

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

AUG 11 2005

DAVID J. MALAND, CLERK
BY DEPUTY _____

UNITED STATES OF AMERICA

§
§
§
§
§

-vs.-

Criminal No. 4:05cr 160
Judge Schell

OLTHA THOMAS AUSTIN, JR.

INDICTMENT

The United States Grand Jury charges that:

COUNT 1

Violation: Mail Fraud
(Title 18 U.S.C. § 1341)

1. PHM Financial, Inc. ("PHM"), doing business as Professional Home Mortgage, and located in Denver, Colorado, was a corporation involved in brokering mortgage loans.
2. Blue Star Title, located in Collin County, Texas, within the Eastern District of Texas, was a corporation involved in real estate closings.

The Scheme and Artifice to Defraud

3. From on or about September 2002 through on or about August 31, 2003, Defendant OLTHA THOMAS AUSTIN, JR. ("AUSTIN") devised and intended to devise a scheme and artifice to defraud PHM and to obtain money and property from PHM by false and fraudulent pretenses, representations, and promises.

Manner and Means of the Scheme and Artifice

It was part of the manner and means of the scheme and artifice that:

4. AUSTIN completed a mortgage loan application on behalf of his mother to purchase a property located in Plano, Texas, within the Eastern District of Texas.
5. On the loan application, AUSTIN intentionally and falsely represented that his mother had a trust fund with a balance of \$5,750,150.04, with monthly disbursements of \$115,000.
6. AUSTIN signed the name of his mother to the loan application as her agent and attorney-in-fact.
7. AUSTIN caused the mortgage loan application to be submitted to PHM in order to obtain the mortgage loan.
8. PHM approved the application and provided a \$2,030,000.00 mortgage loan to AUSTIN's mother.

Execution of the Scheme and Artifice

9. On or about October 28, 2002, in Collin County, Texas, in the Eastern District of Texas, the Defendant, AUSTIN, for the purpose of executing the scheme and artifice, did knowingly cause to be sent, delivered, and moved by Federal Express, a commercial interstate carrier, a mortgage loan application from Blue Star Title in Plano, Texas, to PHM, in Denver, Colorado .

All in violation of Title 18, United States Code, Section 1341.

COUNT 2

Violation: Wire Fraud
(Title 18 U.S.C. § 1343)

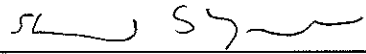
The Grand Jury realleges paragraphs 1 through 8 of Count 1 as if fully set forth herein, and further alleges that on or about October 25, 2002, for the purpose of executing and attempting to execute the scheme and artifice, AUSTIN caused to be transmitted in interstate commerce, by means of a wire communication, certain signs, signals, and sounds, that is, AUSTIN caused the wire transfer of \$2,005,309.79 from PHM, located in Denver, Colorado, to Gateway Bank, located in Frisco, Texas in the Eastern District of Texas.

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

A True Bill,


FOREMAN

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	§	
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NOTICE OF PENALTY

COUNT 1

Violation: Title 18, United States Code, Section 1341

Penalty: Not more than twenty years imprisonment, a fine not to exceed \$250,000, or not more than the greater of twice the gross gain to the defendant or twice the gross loss to one other than the defendant, or both; supervised release of not more than five years.

Special Assessment: \$100.00

COUNT 2

Violation: Title 18, United States Code, Section 1343

Penalty: Not more than twenty years imprisonment, a fine not to exceed \$250,000, or not more than the greater of twice the gross gain to the defendant or twice the gross loss to one other than the defendant, or both; supervised release of not more than five years.

Special Assessment: \$100.00