

Case: 5:23-cr-20174

Assigned To : Levy,  
Judith E.

Referral Judge: Patti,  
Anthony P.

Assign. Date : 3/20/2023

Description: INFO USA  
V.

STERLING BANCORP,  
INC. (KB)

Offense: Securities Fraud

Violation:

15 U.S.C. §§ 78j(b) and 78ff(a);

17 C.F.R. § 240.10b-5

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STERLING BANCORP, INC.,

Defendant.

**CRIMINAL INFORMATION**

The United States of America, by and through the United States Department of Justice, Criminal Division, Fraud Section, charges:

**COUNT ONE**  
(Securities Fraud)

At all times relevant to this criminal Information, with all dates being approximate and inclusive:

**GENERAL ALLEGATIONS**

*Sterling Bancorp, Inc., and Sterling Bank and Trust, F.S.B.*

1. Sterling Bancorp, Inc. (the “Company”), was a Southfield, Michigan-headquartered holding company. Its primary business was the operation of its

wholly-owned subsidiary, Sterling Bank and Trust, F.S.B. (the “Bank”), through which the Company offered residential and commercial loans, and retail banking services. Hereinafter, the Company and the Bank are referred to collectively as “Sterling.”

2. The Company was registered with the United States Securities and Exchange Commission (“SEC”), pursuant to Section 12(b) of the Securities Exchange Act of 1934. In or around 2017, the Company completed an initial public offering (“IPO”), and the Company’s stock began trading publicly on the NASDAQ, a national securities exchange, under the ticker symbol “SBT.”

3. The Bank was a Southfield, Michigan-based community bank and federally insured depository institution, with branches located in and around San Francisco and Los Angeles California; Seattle, Washington; New York, New York; and Southfield, Michigan.

#### *The Advantage Loan Program*

4. The largest portion of the Bank’s loan portfolio was composed of residential mortgage loans. The Advantage Loan Program (“ALP”) was a residential mortgage loan program established by the Bank in or around 2011. Between in or around 2011 and in or around 2019, the Bank’s employees and agents originated at least \$5 billion in ALP loans.

5. The bank touted the ALP's flexible documentation requirements and fast underwriting and closing capabilities. The program required a minimum thirty-five percent down payment and charged higher rates and fees than generally were available elsewhere in the market, but it did not require submission of typical loan documentation, such as an applicant's tax returns or payroll records.

**The Securities Fraud Scheme**

6. From at least in or around September 2017 through at least in or around March 2019, in the Eastern District of Michigan and elsewhere, the Defendant,

STERLING BANCORP, INC.,

did knowingly and willfully, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails and facilities of national securities exchanges, in connection with the purchase and sale of securities, use and employ, and cause others to use and employ, manipulative and deceptive devices and contrivances by: (a) employing, and causing others to employ, devices, schemes, and artifices to defraud; (b) making, and causing others to make, untrue statements of material fact and omitting to state, and causing others to omit to state, material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) engaging, and

causing others to engage, in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons.

### **Purpose of the Scheme**

7. The purpose of the securities fraud scheme was for Sterling and certain of its insider shareholders to fraudulently profit from taking Sterling public while making materially false statements regarding the quality of its ALP loan portfolio—thereby making the Sterling look more attractive to investors—in Sterling’s 2017 IPO Registration Statement (“SEC Form S-1”) and at least two subsequent annual securities filings in 2018 and 2019 (“SEC Form 10-K”).

### **Manner and Means of the Scheme**

8. From at least in or around September 2017 through at least in or around March 2019, in the Eastern District of Michigan and elsewhere, the Defendant,

STERLING BANCORP, INC.,

engaged in the scheme in at least the following manner and by the following means, to wit:

### **Sterling’s Fraudulent IPO and Aftermath**

#### **Sterling’s October 2017 IPO Filing – SEC Form S-1**

9. In and around October 2017—while Sterling was artificially inflating its revenue through the ALP—Sterling went public. In connection with its IPO,

Sterling's SEC Form S-1 contained materially false and misleading statements regarding the ALP that touted the soundness of the ALP loans. In truth, however, the ALP was rife with fraud.

