

FILED

OCT 22 2009

**SUPERIOR COURT
CLERK'S OFFICE**

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CRIMINAL

State Grand Jury

Number SGJ579-09-10

Superior Court

Docket Number 09-10-00252-S

STATE OF NEW JERSEY

)

v.

)

INDICTMENT

JOANN SMITH

)

WAYNE BETHA

)

and

)

S&B PROPERTY MANAGEMENT
AND MAINTENANCE, LLC.

)

The Grand Jurors of and for the State of New Jersey, upon
their oaths, present that:

COUNT ONE

(Conspiracy - First Degree)

JOANN SMITH

WAYNE BETHA

and

S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC

between on or about August 1, 2006 and on or about February 20,
2008, at the City of Trenton, in the County of Mercer, elsewhere,
and within the jurisdiction of this Court, with the purpose of
promoting or facilitating the commission of the crimes of Theft
by Deception and Money Laundering, did conspire, and agree that:

A. One or more of them would engage in conduct which

would constitute the aforesaid crimes, or an attempt or
solicitation to commit such crimes; or

B. One or more of them would aid in the planning, attempt, solicitation, or commission of the aforesaid crimes, that is:

1. Theft by Deception, in that one or more of them would purposely obtain property of another by deception, by creating or reinforcing a false impression, in an amount of \$75,000 or more, contrary to the provisions of N.J.S.A. 2C:20-4(a), and

2. Money Laundering, in that one or more of them would engage in a transaction involving property, in an amount of \$500,000 or more, known or which a reasonable person would believe to be derived from criminal activity, knowing that the transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity, contrary to the provisions of N.J.S.A. 2C:21-25b(2)(a).

All contrary to the provisions of N.J.S.A. 2C:5-2, and against the peace of this State, the government and dignity of the same.

COUNT TWO

(Money Laundering - First Degree)

JOANN SMITH

WAYNE BETHA

and

S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC

between on or about, August 1, 2006 and on or about February 20, 2008, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, did engage in a transaction involving property, in an amount of \$500,000 or more, known or which a reasonable person would believe to be derived from criminal activity, knowing that the transaction was designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the property derived from criminal activity, that is the said JOANN SMITH and WAYNE BETHA, managing partners and owners of S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC, did engage in the transactions of issuing checks, check deposits, automatic teller machine (ATM) withdrawals and cash withdrawals in an amount of \$500,000 or more, known to be derived from criminal activity, knowing that the transactions were designed in whole or in part to conceal or disguise the nature, location, source, ownership or control of the property which the said JOANN SMITH, WAYNE BETHA and S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC., knew to be derived

from criminal activity, contrary to the provisions of N.J.S.A.

2C:21-25(b)(2)(a); N.J.S.A. 2C:2-6 and N.J.S.A. 2C:2-7, and

against the peace of this State, the government and dignity of
the same.

COUNT THREE

(Theft by Deception - Second Degree)

JOANN SMITH

WAYNE BETHA

and

S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC

between on or about August 1, 2006 and on or about February 20, 2008, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, purposely did obtain the property of another by deception, in an amount of \$75,000 or more, by creating or reinforcing the false impression to home sellers S.C., M.M., H.S., C.W., C.T., E.T., V.W., L.S., M.S. and a real estate investment business and other individuals whose identities are known to the Grand Jurors, that they were not entitled to revenue from the sale of their homes and that all of the information reported on the U.S. Department of Housing and Urban Development (HUD) settlement forms was true, accurate and authorized by the said home sellers, WHEREAS IN TRUTH AND IN FACT, as the said JOANN SMITH, WAYNE BETHA and S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC well knew, the home sellers were entitled to revenue from the sale of their homes and that information reported on the U.S. Department of Housing and Urban Development (HUD) settlement forms was not true, accurate and authorized by the said home sellers, causing a loss to the said

home sellers in an amount of \$75,000 or more, contrary to the provisions of N.J.S.A. 2C:20-4; N.J.S.A. 2C:2-6, and N.J.S.A.

2C:2-7 and against the peace of this State, the government and dignity of the same.

COUNT FOUR

(Theft by Deception - Second Degree)

JOANN SMITH

WAYNE BETHA

and

S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC

between on or about January 9, 2007 and on or about July 6, 2007, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, purposely did obtain the property of another by deception, in an amount of \$75,000 or more, to wit approximately \$641,800, by creating or reinforcing the false impression to American Mortgage Company, Gateway Funding Diversified Mortgage Services, d/b/a Ivy Mortgage and Assured Lending Corporation, that the wage and labor information and other information reported in the mortgage applications and U.S. Department of Housing and Urban Development (HUD) settlement forms for L.B., A.A., S.A., and L.W., were true and accurate, WHEREAS IN TRUTH AND IN FACT, as the said JOANN SMITH, WAYNE BETHA and S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC, well knew, the wage and labor information and other information reported in the mortgage applications and U.S. Department of Housing and Urban Development (HUD) settlement forms for L.B., A.A., S.A., and L.W., were not true and accurate, causing the said American Mortgage Company, Gateway Funding Diversified

Mortgage Services, d/b/a Ivy Mortgage and Assured Lending

Corporation to approve loan applications for mortgages in an amount of \$75,000 or more, to wit approximately \$641,800, contrary to the provisions of N.J.S.A. 2C:20-4; N.J.S.A. 2C:2-6, and N.J.S.A. 2C:2-7, and against the peace of this State, the government and dignity of the same.

