eagle Nationwide Mortgage Company, caused a Uniform Residential Loan Application

to be submitted to Flagstar Bank in support of a mortgage loan financing the purchase of 63 Wendell Street in O.R.'s name.

15. On or about April 15, 2010, more than three weeks after O.R.'s death, FRANCO caused a Form 1040EZ tax return to be filed for O.R. for tax year 2009. This return included FRANCO's bank account number for deposit of the tax refund sought.

16. On or about May 21, 2010, FRANCO caused the fraudulent Form 1040EZ tax return described above to be faxed to Flagstar Bank in support of the mortgage loan for 63 Wendell Street.

17. On or about July 24, 2010, FRANCO forged and caused to be forged O.R.'s name and social security number on a second Uniform Residential Loan Application submitted to Flagstar Bank in support of the mortgage loan financing the purchase of 63 Wendell Street in O.R.'s name.

18. On or about July 30, 2010, FRANCO caused a fraudulent Domestic Bank statement in the name of O.R. to be faxed to Flagstar Bank in support of the mortgage loan for 63 Wendell Street.

19. On or about August 5, 2010, FRANCO caused uncharged co-conspirator #3 to attend the closing and sign a HUD-1 settlement statement and a mortgage securing a loan in the amount of \$157,102.00 in connection with the purchase 63 Wendell Street in O.R.'s name.

20. On or about August 5, 2010, uncharged co-conspirator #1 prepared and signed the HUD-1 settlement statement signed by uncharged co-conspirator #3 in O.R.'s

name and notarized the mortgage signed by uncharged co-conspirator #3 in O.R.'s name.

21. On or about August 5, 2010 at 9:14 p.m., FRANCO emailed a copy of O.R.'s driver's license and social security card to uncharged co-conspirator #1.

22. On or about September 7, 2010, FRANCO forged and caused to be forged O.R.'s signature on a quitclaim deed transferring title of 63 Wendell Street from O.R. to O.R. and FRANCO.

23. At no time, did FRANCO make payments to Flagstar Bank in connection with the mortgage loan for 63 Wendell Street. As a result, the loan was defaulted.

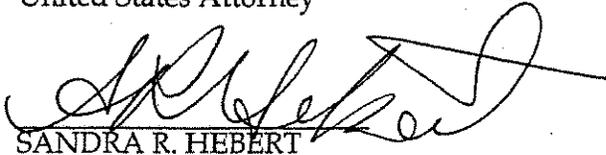
24. On or about July 10, 2011, as a result of FRANCO's failure to make payments on the mortgage loan, HUD paid a claim to Flagstar Bank in the amount of \$165,062.94 in connection with the federally insured, fraudulent mortgage loan on 63 Wendell Street. The promissory note executed in connection with the mortgage loan was sold by HUD after it paid the claim to Flagstar Bank. The note was eventually purchased by SJJ, Inc.

25. On or about March 28, 2012, a corporation formed by uncharged co-conspirator #1, 63 Wendell Street LLC, purchased the note to 63 Wendell Street from SJJ, Inc. for \$35,000.

26. On or about June 25, 2012, FRANCO forged and caused to be forged O.R.'s signature to a quitclaim deed transferring title in 63 Wendell Street to 63 Wendell Street, LLC, the company formed by uncharged co-conspirator #1.

All in violation of 18 U.S.C. § 1349.

PETER F. NERONHA
United States Attorney



SANDRA R. HEBERT
Assistant U.S. Attorney



WILLIAM J. FERLAND
Assistant U.S. Attorney



ADI GOLDSTEIN
Assistant U.S. Attorney
Criminal Division Chief

Date: 7-29-2015

x1



THE UNITED STATES ATTORNEY'S OFFICE
DISTRICT *of* RHODE ISLAND

[U.S. Attorneys](#) » [District of Rhode Island](#) » [News](#)

Department of Justice

U.S. Attorney's Office

District of Rhode Island

FOR IMMEDIATE RELEASE

Friday, September 25, 2015

Mortgage Loan Originator Pleads Guilty, Unlicensed Appraiser Charged in Ongoing Mortgage Fraud Investigation

PROVIDENCE, R.I. – An ongoing federal and state law enforcement investigation into alleged mortgage fraud in Rhode Island has resulted to date in a former mortgage originator pleading guilty in federal court to conspiracy to commit bank fraud, and an unlicensed real estate appraiser being charged with allegedly stealing the identity of other appraisers when performing and submitting real estate appraisals to banks as documentation for mortgage loan applications.