10. In its 2017 SEC Form S-1, Sterling made a series of materially false and misleading statements about the ALP, including the following:

- a. We attribute our success to the following competitive strengths: *Responsiveness and Deep Customer Relationships. . . . Product Expertise and Disciplined Credit Culture.* We believe the success of our products is the result of . . . our disciplined underwriting of the type of loans we make. . . . We have developed consistent underwriting and credit management processes tailored to each of the products we offer, allowing us to build high quality asset portfolios. We believe our relationships with, and knowledge of, our customers further enhances our credit quality, as we do not provide our key loan products to any customer unless the applicable relationship manager has met them and documented the interaction.
- b. Our risk management includes disciplined documentation of ability to repay, liquidity analysis and face-to-face customer interaction.
- c. We have established a culture that places credit responsibility with individual loan officers and management and does not rely solely on a loan committee and institutional experience to remain disciplined in our underwriting.
- d. We believe our significant growth has not come at the expense of asset quality. We have historically been

able to focus on long-term returns and remain committed to responsible growth. We also believe our strong sales team, disciplined underwriting, and culture of cost management have driven consistent earnings and exemplary net interest margins, efficiency metrics and shareholder returns.

- e. We believe a disciplined and conservative underwriting approach has been the key to our strong asset quality.
- f. We have a loan approval process through which we require not only financial and other information from our borrowers, but our loan officers are required to meet face-to-face with each of our borrowers in our Advantage and TIC programs and produce a narrative documentation recommending the loan.

*Sterling's 2018 and 2019 Annual Filings – SEC Form 10-K*

- 11. The ALP fraud continued after the IPO.
- 12. In its 2018 and 2019 SEC Form 10-K filings, Sterling made and reiterated a series of materially false and misleading statements about the ALP, including the following:

- a. Our risk management includes disciplined documentation of ability to repay, liquidity analysis and face-to-face customer interaction.
- b. We have a loan approval process through which we require not only financial and other information from our borrowers, but our loan officers are required to meet face-to-face with each of our borrowers in our Advantage program and produce a narrative documentation recommending the loan.

13. Sterling made these materially false and misleading statements about the ALP in its 2017, 2018, and 2019 public filings knowingly and willfully and for the purpose of defrauding non-insider purchasers of Sterling's securities.

In violation of 15 U.S.C. §§ 78j(b) and 78ff(a); 17 C.F.R. § 240.10b-5.

GLENN S. LEON  
Chief, Fraud Section  
Criminal Division  
United States Department of Justice

/s/ Cory E. Jacobs

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202-514-2000

United States District Court Eastern District of Michigan	<b>Criminal Case Cover Sheet</b>	<b>Case Number</b>
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NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to complete it accurately in all respects.

<b>Companion Case Information</b>	Companion Case Number: 21-CR-20256
This may be a companion case based upon LCrR 57.10 (b)(4) <sup>1</sup> :	Judge Assigned: Hon. Linda V. Parker
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	AUSA's Initials: AFL

**Case Title:** USA v. STERLING BANCORP, INC.

**County where offense occurred :** Oakland

**Check One:**       **Felony**                       **Misdemeanor**                       **Petty**

Indictment/  Information --- **no** prior complaint.  
 Indictment/  Information --- based upon prior complaint [Case number: \_\_\_\_\_ ]  
 Indictment/  Information --- based upon LCrR 57.10 (d) [Complete Superseding section below].

**Superseding Case Information**

**Superseding to Case No:** \_\_\_\_\_ **Judge:** \_\_\_\_\_

- Corrects errors; no additional charges or defendants.
- Involves, for plea purposes, different charges or adds counts.
- Embraces same subject matter but adds the additional defendants or charges below:

<u><b>Defendant name</b></u>	<u><b>Charges</b></u>	<u><b>Prior Complaint (if applicable)</b></u>
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**Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.**

March 16, 2023  
 Date  
  
 Cory E. Jacobs, Assistant Chief  
 United States Department of Justice  
 Criminal Division, Fraud Section  
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s/Amanda Fretto Lingwood  
 Amanda Fretto Lingwood, Trial Attorney  
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<sup>1</sup> Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial, or (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.