

No.

CR-08 00819

JF

PVT

UNITED STATES DISTRICT COURT

FILED

NORTHERN DISTRICT OF CALIFORNIA

2008 NOV 12 P 3:03

RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

E-filing

SAN JOSE DIVISION

THE UNITED STATES OF AMERICA

vs.

ROBIN BRUCE MCNABB

INDICTMENT

COUNTS ONE-NINE:

Title 18, U.S.C. § 1344(2) - Bank Fraud

COUNTS TEN-EIGHTEEN:

Title 18, U.S.C. § 1343 - Wire Fraud

A true bill.

Romona Wells

Foreperson

Filed in open court this 12 day of November
A.D. 2008

Dehicia V. Irons

United States Magistrate Judge

Bail. \$ No Bail Warrant

DOCUMENT NO.	CSA's INITIALS
1	c
DISTRICT COURT CRIMINAL CASE PROCESSING	

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JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

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RICHARD W. WIEKING
CLERK
U.S. DISTRICT COURT
NO. DIST. OF CA. S.J.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

CR - 08 00819

Plaintiff,

v.

ROBIN BRUCE MCNABB,

Defendant.

VIOLATIONS: Title 18, United States
Code, Section 1344(2) - Bank Fraud; Title
18, United States Code, Section 1343 - Wire
Fraud

SAN JOSE VENUE

JF

PVT

INDICTMENT

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

1. As all times relevant to this indictment:

a. In 2001, Robin Bruce McNabb ("the defendant") operated as a financial advisor doing business under the names of RKM Financial Group, Incorporated and RKM Properties. He also held a real estate broker's license and provided tax and accounting services to his clients. His business was located in San Jose, California and Hollister, California.

b. On March 31, 1999, the defendant was barred for life from any association with any member of the National Association of Securities Dealers, which is a national securities association that regulates securities dealers.

INDICTMENT

1 c. Mid-Ohio Securities was a member of the National Association of Securities Dealers
2 and operated as a full service investment and brokerage firm in Elyria, Ohio. One of the services
3 offered by Mid Ohio Securities was the management of comprehensive self-directed Individual
4 Retirement Accounts (IRAs). These accounts gave account holders flexibility to choose how
5 their money was invested and allowed account holders to borrow money from their IRAs.

6 d. When a customer transferred a retirement account to Mid Ohio Securities, the funds
7 were held in an interest-bearing account at Matrix Capital Bank located in Denver, Colorado.
8 Matrix Capital Bank was a federally-licensed banking institution whose deposits were insured by
9 the Federal Deposit Insurance Corporation (FDIC). The funds were held at Matrix Capital Bank
10 until Mid Ohio Securities received a "Direction of Investment" from the account holder detailing
11 how the funds were to be invested. Any funds that were not invested remained at Matrix Capital
12 Bank in an FDIC-insured money market account.

13 e. In mid-2003, Mid Ohio Securities sold their IRA custodial accounts to Equity Trust
14 Company, located in Elyria, Ohio, who continued to offer the same self-directed IRAs as Mid
15 Ohio Securities.

16 COUNTS ONE THROUGH NINE: (18 U.S.C. 1344(2) - Bank Fraud)

17 6. Between in or about April 2001 through in or about November 2001, on or about the dates
18 stated in the separate counts below, in the Northern District of California and elsewhere, the
19 defendant,

20 ROBIN BRUCE MCNABB,

21 knowingly executed a scheme and artifice to defraud Matrix Capital Bank, and to obtain moneys
22 and funds owned by and in the custody and control of Matrix Capital Bank, the deposits of which
23 were at that time insured by the Federal Deposit Insurance Corporation, by means of materially
24 false and fraudulent pretenses, representations, and promises.

25 THE SCHEME AND ARTIFICE TO DEFRAUD

26 7. The factual allegations contained in paragraph 1 are realleged and incorporated herein by
27 reference as if set forth in full.

