

8. On or about November 13, 2012, Defendant Brown pleaded guilty to one count of Conspiracy to Commit Mail and Wire Fraud in violation of 18 U.S.C. §371 (“*Plea Agreement*”). This count is Count One of the *Information* in the case captioned above (“*Information*”).
9. Count One of the *Information* charges that Defendant Brown was the founder of a firm named DocX LLC (hereinafter “DocX”). In or about mid-2008, DocX became a subsidiary of LPS Document Solutions (hereinafter, “LPS”). Defendant Brown became President and Senior Managing Director of LPS. This *Affidavit* refers to the two firms as “DocX/LPS.”
10. Count One further charges that services provided by DocX /LPS for Residential Mortgage Servicers included assistance in creating and executing mortgage-related documents. DocX/LPS then filed these documents throughout the United States with such local Registries of Deeds as the Southern Essex Registry.
11. Count One in addition charges that, beginning in or about 2005, employees of DocX, at the direction of Defendant Brown and others, began executing a scheme and artifice to defraud by directing DocX/LPS employees to forge and falsify signatures on documents, primarily related to residential mortgages, which Defendant Brown and others had been hired to file with Registries of Deeds nationwide.
12. The mortgage-related documents on which DocX/LPS employees forged or falsified such signatures included purported *Assignments of Mortgages*, which purportedly transferred the ownership interest in mortgage-backed notes; purported *Lien Releases*, which purportedly evidenced payment in full of mortgage-backed notes; and *Affidavits* concerning lost notes and lost assignments. *Information*, para. 4.
13. Massachusetts law classifies the crime of forgery as a felony. The felony of forgery carries a maximum sentence of 10 years imprisonment. Massachusetts General Laws, Chapter 267, Section 1.
14. Massachusetts law also classifies the separate crime of uttering a forgery, e.g., by filing a forgery with a Registry of Deeds, as a felony. The felony of uttering a forgery also carries a maximum sentence of 10 years’ imprisonment. Massachusetts General Laws, Chapter 267, Section 5.
15. The Southern Essex Registry is one of the Registries of Deeds with which DocX/LPS filed forged or falsified mortgage-related documents. The Southern Essex Registry has so far identified 10,567 mortgage-related documents filed with it by DocX/LPS.
16. *Exhibit A* to this *Affidavit*, for illustration, is a copy of a *Mortgage Release, Satisfaction, and Discharge*, dated 12/30/2004; purportedly signed by “Linda Green, Vice President, Loan Documentation” and by “Jessica Leete, Vice President, Loan Documentation;” bearing the legend, “When recorded return to: DOCX, LLC, 1211 ALDERMAN DR., SUITE 350, ALPHARETTA, GA 30005;” and recorded by the Southern Essex Registry

on 01/05/2005. This is within the period from on or about 2005 to on or about October 2009 to which Defendant Brown pleaded guilty.

17. In *Exhibit A*, furthermore, “Linda Green” and “Jessica Leete” are both on McDonnell Property Analytics’ 06/12/2012 list of known “Robo-sign” names verified by Certified Fraud Examiner Marie McDonnell and appearing at:
<http://www.salemdeeds.com/robosite/pdf/robosigners.pdf>.
18. Ms. McDonnell is an expert Mortgage Fraud and Forensic Analyst with a quarter-century of experience in transactional analysis, mortgage auditing, and mortgage fraud examination. She is President of McDonnell Property Analytics. For Ms. McDonnell’s expert qualifications, *see the Affidavit of Marie McDonnell (“McDonnell Affidavit”)*, also filed in the above-captioned case, Paras. 1 - 10.
19. *Exhibit B* to this *Affidavit*, for illustration, is a copy of an *Assignment of Mortgage*, dated 01/03/2008; purportedly signed by “Pat Kingston, Vice President,” and by “Witness: Korell Harp;” bearing the legend “When recorded return to: DOCX, LLC, 1211 ALDERMAN DR., SUITE 350, ALPHARETTA, GA 30005;” and recorded by the Southern Essex Registry on 01/11/2008. This is within the period from on or about 2005 to on or about October 2009 to which Defendant Brown pleaded guilty.
20. In *Exhibit B*, furthermore, “Pat Kingston” and “Korell Harp” are both on McDonnell Property Analytics’ 06/12/2012 list of known “Robo-sign” names verified by Certified Fraud Examiner Marie McDonnell and appearing at:
<http://www.salemdeeds.com/robosite/pdf/robosigners.pdf>.
21. *Exhibit C* to this *Affidavit* is a DVD containing digitized copies of all 10,567 documents identified so far as having been prepared by DocX/LPS and filed, either directly or via U.S. Postal Service, a private or commercial interstate carrier, or electronically, with the Southern Essex Registry. These documents recite, on their face, their connection with DocX/LPS.
22. Defendant Brown pleaded guilty to a scheme or artifice to defraud extending from “From in or about 2005 through in or about October 2009 . . .” *Information*, Para. 7. The 10,567 DocX/LPS documents filed with the Southern Essex District date nonetheless from in or about 1998 to in or about 2011. This is both before and after the time period of the scheme or artifice to defraud to which Defendant Brown pleaded guilty.
23. Certified Fraud Examiner Marie McDonnell has studied a sample of the DocX/LPS documents filed with the Southern Essex Registry outside of the time period to which Defendant Brown pleaded.
24. The “*McDonnell Affidavit*” sets forth Ms. McDonnell’s expert determination that these additional DocX/LPS documents exhibit the same invalidities due to forgery and falsification as the DocX/LPS documents recorded in the Southern Essex Registry from in or about 2005 through in or about October 2009, the period of the scheme or artifice to