COUNT FIVE

(Misconduct by Corporate Official-Second Degree)

JOANN SMITH

and

WAYNE BETHA

between on or about, August 1, 2006 and on or about February 20, 2008, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, purposely or knowingly did use, control or operate a corporation for the furtherance or promotion of a criminal object, thereby deriving a benefit of \$75,000 or more, that is, the said JOANN SMITH and WAYNE BETHA did use, control or operate, S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC., a corporation of the State of New Jersey, for the furtherance or promotion of the criminal objects of Conspiracy, in violation of N.J.S.A. 2C:5-2; Money Laundering, in violation of N.J.S.A. 2C:21-25(b) (2) (a) and N.J.S.A. 2C:2-6 and Theft by Deception, in violation of N.J.S.A. 2C:2-4 and N.J.S.A. 2C:2-6, as alleged in Counts One, Two, Three and Four which are realleged and incorporated by reference herein and contrary to the provisions of N.J.S.A. 2C:21-9c and N.J.S.A. 2C:2-6, and against the peace of this State, the government and dignity of the same.

COUNT SIX

(Failure to File Corporate Business Tax Return - Third Degree)

JOANN SMITH

WAYNE BETHA

and

S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC.

between on or about April 15, 2006 and on or about April 15, 2009, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, did fail to file tax returns or reports as required by the provisions of the New Jersey Corporations Business Tax Act, N.J.S.A. 54:10A-1 et seq., with the intent to defraud the State or to evade, avoid or otherwise not make timely payment of any tax, fee, penalty, interest or any part thereof pursuant to the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., as amended and supplemented, that is, the said JOANN SMITH and WAYNE BETHA, corporate officers of the said S&B PROPERTY MANAGEMENT AND MAINTENANCE, LLC., a corporation of the State of New Jersey, with the intent to defraud or evade payment of the corporate business tax, did fail to file the New Jersey Corporate Business Tax Return, Form CBT-100, for the calendar years ending December 2005 through December 2008, to the Director of the Division of Taxation as required by law, contrary to the provisions of

N.J.S.A. 54:52-8, N.J.S.A. 2C:2-6 and N.J.S.A. 2C:2-7, and

against the peace of the State, the government and dignity of the
same.

COUNT SEVEN

(Failure to File Tax Return - Third Degree)

JOANN SMITH

between on or about April 15, 2006 and on or about April 15, 2009, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, did fail to file tax returns or reports as required by the provisions of the New Jersey Corporations Business Tax Act, N.J.S.A. 54:10A-1 et seq., with the intent to defraud the State or to evade, avoid or otherwise not make timely payment of any tax, fee, penalty, interest or any part thereof pursuant to the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., that is, the said JOANN SMITH, with the intent to defraud or evade payment of the corporate business tax, did fail to file a tax return for the calendar years ending December 2005 through December 2008, to the Director of the Division of Taxation as required by law, contrary to the provisions of N.J.S.A. 54:52-8, and against the peace of the State, the government and dignity of the same.

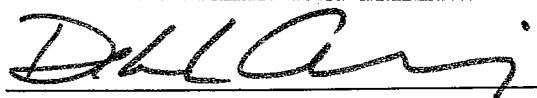
COUNT EIGHT

(Failure to File Tax Return - Third Degree)

WAYNE BETHA

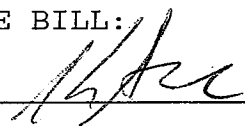
on or about April 15, 2008, at the City of Trenton, in the County of Mercer, elsewhere, and within the jurisdiction of this Court, did fail to file tax returns or reports as required by the provisions of the New Jersey Corporations Business Tax Act, N.J.S.A. 54:10A-1 et seq., with the intent to defraud the State or to evade, avoid or otherwise not make timely payment of any tax, fee, penalty, interest or any part thereof pursuant to the provisions of the State Uniform Tax Procedure Law, N.J.S.A. 54:48-1 et seq., that is, the said WAYNE BETHA, with the intent to defraud or evade payment of the corporate business tax, did fail to file a tax return for the calendar year ending December 2007, to the Director of the Division of Taxation as required by law, contrary to the provisions of N.J.S.A. 54:52-8, and against

the peace of the State, the government and dignity of the same.



Deborah L. Gramiccioni, A.A.G.
Director,
Division of Criminal Justice

A TRUE BILL:



10/22/09

Foreperson