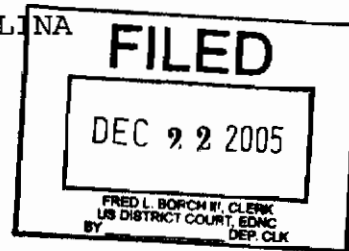


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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:05-CR-326-1FL



UNITED STATES OF AMERICA)
)
 v.) CRIMINAL INFORMATION
) (Fed. R. Crim. P. 7)
DONALD SCOTT CARROLL)

THE UNITED STATES ATTORNEY CHARGES THAT:

FACTUAL BACKGROUND

At all times relevant hereto:

1. DONALD SCOTT CARROLL, a resident of Henderson, North Carolina, was a salesperson employed by Creative Real Estate and Manufacturing Housing Sales Center, and later, was a manager of Dynasty Homes of Henderson.

2. DONALD W. GUPTON, INC. was a North Carolina corporation, established on January 12, 1982, and doing business as Dynasty Homes of Henderson, Superior House Center, and Creative Real Estate and Manufacturing Housing Sales Center.

3. DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, and Creative Real Estate and Manufacturing Housing Sales Center, was primarily engaged in the business of selling mobile homes (herein after referred to as "manufactured homes"). The businesses also sold "land/home" packages through which a manufactured home and a lot were sold together.

4. CRE PROPERTIES, LLC, was a North Carolina limited liability company, established on March 3, 2000, and primarily engaged in the business of real estate development.

5. M & G PROPERTIES, INC., was a North Carolina corporation, re-established on June 2, 2000, after previously being administratively dissolved for failure to file annual reports. M & G Properties, Inc. was primarily engaged in the business of real estate development, and buying and selling of real estate.

6. The Department of Housing and Urban Development (hereinafter referred to as "HUD") was a department of the executive branch of the United States, established to, among other things, encourage private businesses to serve the housing needs of the nation.

STATUTORY BACKGROUND

7. Title 12, United States Code, Section 2603 mandated the establishment of a uniform settlement statement in all transactions in the United States which involve federally related mortgage loans.

8. The HUD-1 settlement statement is required by Federal law. It provides the details of the closing (settlement), the purchase transaction, and the mortgage loan. It shows all costs imposed on the buyer/borrower and the seller. It is signed by both the buyer and the seller.

9. Both the borrower and the seller sign the HUD-1 settlement

statement, below the following certification: "I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement."

10. Below the signature lines for certification, the following warning appears on the HUD-1 Settlement Statements: "WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details, see Title 18, U.S. Code Section 1000 and Section 1001."

11. Borrowers may obtain a conventional loan, a Federal Housing Authority (FHA) loan, or a Veteran's Administration (VA) loan:

A. A buyer/borrower may obtain a conventional loan which is established by the lending institution. The loan is not insured by HUD or guaranteed by the VA.

B. A buyer/borrower who may be a first-time home buyer or others, who may not be able to meet the down payment requirements of a conventional loan, may obtain a loan through the FHA. FHA provides mortgage insurance to the private lenders for these buyer's/borrower's loans.

12. In either loan situation, a buyer/borrower typically

completes a Uniform Residential Loan Application, or similar application. Per the acknowledgment and agreement section of the application, the buyer/borrower signs in agreement that ... "(1) the information provided in this application is true and correct as of the date set forth opposite my signature. . . ."

13. In either loan situation, the lender's duties include verification of the information on the loan application as well as to the buyer's/borrower's collateral, credit reputation (credit report) and ability to repay the mortgage loan. The collateral includes the type of property (manufactured home, condominium, etc.), the value of the dwelling and the down payment.

14. If the source of the buyer's/borrower's initial down payment is a gift from a family member, lenders require a "Gift Letter" signed by the family member giving the gift. This certifies that the funds are a gift, and the buyer has no obligation to repay these funds to their family member. This is necessary because if the money had to be repaid, it would have to be considered when the lender calculates the buyer's income to debt ratio, which is used to help determine the buyer's ability to repay the loan from the financial institution. Gift funds were required to come from a relative and/or HUD-approved non-profit organization.