defraud to which Defendant Brown pleaded guilty. *McDonnell Affidavit*, Section, *Lorraine Brown, DocX LLC and LPS*.

25. All of the DocX/LPS documents recorded in the Southern Essex Registry from in or about 1998 to in or about 2011 accordingly either corrupt, or call seriously into question, the integrity, transparency, accuracy, and consistency of the Southern Essex Registry's land records on which families, lenders, and title companies rely now, and will rely for decades to come, to determine whether sellers have, and purchasers can take, clear title to family homes. The Southern Essex Registry is therefore a victim of the scheme and artifice of Defendant Brown and others to defraud.
26. A forensic audit in 2011 of 565 *Assignments of Mortgage* that the Southern Essex District recorded in the year 2010 indicates that such corruption must necessarily extend well beyond the 10,567 admittedly or presumably false or fraudulent DocX/LPS documents that are at present recorded in the Southern Essex District.
27. In January of 2011, in my capacity as Southern Essex Register of Deeds, I commissioned credentialed Certified Fraud Examiner Marie McDonnell to conduct an audit testing the integrity of the land recordation documents on file with the Southern Essex District.
28. The Attorney General's Office of the Oregon Department of Justice (Oregon DOJ) has also recognized Ms. McDonnell's expert qualifications. For testimony prepared for the Oregon Attorney General before the House Interim Committee on General Government & Consumer Protection, November 19, 2011, the Oregon DOJ staff used a list of names used in "Robo-signing," developed and verified by McDonnell Property Analytics, Ms. McDonnell's research and litigation support firm. The Oregon DOJ staff's review, using this list, of roughly 400 mortgage deed assignments and foreclosure notices filed since 2008 in Deschutes County, Oregon, confirmed that at least 24 of the 85 individual names on the McDonnell Property Analytics list as of that time of names used in "Robo-signing" appeared on signature lines of documents filed with Deschutes County.
29. I requested Ms. McDonnell's audit due to my concern about representations by Mortgage Electronic Registration Systems, Inc. ("MERS") that, if its member banks recorded their *Assignments of Mortgage* and other mortgage-related documents with MERS, rather than with such local, public Registries of Deeds as the Southern Essex Registry, they could avoid the local Registries' per-document recordation fees.
30. I was furthermore concerned about how the so-called "Robo-signing" or forgery scandal, featured in a 60 Minutes exposé on the subject that included "Robo-sign" name "Linda Green," might affect the real property records on file with the Southern Essex District.
31. A true and correct copy of Ms. McDonnell's resulting Report, entitled *Forensic Examination Of Assignments Of Mortgage Recorded During 2010 In The Southern Essex District Registry Of Deeds*, is available on the Southern Essex Registry's web site at <http://www.salemdeeds.com/pdf/Audit.pdf>
32. Ms. McDonnell accepted this engagement on a pro bono basis because of a) its high and urgent

value to the public trust; b) to educate the 50 state Attorneys General, who were then attempting to resolve fraudulent foreclosure practices via a settlement with large banks; and c) to give consumers some guidelines for researching the Public Records to detect both invalid documents in the Public Records, and gaps in chain of title that needed to be addressed. Ms. McDonnell also wanted to prove the concept that Registries of Deeds across all counties and jurisdictions in the United States must have their records audited similarly to ensure the integrity of all title-ownership-related transactions filed on their respective Public Records.