28 8. From approximately April 2001 to November 2001, the defendant conducted a scheme

1 and artifice to defraud whereby he misappropriated funds belonging to his clients, and applied
2 those funds to uses not authorized by his clients. The defendant misappropriated approximately
3 \$1,757,500.00.

4 9. The defendant accomplished this scheme by taking unauthorized loans against his clients'
5 accounts through the use of unsecured promissory notes. He encouraged his clients to move their
6 existing retirement investments into Individual Retirement Accounts at Mid-Ohio Securities in
7 Elyria, Ohio. In most cases, the clients' liquidated their IRA accounts and had the funds
8 transferred by check to Mid Ohio Securities. The funds were then held in interest-bearing
9 accounts at Matrix Capital Bank.

10 10. The defendant had his clients sign authorization letters to Mid Ohio Securities that
11 allowed him "to exercise full Powers of Attorney on [their] IRA account[s]." After the clients'
12 established their IRA accounts at Mid-Ohio Securities, and while their cash funds were held in an
13 account at Matrix Capital Bank, the defendant issued unsecured promissory notes for loans
14 against at least thirteen accounts. Along with the promissory notes, the defendant submitted a
15 Mid Ohio form entitled "Direction of Investment" to Mid Ohio which allowed client funds to be
16 wire transferred from Matrix Capital Bank into the defendant's bank account, RKM Financial
17 Group, Incorporated, at the Union Bank of California. Unbeknownst to the clients, the
18 "Direction of Investment" form allowed the defendant to issue promissory notes for loans against
19 their retirement accounts.

20 11. Between May 25, 2001 and November 5, 2001, the defendant issued unsecured
21 promissory notes against more than thirteen client accounts and wire-transferred nearly the full
22 value of each account into his bank account, knowing full well that he did not have his clients'
23 authorizations to do so and intending to use the funds he obtained for his own personal use.

24 12. The defendant's clients did not authorize him to take loans against their IRA accounts,
25 and were unaware that the defendant transferred funds from their retirement accounts until
26 several years later. In approximately April 2005, the defendant filed for bankruptcy in the United
27 States Bankruptcy Court for the District of Arizona. The "loans" were subsequently discharged
28 in bankruptcy in May 2007.

1 13. In his execution of the scheme to defraud, the defendant submitted unauthorized, false,
 2 and fraudulent promissory notes whereby he fraudulently obtained loans against his clients'
 3 accounts, specifically, cash funds held at Matrix Capital Bank that were to be invested in IRAs
 4 held at Mid-Ohio Securities, with each transaction constituting a separate violation of Title 18,
 5 United States Code, Section 1344(2):

COUNT	DATE PROMISSORY NOTE SUBMITTED AND PROCESSED BY MATRIX CAPITAL BANK/MID OHIO SECURITIES	CLIENT'S NAME	CLIENT'S MID OHIO SECURITIES ACCOUNT NO.
ONE	Between on or about May 22, 2001 and May 25, 2001	G.F.	XXX48
TWO	On or about May 25, 2001	F.V.	XXX49
THREE	Between on or about May 30, 2001 and June 5, 2001	S.P.	XXX23
FOUR	Between on or about May 30, 2001 and June 5, 2001	C.P.	XXX25
FIVE	Between on or about August 10, 2001 and August 16, 2001	E.S.	XXX72
SIX	Between on or about August 10, 2001 and August 16, 2001	E.S.	XXX73
SEVEN	Between on or about September 10, 2001 and September 13, 2001	J.H.	XXX44
EIGHT	Between on or about September 10, 2001 and September 13, 2001	M.H.	XXX45
NINE	Between on or about October 26, 2001 and November 5, 2001	J.G.	XXX31

21 All in violation of Title 18, United States Code, Section 1344(2).

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COUNTS TEN THROUGH EIGHTEEN: (18 U.S.C. § 1343 - Wire Fraud)

14. The factual allegations contained in paragraphs 1 and 7 through 13 are realleged and incorporated as if fully set forth here.

