

EL DORADO CO. SUPERIOR CT.
FILED AUG 18 2011
SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF EL DORADO

BY

S. Patel
Deputy

THE PEOPLE OF THE
STATE OF CALIFORNIA,

Plaintiff,

-vs-

DAVID JOSEPH MACHADO,

Defendant(s).

DKT: **PIICRF0388**

DA #: 11-08-004329

AGENCY REPORT #:
DAI 2011-0297

DEPARTMENT 7

CRIMINAL COMPLAINT

The District Attorney of El Dorado County, based upon information and belief, hereby alleges:

COUNT I

PERJURY

On or about February 10, 2011, in the County of El Dorado, the crime of PERJURY BY DECLARATION, in violation of PENAL CODE SECTION 118, a Felony, was committed by DAVID MACHADO, who did unlawfully, under penalty of perjury, declare as true, that which was known to be false, to wit: failed to disclose his financial interest in El Dorado County Assessor's parcel number 049-170-13, located at 1626-1630 Broadway, Placerville, California and within the Placerville Redevelopment Zone (hereinafter "SUBJECT PROPERTY #1) on a Fair Political Practice Commission Statement of Economic Interest Form 700.

COUNT II

CONSPIRACY

On or between, October 1, 2010 through August 17, 2011, in the County of El Dorado, Defendant DAVID MACHADO did unlawfully conspire together with another person and persons whose identity are unknown and that pursuant to and for the purpose of carrying out the objects and purposes of the conspiracy:

- The crime of CONSPIRACY TO COMMIT A CRIME, to Destroy or Conceal Evidence (Penal Code Section 135), in violation of PENAL CODE SECTION 182(a)(1), a Felony; and

- The crime of CONSPIRACY TO COMMIT ANY ACT INJURIOUS TO THE PUBLIC HEALTH, THE PUBLIC MORALS, OR TO PERVERT OR OBSTRUCT JUSTICE, OR THE DUE ADMINISTRATION OF LAWS, in violation of PENAL CODE SECTION 182(a)(5), a Felony.

The said defendant(s) committed the following overt act and acts at and in the County of El Dorado:

Overt Act #1

On or about, August 24, 2010, Defendant, while a sitting member of the Placerville Redevelopment Agency Board and Vice-Mayor of the City of Placerville, and after being advised of the Requirement of the California Community Redevelopment Law Health & Safety Code Section 33130, voted affirmatively to adopt a redevelopment zone located within in the City of Placerville.

Overt Act #2

On or about, October 1, 2010, Defendant, signed a probate purchase agreement and joint escrow and personally wrote a \$1,000 check from a Bank of America checking account regarding SUBJECT PROPERTY #1, a property located within the Placerville Redevelopment Zone in violation of Health and Safety Code 33130 and other laws.

Overt Act #3

On October 5, 2010 Defendant personally accepts the seller's counter offer containing terms including a purchase price of \$110,000.00, raising the amount of deposit to \$10,000.00. Defendant personally signs a document conditioning his acceptance of seller's counter-offer on a complete property walk through and verification.

Overt Act #4

On October 12, 2010, Defendant personally signs an addendum to the purchase agreement (Addendum #2) requesting a \$5,000.00 reduction in the purchase price to remedy health and safety problems noted after inspecting the property.

Overt Act #5

On or about, October 19-22, 2010, Defendant personally signs as 'buyer' an "As-Is" Release of Liability and a Visual Inspection Disclosures for SUBJECT PROPERTY #1.

Overt Act #6

On or about, October 28, 2010, Defendant writes to the Placerville Building Division stating he is in escrow at SUBJECT PROPERTY #1 and planned to remodel and secure assistance from engineers to develop the property.

Overt Act #7

On or about, November 1, 2010, defendant signed a Hold Harmless Agreement to enter and remove contents at SUBJECT PROPERTY #1.

Overt Act #8

On or about, November, 19 2010, after becoming aware of conflicts of interest regarding the purchase of SUBJECT PROPERTY #1, Defendant forwarded an addendum (Addendum 3) to the seller, substituting his son, Gregory Machado, as buyer, noting in the addendum that the deposited \$10,000.00 contained in the escrow account, had been gifted to Gregory Machado and transferring the remainder of the purchase price of \$95,000 to Gregory Machado.

Overt Act #9

On or about November 26, 2010, Defendant and Gregory Machado sign as "purchasers" a Hold Harmless and Indemnity Agreement to enter the property.

Overt Act #10

On or about, December 13, 2010, Defendant writes the Placerville Community Development Department asserting he is in escrow and arranges a meeting with an engineer and the Building Department to discuss building plans and options regarding SUBJECT PROPERTY #1.

Overt Act #11

On or about, December 21, 2010, Defendant completes the false property transfer when escrow closes on SUBJECT PROPERTY #1 and Gregory Machado is listed on the Grant Deed. The Deed is recorded January 4, 2011.

Overt Act #12

On or about, January 4, 2011 to March 6, 2011, Defendant has unpermitted work performed at SUBJECT PROPERTY #1.