33. This audit's scope was: Every *Assignment of Mortgage* during the year 2010 that the Southern Essex Registry's automated Grantor/Grantee index showed was recorded either to, or from, three of the nation's largest banks: JPMorgan Chase Bank, N.A. (147 *Assignments*); Wells Fargo Bank, N.A. (278 *Assignments*); and Bank of America, N.A. (140 *Assignments*).
34. Ms. McDonnell accordingly examined a total of 565 *Assignments of Mortgage*. This required inspecting approximately 2,000 3,000 documents to analyze 473 unique mortgages.
35. Ms. McDonnell's results, conclusions, and findings include the following:
 - a. She could trace current ownership for only 287 of 473 mortgages (60%).
 - b. 46% and 47% of mortgages were either registered privately with MERS or were owned by the Government Sponsored Enterprises (i.e., Fannie Mae, Freddie Mac, Ginnie Mae), respectively. Typically, ownership of these mortgages is highly obscure.
 - c. 37% of mortgages were securitized into public trusts (as opposed to private trusts), which are typically more discoverable through use of forensic tools and high cost, subscription-based databases.
 - d. Only 16% of all *Assignments* examined were valid.
 - e. 75% of all *Assignments* examined were invalid; an additional 8.7% were questionable (required additional data).
 - f. 27% of the invalid *Assignments* were fraudulent; 35% were "Robo-signed," that is, forged; and 10% violated the Massachusetts Mortgage Fraud Statute of 2010.
 - g. 683 *Assignments* were missing.
36. Ms. McDonnell's forensic audit of the 565 *Assignments of Mortgage* filed in the Southern Essex Registry in the year 2010 by JPMorgan Chase Bank, N.A., Wells Fargo Bank, N.A., and Bank of America, N.A. thus demonstrated that corruption to the Southern Essex Registry's land recordation system reaches far beyond the specific records initially identified for audit.
37. It is accordingly clear that the 10,567 identified DocX/LPS documents must also have corrupted additional Southern Essex Registry records to a material extent.
38. False or fraudulent DocX/LPS documents are null, void, and of no legal effect. Each such false or fraudulent document consequently clouds the validity of every subsequent real property transaction that relies on it for a valid chain of title to the home that it concerns.

Each such false or fraudulent DocX/LPS document thus affects the validity of all subsequent transactions concerning the real property in question, as well the validity of the documents evidencing these transactions. This is so even though a bank, company, or firm other than DocX/LPS may have created these additional documents and recorded them in the South Essex Registry.

39. Only a forensic audit of all 10,567 identified DocX/LPS documents filed with the Southern Essex District can determine the actual extent of this corruption, and therefore identify the full extent of the corrective documentation needed to repair it.
40. In order to restore the integrity of the land title documents in the Southern Essex Registry, however, it is essential to ascertain as specifically as possible the scope of the damage that "Robo-signed" documents have done. I have therefore asked Ms. McDonnell to design an audit of a sample of the approximately 5,963 DocX/LPS documents recorded by the Southern Essex Registry during the time period that Defendant Brown's guilt plea covers. The purpose of such an audit is in order to ascertain, to the maximum degree possible, the full extent of the necessary repair. This would yield statistics on the types and numbers of additional documents ordinarily necessary to repair gaps in the chain of title. I therefore asked her to sample 1,000 DocX/LPS documents, in the approximate ratio of the most common documents, *Discharges of Mortgage* (approximately 80% - 85%) to *Assignments of Mortgage* (15% - 20%), in the universe of 5,693 DocX/LPS documents filed during the period of the scheme or artifice to defraud to which Defendant Brown pleaded guilty. A forensic audit on these lines would reveal the scope of subsequent damage to the various chains of title of which each of these 1,000 documents forms a part.
41. The Southern Essex Registry will then seek proposals for conducting such a forensic audit.
42. Such an audit would provide a reliable determination, to a high degree of probability, of the scope of the remedial documentation that will need to be prepared and recorded to restore the integrity of land title documentation both in the Southern Essex Registry, as well as in Registries of Deeds nationwide in which fraudulent DocX/LPS documents have been recorded. It is worthy of note that Homeowners may be current on their mortgage payments, yet be unaware of gaps in their chain of title due to "Robo-signing," the use of MERS for recording *Assignments of Mortgage*, or related reasons.
43. Ms. McDonnell's methodology and her expert estimate of the cost for such a forensic audit of 1,000 DocX/LPS documents filed with the Southern Essex District are set forth in the *McDonnell Affidavit*, Section, *Restitution Calculus*.
44. As the Southern Essex District Register of Deeds since 1977, I am thoroughly familiar with the Registry's practices for document recordation, organization, and retrieval. I have instituted numerous initiatives to automate its document systems, making a variety of real property records available online to homeowners, title insurers, the public, and historians.