THE CONSPIRACY

15. Beginning in or about 1999, the exact date being unknown, and continuing up through and including December 2002, in the Eastern District of North Carolina and elsewhere, DONALD SCOTT CARROLL, defendant herein, along with others both known and unknown to the United States Attorney, did knowingly, willfully, and unlawfully conspire, combine, confederate, and agree with other persons, both known and unknown to the United States Attorney, to commit offenses against the United States, to wit:

A. Use of the mails for the purpose of executing a scheme and artifice to defraud, and for obtaining money by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1341;

B. Use of wire communications in interstate commerce for the purpose of executing a scheme and artifice to defraud, and for obtaining money by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1343;

C. Making materially false, fictitious, and fraudulent statements and representations in a matter with the jurisdiction of the United States Department of Housing and Urban Development, a department within the executive branch of the Government of the United States, in violation of Title 18, United States Code,

Section 1001; and

D. Execution and attempt to execute a scheme and artifice to defraud a financial institution and to obtain monies, funds, and credit owned by and under the custody and control of a financial institution by means of false or fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

OBJECT OF THE CONSPIRACY

19. It was the object and purpose of the conspiracy to make as much money as possible through the sale of manufactured homes and "land/home" packages by falsifying loan applications and HUD-1 statements to insure that banks would approve the loan applications.

WAYS AND MEANS

20. In furtherance of the conspiracy, the defendant, along with others, employed the following ways and means:

A. DONALD W. GUPTON INC., d/b/a Dynasty Homes of Henderson, Superior House Center, and Creative Real Estate and Manufacturing Housing Sales Center marketed its product to persons with limited economic resources and/or impaired credit histories.

B. The conspirators would falsify, and cause to be falsified, information contained on a loan application, such as down payment information, to create the appearance that the prospective buyer/loan applicant had a lower debt-to-income ratio,

and therefore, improved the credit risk of the prospective buyer/loan applicant and likelihood that the loan would be approved.

C. The conspirators, by and through DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, and Creative Real Estate and Manufacturing Housing Sales Center, conveyed the title, but not possession, of a mobile home to prospective buyers/loan applicants in order to create the appearance that the buyer/loan applicant was trading in a mobile home at the time of closing. The conspirators listed, on loan applications and/or HUD-1 Settlement Statements, the same mobile home as a "trade-in" for nine (9) different prospective buyers. The notaries on all nine transfer documents were employees of DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, and Creative Real Estate and Manufacturing Housing Sales Center.

D. In some cases, the conspirators prepared and provided a prospective buyer with a gift letter, and asked the buyer to have a relative sign the letter, thereby falsely representing that the buyer was receiving a cash gift from the relative for use as a down payment. The conspirators would list the "gift amount" on the loan application and/or HUD-1 Settlement Statement.

E. To create the appearance of a substantial down

payment, and thereby improve the credit risk of a loan applicant, the conspirators would provide a cash dollar amount to the prospective buyer/loan applicant who would, in turn, deposit the money and then, withdrawing the same funds, secure a certified bank check or money order to return to the conspirators after the loan was approved.

F. In other instances, the conspirators would make a down payment for the prospective buyer/borrower. This down payment was recorded on line 201 of the HUD-1 Settlement Statement and appeared as if the buyer/borrower made the down payment when the buyer/borrower did not make the down payment.

G. A conspirator would sign the loan application and HUD-1 Settlement Statements containing false and fraudulent representations.

H. The conspirators would send loan applications and related documents to financial institutions by mail or facsimile.

I. Between 1999 and 2003, the conspirators sold in excess of 150 manufactured homes that resulted in HUD backed mortgages exceeding \$11,000,000.

J. The conspirators engaged, or caused to be engaged, financial transactions with the proceeds from the fraudulent loan activity.

OVERT ACTS

21. In furtherance of the conspiracy, and to effect the object thereof, there were committed by at least one of the co-conspirators in the Eastern District of North Carolina at least one of the following overt acts, among others:

TRADE-IN SCHEME

A. On or about April 26, 2000, DONALD W. GUPTON, INC. d/b/a Dynasty Homes of Henderson, Superior House Center, and Creative Real Estate and Manufacturing Housing Sales Center transferred title of its mobile home to a prospective buyer. The vehicle identification number of the mobile home was H112356GL&R.