Overt Act #13

On or about, January 4, 2011 to February 24, 2011, Defendant told a worker he was covering up work to conceal evidence from City Inspectors of unpermitted, ongoing work at SUBJECT PROPERTY #1 and personally directed the worker to build a fence and depositing clean-up materials over a foundation.

Overt Act #14

On or about, January 4, 2011 to February 24, 2011, Defendant hired workers to perform projects at SUBJECT PROPERTY #1, and personally directed a worker to commence work activity after 5 p.m. and on weekends to avoid detection of unpermitted work by a Placerville Building Inspector.

Overt Act #15

On or about January 4 to February 24, 2011, following complaints by a tenant at SUBJECT PROPERTY 1, Defendant installed or directed the installation of unpermitted floorboard heaters, illegally bypassing an electrical circuit breaker.

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Overt Act #16

On or about, January 19, 2011, after becoming aware of unpermitted work being performed on SUBJECT PROPERTY #1, a Placerville Building Inspector attempts to enter a building on the property. While the Inspector is at the property, the Defendant telephonically confers with his son Gregory Machado and the Inspector was refused entry. The Inspector posted a Stop Work Order.

Overt Act #17

On or about, February 2, 2011, Defendant writes the Placerville Building Department and acknowledges the stop work orders.

Overt Act #18

On or about, February 1, 2011, Gregory Machado gifts Defendant SUBJECT PROPERTY #1. On or about, February 2, 2011, Defendant is advised by the Placerville City Attorney John Driscoll that it was a conflict of interest to own SUBJECT PROPERTY #1. On or about February 4, 2011, Defendant re-gifts SUBJECT PROPERTY #1 back to Gregory Machado.

Overt Act #19

On or about, January 4, 2011 to March 17, 2011, Defendant represented to tenants of SUBJECT PROPERTY #1, that he was the landlord and collected rent monies from them.

Overt Act #20

On or about, January 4, 2011 to July 14, 2011, Defendant represented himself as the owner of SUBJECT PROPERTY #1 to the City of Placerville Building Department, City Manager and City Attorney by pulling permits, paying and disputing fines and fees and resolving Stop Work Orders while meeting with various city officials regarding SUBJECT PROPERTY #1.

Overt Act #21

On or about February 1, 2011 to March 1, 2011, Defendant improperly influences Placerville City officials to obtain preferential treatment with Placerville City officials in the lifting of notices of cancellation without follow up inspections being performed regarding SUBJECT PROPERTY #1.

Overt Act #22

On or about, February 25, 2011, a day after a house fire at SUBJECT PROPERTY #1, Defendant personally removed improperly installed and unpermitted floor board heaters and took them from the property in his vehicle prior to Fire Department and City Inspections.

Overt Act #23

On or about, February 25, 2011, Defendant wrote to tenants of SUBJECT PROPERTY #1, claiming his insurance would reimburse renters for lost rent.

Overt Act #24

On or about, February 28, 2011, Defendant is listed as a "borrower" in an \$80,000 loan against SUBJECT PROPERTY #1.

Overt Act #25

On or about March 1, 2011, Defendant attempted to prevent an additional Placerville City Inspector from examining and inspecting an electrical panel and prevented the Inspector from inspecting additional units at SUBJECT PROPERTY #1.

Overt Act #26

On or about February 22, 2011 to March 28, 2011, Defendant attempts to obtain photographs from a renter of SUBJECT PROPERTY#1 depicting evidence of recent fire.

Overt Act #27

On or about, March 5, 2011, Defendant wrote a letter to the attorney for the renter of SUBJECT PROPERTY #1 requesting a thirty day notice for vacating, and discussing his use of contractors to repair the property.

Overt Act #28

On or about, March 17, 2011, Defendant wrote a letter to the Attorney for renter of SUBJECT PROPERTY #1 returning a security deposit that he received.

Overt Act #29

On or about, March 28, 2011, Defendant wrote a letter to Placerville City Manager stating he was over charged for permits on SUBJECT PROPERTY #1.

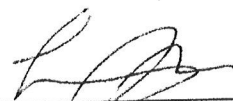
Overt Act #30

On or about, February 14, 2006 to August 16, 2011, Defendant constructed a structure at 2872 Mosquito Road, Placerville CA (hereinafter SUBJECT PROPERTY #2), without appropriate permits and unassessed through the County Assessor's Office.

Based upon information and belief, the undersigned certifies in his/her official capacity and under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on the date stated below at El Dorado County, California.

VERN R. PIERSON
District Attorney

By:


MICHAEL P. PIZZUTI
Deputy District Attorney

Dated: August 18, 2011
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LOCATION OF CRIME: UNINCORPORATED

Pursuant to Penal Code §1054.5(b), the People are hereby informally requesting that defense counsel provide discovery to the People as required by Penal Code §1054.3 and pursuant to the provisions of Penal Code §1054.7.

WARNING: Penal Code Section 1054.2 makes it a Misdemeanor Criminal Offense for an **attorney** receiving discovery to disclose certain confidential information regarding victims and witnesses to defendants and others. Attorneys should review this code section carefully before sharing reports received in discovery with anyone.