45. I have reviewed Ms. McDonnell's proposed methodology for the forensic audit of a 1,000-document sample taken from the 5,963 identified DocX/LPS documents recorded in the Southern Essex Registry from in or about 2005 through in or about October 2009, the period of the scheme or artifice to defraud to which Defendant Brown pleaded guilty. I find it well calculated to determine the extent to which these forged, false, and fraudulent documents have corrupted Southern Essex Registry land title records even beyond the corruption inherent in the forged documents themselves, and the extent of the corrective documentation that will be necessary.
46. Pursuant to 18 U.S.C. §§ 3663A(a) and (b), in her *Plea Agreement*, Paragraph A5, Defendant Brown agreed "to make full restitution to any victims of the offense, as determined by the Court at sentencing."
47. As detailed above, the Southern Essex Registry is a victim of Defendant Brown's scheme and artifice to fraud.
48. As one step in repairing the integrity of its Land Recordation System, the Southern Essex Registry will have to record additional new, corrective documents for the 10,567 identified DocX/LPS documents. Defendant Brown should therefore pay the recording fee for each additional, corrective document. Accordingly, given my fiduciary duty as Southern Essex Register of Deeds, I hereby request restitution for the recordation of additional documents to correct the 10,567 admittedly and presumably false, fraudulent, null and void documents created by DocX/LPS and filed by it with the Southern Essex Registry, at the rate of seventy-five dollars (\$75.00) for each such document, in the amount of seven hundred ninety-two thousand, one hundred twenty-five dollars **(\$792,125)**.
49. As part of repairing the chain of title to the Southern Essex District homes affected by the forged, false, and fraudulent documents that DocX/LPS filed with the Southern Essex Registry, each bank, lender, or other entity that had DocX/LPS create and file such documents is responsible for creating and filing a new, valid document that corrects each of the forged, false, or fraudulent DocX/LPS documents pertaining to that bank, lender, or other entity.
50. Seventy-five dollars (\$75.00) per document is the standard fee for recording a document in a Registry of Deeds in the Commonwealth of Massachusetts.
51. Furthermore, given Ms. McDonnell's outstanding qualifications as a Certified Fraud Examiner with a specialty in Mortgage Fraud and Forensic Analysis, plus her experience in auditing land records that are in my care, custody, and control, I hereby accept Ms McDonnell's expert cost determination of 1,000 x three hundred seventy five dollars **(\$375)** per document, or **\$375,000**, plus one hundred seventeen thousand fifteen dollars **(\$117,015)**, for fixed audit-related costs that are fully documented in the *McDonnell Affidavit*. Ms McDonnell avers that these are required for a *Forensic Audit* on the lines indicated above. Accordingly I request, in addition, restitution in the amount of four hundred ninety two thousand fifteen dollars **(\$492,015)** for this forensic audit. *McDonnell*

Affidavit, Section, Restitution Calculus.

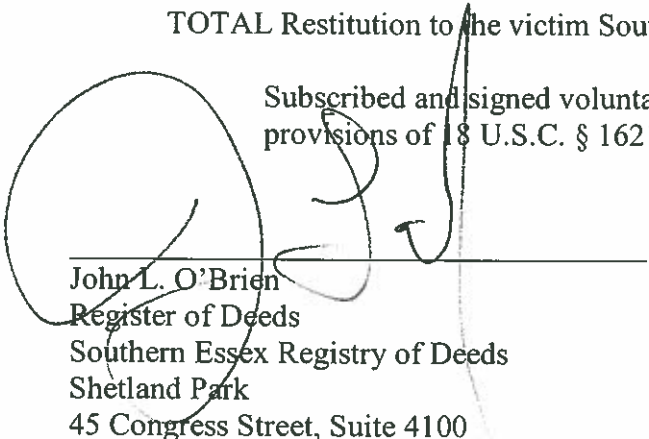
52. I aver that ~~restitution to~~ the Southern Essex Registry will use any restitution that this Court may order ~~will be used~~ for the purposes set forth both in this *Affidavit* and in the *McDonnell Affidavit*.

53. I accordingly ask this Court to order Defendant Brown to pay restitution to the Southern Essex Registry in the amount of:

\$75.00 per DocX/LPS document recordation fee x 10,567 =	\$ 792,375.
\$375.00 per DocX/LPS document audit cost x 1,000 =	\$ 375,000.
\$117,015 for fixed audit-related costs =	<u>\$ 117,015</u>

TOTAL Restitution to the victim Southern Essex Registry: **\$1,284,390**

Subscribed and signed voluntarily, under penalty of perjury, pursuant to the provisions of 18 U.S.C. § 1621.



John L. O'Brien
Register of Deeds
Southern Essex Registry of Deeds
Shetland Park
45 Congress Street, Suite 4100
Salem, MA 01970

Subscribed and sworn to before me this 14th day of January, 2013.

Teresa A Simpson

Notary Public

My commission expires: May 26, 2017

