

1 \$751,050.

2 The defendant should make restitution forthwith,
3 and if he makes a partial payment, then each payee shall
4 receive approximately proportional payment.

5 The defendant shall be held jointly and severally
6 liable for all restitution ordered against his
7 co-participants: Steven Brian Rogers, Benny Ibarra, Ricardo
8 Omar Garcia, and Bernardo Fernandez, in related cases in
9 Docket Nos. 03-25 and 02-122, and for the amount of
10 restitution ordered in this judgment.

11 The defendant is ordered to pay a total fine of
12 \$12,500, which shall bear interest as provided by law. Both
13 the restitution and fine are ordered to be paid in full
14 immediately.

15 In addition defendant shall comply with General
16 Order 01-05.

17 It is the judgment of the Court that defendant
18 James Davis Bennett be committed on Counts 1 through 10 of
19 the Second Superseding Indictment to the custody of the
20 Bureau of Prisons to be imprisoned for a term of 121 months.
21 This term consists of 60 months on each of Counts 1 through
22 4 and 121 months on each of the Counts 5 through 10 in the
23 Second Superseding Indictment, all to be served
24 concurrently.

25 Upon defendant's release from imprisonment, he is

SHARON SEFFENS, U.S. COURT REPORTER

1 placed on supervised release for a term of five years. This
2 consists of three years on each of the Counts 1 through 4
3 and five years on Counts 5 through 10, all such terms to run
4 concurrently under the following terms and conditions:

5 1. The defendant shall comply with the rules and
6 regulations of the U.S. Probation Office and General Order
7 318 and 01-05;

8 2. Defendant shall refrain from any unlawful use
9 of a controlled substance. The defendant is ordered to
10 submit to one drug test within 15 days of release from
11 imprisonment and at least two periodic drug tests
12 thereafter, not to exceed eight tests per month, as directed
13 by the probation officer;

14 3. The defendant shall participate in an
15 outpatient substance abuse treatment and counseling program
16 that may include urinalysis, saliva and/or sweat patch
17 testing, as directed by the probation officer. The
18 defendant is ordered to abstain from using illicit drugs,
19 alcohol, and abusing prescription medications during
20 supervision;

21 4. As directed by the probation officer, the
22 defendant shall pay all or part of the costs of treating
23 defendant's drug dependency and/or alcohol dependency to the
24 aftercare contractor during the period of community
25 supervision under 3672. The defendant shall provide payment

1 and proof of payment as direct by the probation officer;

2 5. During the period of community supervision,
3 the defendant shall pay a special assessment, fine, and
4 restitution in accordance with this judgment if not
5 previously paid;

6 6. The defendant shall truthfully and timely file
7 and pay taxes owed for the years of conviction and shall
8 truthfully and timely file and pay taxes during the period
9 of community supervision. Further, defendant shall show
10 proof to the probation officer of compliance with this
11 order;

12 7. The defendant shall not be employed or
13 engage, as whole or partial owner or otherwise, in any
14 business that involves real estate, loan programs,
15 telemarketing activities, investment programs or any other
16 business involving the solicitation of funds or cold-calls
17 to customers without the express written approval of the
18 probation officer prior to engagement in such employment.
19 Further, defendant shall provide the probation officer with
20 access to any and all business records, client lists, and
21 other records pertaining to the operation of any business
22 owned, in whole or in part, by the defendant as directed by
23 the probation officer;

24 8. The defendant shall notify the Department of
25 Real Estate and the Department of Appraisers of his

1 conviction within 30 days of this judgment, and shall
2 provide proof of compliance to the probation officer;

3 9. As directed by the probation officer, the
4 defendant shall apply monies received from income tax
5 refunds, lottery winnings, inheritance, judgments and any
6 anticipated or unexpected financial gain to the outstanding
7 Court-ordered financial obligation; and

8 10. Defendant shall cooperate in the collection
9 of a DNA sample from his person.

10 The Court having sat through trial of the
11 defendant's case disagrees with the probation officer's
12 recommendation for a sentence at the low end of the Advisory
13 Guidelines. As I have indicated in the tentative ruling,
14 nearly all of the government's arguments in support of a
15 high-end sentence apply in Mr. Bennett's case.

16 Certainly the fact that the proof may not show by
17 a preponderance that defendant received over a million
18 dollars personally -- I believe that is certainly one good
19 argument and very much an argument in support of a high-end
20 sentence along with all the others that show his
21 responsibility in this scheme.

22 The Court has previously advised the defendant of
23 his right of appeal, and the clerk is holding that notice to
24 be filed.