B. On or about May 2, 2000, the conspirators caused title of the same mobile home to be transferred to another prospective buyer. The vehicle identification number was H112356GL&R.

C. On or about August 3, 2000, a conspirator/employee of Creative Real Estate assisted prospective buyers to complete a loan application for the purchase a mobile home. The loan application listed a trade-in allowance of \$15,750.00.

D. On August 28, 2000, a co-conspirator, on behalf of Creative Real Estate, signed an offer to purchase and contract, which showed a trade-in allowance of \$15,750.00.

E. On or about September 6, 2000, the conspirators caused title of the same mobile home to be transferred to the

prospective buyer listed on the August 28, 2000, offer to purchase and contract. The vehicle identification number was H112356GL&R.

F. On or about September 6, 2000, DONALD W. GUPTON, INC. d/b/a Creative Real Estate caused a "trade-in work sheet" to be provided to Country Home Mortgage, citing a book value of \$15,750.00.

G. On or about September 14, 2000, a co-conspirator signed a HUD-1 settlement statement, listing a trade-in allowance of \$15,750.00.

H. On or about September 20, 2000, the conspirators caused title of the same mobile home to be transferred to another prospective buyer. The vehicle identification number is H112356GL&R.

I. On or about September 20, 2000, a conspirator/employee of Creative Real Estate notarized the transfer of title from the August 28th prospective buyer to the September 20th prospective buyer, knowing that the signatures on the transfer had been forged.

J. On or about October 16, 2000, the conspirators caused title of the same mobile home to be transferred to another prospective buyer. The vehicle identification number is H112356GL&R.

K. On or about October 25, 2000, the conspirators closed the loan with the September 20th buyer. The HUD-1 Settlement

Statement listed a \$14,850.00 credit for "trade-in allowance," although the trade-in had been transferred to another person on or about October 16, 2000.

L. On or about November 6, 2000, the conspirators caused title of the same mobile home to be transferred to another prospective buyer. The vehicle identification number is H112356GL&R.

M. On or about November 16, 2000, the conspirators caused title of the same mobile home to be transferred to another prospective buyer. The vehicle identification number is H112356GL&R.

N. On or about June 21, 2001, the conspirators caused title of the same mobile home to be transferred to another prospective buyer. The vehicle identification number is H112356GL&R.

O. On or about October 24, 2001, the conspirators cause title of the same mobile home to be transferred to another prospective buyer. The vehicle identification number is H112356GL&R.

FALSE CASH PAID AT CLOSING

P. On or about July 24, 2001, a conspirator/employee of Superior Housing Center provided a check for \$28,500.00 to a prospective buyer/loan applicant to open an account at First Citizens Bank.

Q. On July 30, 2001, a conspirator/employee of Superior Housing Center accompanied the same prospective buyer/loan applicant to First Citizens Bank to withdraw the \$28,500. The monies were provided to Superior Housing Center.

R. On August 3, 2001, a conspirator/employee of Superior Housing Center executed a HUD-1 Settlement Statement falsely stating that the prospective buyer/borrower had paid \$24,338.56 as a down payment on the "land/home" package.

PHONY GIFT LETTER SCHEME

S. In 2000, the exact date being unknown, a conspirator/employee of Dynasty Homes caused a false gift letter to be signed by the buyer/borrower and alleged donor stating the donor was to give or had given the buyer/borrower a gift of money (amount not stated on gift letter as required) to be applied toward the purchase of a home. The donor did not give the buyer/borrower a gift of any money.

T. On June 6, 2000, a conspirator/employee of Dynasty Homes executed a check request for gift funds in the amount of \$20,200. The check request was approved by DONALD SCOTT CARROLL, defendant herein.

U. On June 6, 2000, a conspirator/employee wrote a check from the DONALD W. GUPTON, INC. bank account in the amount of \$20,203 payable to First Citizens Bank. This check was utilized to obtain a cashier's check from First Citizens Bank in the amount of

\$20,200 (\$20,203 minus \$3 fee) payable to the closing attorney handling the purchase of the manufactured home by the buyer/borrower. The donor's name was printed on the cashier's check as the remitter.