15. Between in or about April 2001 through in or about November 2001, in the Northern District of California, and elsewhere, the defendant,

ROBIN BRUCE MCNABB,

knowingly and intentionally devised and intended to devise a scheme and artifice to defraud and obtain money from Matrix Capital Bank by means of materially false and fraudulent pretenses, representations, and promises to deprive his clients of money as described in paragraphs 1 and 7 through 13.

16. The defendant, for the purpose of executing the scheme and artifice to defraud and in attempting to do so, did knowingly cause to be transmitted by means of wire communication in interstate or foreign commerce, cash funds from a bank outside of California to a bank inside of California, for the purpose of executing such scheme or artifice outlined above in paragraphs 1 and 7 through 13, with each wire constituting a separate violation of Title 18, United States Code, Section 1343:

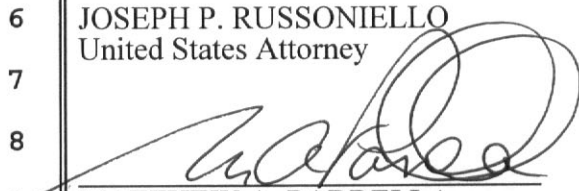
COUNT	DATE OF WIRE	AMOUNT OF FUNDS WIRED FROM MATRIX CAPITOL BANK TO UNION BANK OF CALIFORNIA	CLIENT'S NAME	CLIENT'S MID OHIO SECURITIES ACCOUNT NO.
TEN	5/25/01	\$92,500.00	G.F.	XXX48
ELEVEN	5/25/01	\$91,500.00	F.V.	XXX49
TWELVE	6/5/01	\$105,000.00	S.P.	XXX23
THIRTEEN	6/5/01	\$51,000.00	C.P.	XXX25
FOURTEEN	8/16/01	\$30,000.00	E.S.	XXX72
FIFTEEN	8/16/01	\$66,000.00	E.S.	XXX73
SIXTEEN	9/13/01	\$78,000.00	J.H.	XXX44
SEVENTEEN	9/13/01	\$56,000.00	M.H.	XXX45
EIGHTEEN	11/5/01	\$147,500.00	J.G.	XXX31

1 All in violation of Title 18, United States Code, Section 1343.

2 DATED: 11/12/08

A TRUE BILL.

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4 
FOREPERSON

5
6 JOSEPH P. RUSSONIELLO
7 United States Attorney
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9 MATTHEW A. PARRELLA
10 Chief, San Jose Branch Office

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12 (Approved as to form: 
13 AUSA Susan Knight

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AO 257 (Rev. 6/78)

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

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

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

FILED

OFFENSE CHARGED

Counts 1-9:
18 U.S.C. § 1344(2) - Bank Fraud
Counts 10-18:
18 U.S.C. § 1343 - Wire Fraud

Petty
 Minor
 Misdemeanor
 Felony

E-filing

PENALTY:

All Counts:
30 years imprisonment, \$1,000,000 fine
5 years minimum supervised release, \$100 special assessment fee

DEFENDANT - U.S.

2008 NOV 12 P 3 03

ROBIN BRUCE MCNABB

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

JF

DISTRICT COURT NUMBER

CR-08 00819

PVT

DEFENDANT

IS NOT IN CUSTODY

- 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
- 6) Awaiting trial on other charges } Fed'l State

If answer to (6) is "Yes", show name of institution

Santa Clara County

Has detainer been filed? Yes No } If "Yes" give date filed _____

DATE OF ARREST _____
Month/Day/Year

Or... if Arresting Agency & Warrant were not _____
Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY _____

This report amends AO 257 previously submitted

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

Rob Kay - FBI

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 reprosecution of charges previously dismissed which were dismissed on motion of: } **SHOW DOCKET NO.**

U.S. Att'y Defense }
 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 _____

Name and Office of Person Furnishing Information on THIS FORM **JOSEPH P. RUSSONIELLO**
 U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned) **SUSAN KNIGHT**

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT Bail Amount: None

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address: _____

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

Date/Time: _____

Before Judge: _____

Comments: _____