25 We have some other motions that the defendant has

1 filed. As indicated in the tentative ruling, those motions
2 are denied.

3 Mr. Bennett, do you have anything else that you
4 wish to add?

5 MR. BENNETT: Yes, just one thing. You indicated
6 that you were sentencing me on Counts 1 through 4 and Counts
7 5 through 10 on the Indictment. Those weren't the charges
8 that you charged the jury.

9 So what specifically am I being sentenced for?
10 What are the Counts 1 through 4 that you are sentencing me
11 for, and what are Counts 5 through 10?

12 THE COURT: I think we have covered that
13 sufficiently, sir.

14 MR. BENNETT: I don't think so.

15 THE COURT: Mr. Sagel, is there anything else?

16 MR. SAGEL: No, Your Honor.

17 THE COURT: All right, that concludes the
18 proceedings at this time. We stand adjourned.

19 *(Proceedings were adjourned.)*

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CERTIFICATE

I hereby certify that pursuant to Section 753, Title 28, United States Code, the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Date: November 16, 2006

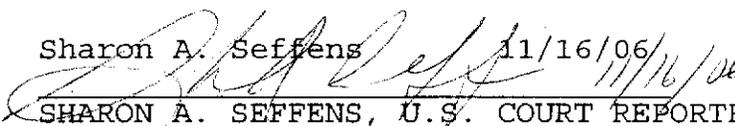
Sharon A. Seffens 11/16/06

SHARON A. SEFFENS, U.S. COURT REPORTER

EXHIBIT J-FINAL JUDGMENT

United States District Court
 Central District of California

UNITED STATES OF AMERICA vs.

Docket No. SA CR 03-25(B)-AHS

Defendant JAMES DAVIS BENNETT
 James Butler Bennett; Jim Bennett;
 James Bennet, Jr.; James Butler
 Bennet; James Butler; Ralph Leon
 James Bennett; James David Bennett;
 James Davis Bennett; James Brown;
 akas: John Butler

Social Security No. 7 5 8 4

(Last 4 digits)

ENTERED - SOUTHERN DIVISION
 CLERK, U.S. DISTRICT COURT
 OCT 11 2006
 CENTRAL DISTRICT OF CALIFORNIA

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH DAY YEAR
 OCT. 06 2006

COUNSEL WITH COUNSEL In Pro Se
 (Name of Counsel)

PLEA GUILTY, and the court being satisfied that there is a factual basis for the plea. NOLO NOT
 CONTENDERE GUILTY

FINDING There being a finding/verdict of GUILTY, defendant has been convicted as charged of the offense(s) of:
Wire Fraud, Aiding and Abetting in violation of 18 USC §§ 1343, 2(b) as charged in Counts 1 through 4 of the Second
 Superseding Indictment; Bank Fraud, Aiding and Abetting in violation of 18 USC §§ 1344, 2(b) as charged in Counts 5
 through 10 of the Second Superseding Indictment

JUDGMENT AND PROB/ COMM ORDER The Court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of:

One hundred and twenty-one (121) months on Counts 1-10 of the Second Superseding Indictment. This term consists of sixty (60) months on each of Counts 1-4 and one hundred and twenty-one (121) months on each of Counts 5-10 of the Second Superseding Indictment, all to be served concurrently.

IT IS FURTHER ORDERED that the defendant shall pay to the United States a special assessment of \$1,000.00, which is due immediately.

IT IS FURTHER ORDERED that the defendant shall pay restitution in the total amount of \$751,050.00 pursuant to 18 U.S.C. § 3663A. The amount of restitution ordered shall be paid forthwith as follows:

<u>Victim</u>	<u>Amount</u>	<u>Count of Conviction</u>
Chase Manhattan (CIT Group)	\$ 90,000.00	Count 1
Equicredit A Division of Bank of America	\$ 88,750.00	Count 2
Flagstar Bank	\$493,014.00	Counts 5, 6,
Greenpoint Mortgage	\$ 79,285.00	Count 3

319

EXHIBIT-K 18 USC 2(a) & (b)

18 U.S.C.A. § 2

UNITED STATES CODE ANNOTATED
TITLE 18. CRIMES AND CRIMINAL PROCEDURE
PART I--CRIMES
CHAPTER 1--GENERAL PROVISIONS

Current through Pub.L. 109-169, 109-173 approved February 15, 2006

§ 2. Principals

(a) Whoever commits an offense against the United States or aids, abets,
counsels, commands, induces or procures its commission, is punishable as a principal.

(b) Whoever willfully causes an act to be done which if directly performed by him
or another would be an offense against the United States, is punishable as a principal.

CREDIT(S)