V. On June 6, 2000, a conspirator/employee of Dynasty Homes executed a HUD-1 Settlement Statement falsely stating the buyer/borrower received "Gift Funds" in the amount of \$20,200 from an eligible donor. The HUD-1 Settlement Statement was signed by the buyer/borrower, the closing attorney, and DONALD SCOTT CARROLL, defendant herein.

W. On July 20, 2001, a conspirator/employee of Dynasty Homes caused a false gift letter to be signed by a buyer/borrower and alleged donor stating the donor was to give or had given the buyer/borrower a gift of \$16,643 to be applied toward the purchase of a home. The donor did not give the buyer/borrower a gift of any money.

X. On August 21, 2001, a conspirator/employee of Dynasty Homes executed a check request for a cashier's check in the amount of \$16,650. This check request was approved by DONALD SCOTT CARROLL, defendant herein.

Y. On August 22, 2001, a conspirator wrote check number 24037 from the DONALD W. GUPTON INC. bank account payable to the donor in the amount of \$16,650. This check was endorsed by the donor and DONALD SCOTT CARROLL, defendant herein, and used to

obtain cashier's check number 5283584 at First Citizens Bank in the amount of \$16,647 (\$16,650 minus \$3 fee) payable to the donor with the remitter as DONALD W. GUPTON, INC.

Z. On August 24, 2001, a conspirator/employee caused a cashier's check to be purchased at Bank of America in the amount of \$16,643 with the remitter as the donor. The cashier's check was made payable to the closing attorney handling the purchase of the manufactured home from Dynasty Homes by the buyer/borrower.

AA. On August 29, 2001, a conspirator/employee of Dynasty Homes executed a HUD-1 Settlement Statement falsely stating the buyer/borrower received "Gift Funds" in the amount of \$16,644 from an eligible donor. The HUD-1 Settlement Statement was signed by the buyer/borrower, the closing attorney, and DONALD SCOTT CARROLL, defendant herein.

FABRICATED INVOICE SCHEME

BB. At an unknown date, Long Beach Mortgage began requiring copies of the original manufactured home invoices, cost to setup the manufactured home, cost of the land as well as an appraisal to substantiate the loan amount for the manufactured home. For this reason, a conspirator/employee of DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, Creative Real Estate and Manufacturing Housing Sales Center created a template on a computer that could fabricate manufactured home invoices that resembled a Horton Home and/or Clayton Home invoice.

The fabricated manufactured home invoices were inflated. The purpose of inflating the manufactured home invoices was to maximize the loan amount a buyer/borrower could obtain.

CC. An original manufactured home invoice (invoice number 172593) from Horton Homes dated June 28, 2001 with a total invoice amount of \$32,435 was falsely inflated by \$12,000. The fabricated manufactured home invoice (invoice number 172593) indicated a false total invoice amount of \$44,435.

LAND/SALES CONTRACT SCHEME

DD. Land sales contracts were created by conspirators/employees of DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, Creative Real Estate and Manufacturing Housing Sales Center. These land sales contracts were used as a method of down payment to show mortgage companies that the prospective buyers/borrowers had a vested interest in the purchase of a home.

EE. The land sales contract falsely indicated that the prospective buyer/borrower was making payments to DONALD W. GUPTON, INC. for a tract of land. However, DONALD W. GUPTON INC. did not own the tract of land described in the contract on the date of the contract. Further, the prospective buyer/borrower did not make any payments to DONALD W. GUPTON INC. as indicated on the contract.

FF. The land sales contracts were signed by the prospective buyer/borrower, and a co-conspirator, and were

notarized by a conspirator/employee in the year the prospective buyer/borrower was purchasing a manufactured home from DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, Creative Real Estate and Manufacturing Housing Sales Center.

GG. A conspirator/employee of DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, Creative Real Estate and Manufacturing Housing Sales Center executed a false installment sales contract dated November 1, 1994. The installment sales contract indicated that DONALD W. GUPTON INC. sold a tract of land to a prospective buyer/borrower for \$21,800. The installment sales contract further indicates that DONALD W. GUPTON INC. had received \$7,000 from the prospective buyer/borrower. The remaining balance of \$14,800 was to be paid to DONALD W. GUPTON INC. in sixty (60) equal monthly installments of \$300.09 which included the principal and interest of 8% per annum. The prospective buyer/borrower did not pay DONALD W. GUPTON INC. \$7,000 nor make any monthly payments to DONALD W. GUPTON INC..