Franchesco Franco, 34, of Providence, a former mortgage loan originator, pleaded guilty in federal court to conspiracy to commit bank fraud for his participation with a local real estate attorney and others in a scheme to defraud Flagstar Bank, by filing a fraudulent mortgage loan application and supporting documentation in the name of a person known to him who had recently died, in order to secure a loan in the amount of \$157,102 for the purchase of a residence at 63 Wendell Street in Providence.

According to court documents, after the mortgage was issued, Franco filed fraudulent documents in the deceased person's name in order to have his own name added to the deed for the property. Loan payments were never made to Flagstar Bank, an FHA-insured lender, by Franco or anyone else. As a result, the U.S. Department of Housing and Urban Development (HUD) paid an insurance claim to Flagstar Bank for the unpaid balance of the loan in the amount of \$165,062. According to court documents, a corporation formed by the real estate attorney, an alleged co-conspirator in this matter, later purchased the note for \$35,000.

In a separate matter discovered during the investigation into mortgage fraud in Rhode Island which resulted in the charges being brought against Franco, it is alleged that Dylan T. Kelly, 40, whose real estate appraiser's license expired in September 2008, has continued to conduct and issue real estate appraisals using the identity, license and insurance certificate of licensed

appraisers without the licensed appraisers' permission or knowledge. Kelly has been charged in federal court with conspiracy to commit bank fraud, false statements in loan applications and aggravated identity theft.

Francesco Franco's guilty plea and charges brought against Dylan T. Kelly are announced by United States Attorney Peter F. Neronha; Christina D. Scaringi, Special Agent in Charge of the Northeast Region of the U.S. Department of Housing and Urban Development Office of Inspector General; Ted A. Arruda, Resident Agent in Charge of the Providence Office of the U.S. Secret Service; and Colonel Steven G. O'Donnell, Superintendent of the Rhode Island State Police.

Appearing before U.S. District Court Judge John J. McConnell, Jr., Franco admitted to the court that beginning in January 2010, he participated in a conspiracy in which he made false statements on a mortgage loan application and provided false documentation, including fraudulent tax returns, pay stubs, verification letters and bank statements, all in the name of a deceased person known to Franco, in order to secure a federally insured mortgage from Flagstar Bank in the amount of \$157,102. Franco also provided copies of the deceased person's social security card and driver's license.

According to court documents, as part of the scheme, on April 15, 2010, more than three weeks after the death of the individual known to Franco, Franco filed a tax return for tax year 2009 in the deceased person's name. In the filing, Franco provided the IRS his own personal bank account number, purporting that the bank account number belonged to the deceased individual and was to be used for direct deposit of a tax refund. The tax form was later provided by Franco to Flagstar Bank as supporting documentation for the mortgage loan application in the deceased person's name.

According to court documents, in September 2010, one month after Flagstar issued the mortgage and a closing took place for purchase of the Wendell Street property, Franco forged or caused to be forged documents and the deceased person's signature in order to have his name added to the deed for the property. No payments were ever made on the mortgage loan by Franco or anyone else. As a result, in July 2011, HUD paid an insurance claim to Flagstar Bank in the amount \$165,062, which represented the balance of the mortgage loan. In March 2012, the real estate attorney allegedly involved in the conspiracy bought the note, which was in the deceased person's name, for \$35,000.

In a separate matter discovered by federal and state law enforcement and prosecutors from the U.S. Attorney's Office during the ongoing investigation into mortgage fraud in Rhode Island, it is alleged that on at least four occasions Dylan Kelly, whose real estate appraiser's license expired in September 2008, continued to conduct and issue real estate appraisals using the identity, license and insurance certificate of licensed appraisers without the licensed appraisers' permission or knowledge. It is alleged that between February 19, 2014, and December 2, 2014, Kelley fabricated and submitted appraisals in support of mortgage loans being sought on at least four properties in Providence and Pawtucket.

This matter, which is being investigated by the U.S. Department of Housing and Urban Development Office of Inspector General, U.S. Secret Service, Rhode Island State Police and the United States Attorney's Office, is being prosecuted by Assistant U.S. Attorney's Sandra R. Hebert and William J. Ferland.

###

Contact:

Jim Martin (401) 709-5357

email: USARI.Media@usdoj.gov

on Twitter [@USAO RI](#)

15-87

[USAO - Rhode Island](#)

Financial Fraud

[Download franchesco franco information.pdf \(240.86 KB\)](#)

[Download dylan kelley criminal complaint.pdf \(506.26 KB\)](#)

Updated September 25, 2015