HH. A conspirator/employee of DONALD W. GUPTON INC. caused the prospective buyer/borrower to sign the false installment sales contract. The installment sales contract was also signed by a co-conspirator and notarized by a conspirator/employee of DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, Creative Real Estate and Manufacturing Housing Sales Center

on November 1, 1994.

II. The fabricated installment sales contract dated November 1, 1994 indicated the tract of land being sold by DONALD W. GUPTON INC. to the prospective buyer/borrower was recorded at the Vance County Registry in Plat Book "V" - Page 936.

JJ. On or about, February 5, 1999, Plat Book "V" - Page 936 was filed with the Vance County Register of Deeds, five (5) years after the installment sales contract was dated.

KK. In 2000, the exact date being unknown, the same prospective buyer/borrower who signed the installment sales contract dated November 1, 1994 purchased a manufactured home from DYNASTY HOMES.

LL. A conspirator/ employee of DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, Creative Real Estate and Manufacturing Housing Sales Center executed a false installment sales contract dated November 1, 1995. The installment sales contract indicated that DONALD W. GUPTON INC. was selling a tract of land to a prospective buyer/borrower for \$21,600. The installment sales contract further indicated that DONALD W. GUPTON INC. received \$6,600 from the prospective buyer/borrower and the remaining balance of \$15,000 would be paid to DONALD W. GUPTON INC. in forty-eight (48) equal monthly payments of \$366.19 which included principal and interest at 8% per annum. The prospective

buyer/borrower did not pay DONALD W. GUPTON INC. \$6,600 nor made any monthly payments to DONALD W. GUPTON INC.

MM. A conspirator/employee of DONALD W. GUPTON INC. caused the prospective buyer/borrower to sign the false installment sales contract. The installment sales contract was also signed by a co-conspirator, and notarized by a conspirator/employee with a recording a date of November 1, 1995.

NN. The fabricated installment sales contract indicates that the tract of land DONALD W. GUPTON INC. sold to the prospective buyer/borrower is located in Kirklen Estates.

OO. On or about February 5, 1999, Plat Book "V" - Page 936, Kirklen Estates, was filed with the Vance County Register of Deeds, four (4) years after the installment sales contract was dated.

PP. In 1999, the exact date being unknown, the same prospective buyer/borrower who signed the installment sales contract dated November 1, 1995 purchased a manufactured home from Dynasty Homes.

FRAUDULENT DOWN PAYMENT SCHEME

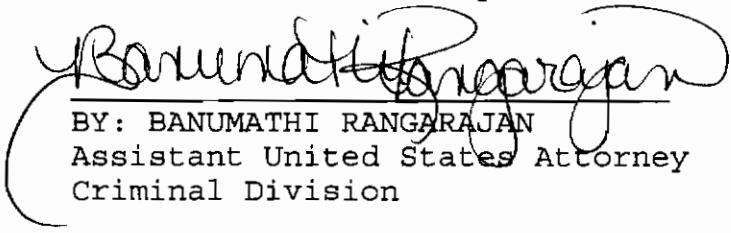
QQ. On December 20, 2000, a conspirator/employee of DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, Creative Real Estate and Manufacturing Housing Sales Center, caused a false HUD-1 Settlement Statement to be executed. The false HUD-1 Settlement Statement appeared as if the

buyer/borrower made a \$17,250 down payment when in fact the buyer/borrower did not make a down payment.

RR. On May 10, 2001, a conspirator/employee of DONALD W. GUPTON, INC., d/b/a Dynasty Homes of Henderson, Superior House Center, Creative Real Estate and Manufacturing Housing Sales Center, caused a false HUD-1 Settlement Statement to be executed. The false HUD-1 Settlement Statement appeared as if the buyer/borrower made a \$5,600 down payment when in fact the buyer/borrower only made a \$1,000 down payment.

All in violation of Title 18, United States Code, Section 371.

FRANK D. WHITNEY
United States Attorney


BY: BANUMATHI RANGARAJAN
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