

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

UNITED STATES OF AMERICA

v.

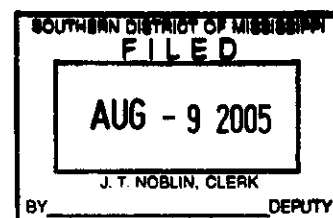
CRIMINAL NO. 3:05 cr 118 HTW-JCS

TOBY WAYNE GOSS

18 U.S.C. § 371
18 U.S.C. § 982
18 U.S.C. § 1343
18 U.S.C. § 1956(a)(1)(A)(i)
18 U.S.C. § 1956(h)
18 U.S.C. § 1957

The Grand Jury charges:

At all times relevant to this indictment:



1. Defendant **TOBY WAYNE GOSS** (hereinafter "**GOSS**") was a mortgage broker engaged in the business of obtaining loans for borrowers with various lenders for a fee.
2. **GOSS** was employed by Real Estate Funding Corporation in the late 1990's as a mortgage broker and was doing business in Hinds County in the Jackson Division of the Southern District of Mississippi and elsewhere.
3. During the time frames charged in this Indictment, **GOSS** was working as a mortgage broker in Hinds County in the Jackson Division of the Southern District of Mississippi and elsewhere, and doing business as Consolidated Mortgage Corporation and/or Mississippi Mortgage, Inc. (hereinafter "Mississippi Mortgage").

COUNT 1

THE CONSPIRACY

4. Beginning in or about June, 1999, and continuing through the date of this indictment, in Hinds County in the Jackson Division of the Southern District of Mississippi, and elsewhere, the

defendant, **TOBY WAYNE GOSS**, along with other persons known and unknown to the Grand Jury, did knowingly and willfully conspire, confederate, and agree together with others known and unknown to the Grand Jury, to commit one or more of the following offenses against the United States:

- A. To knowingly devise a scheme and artifice to defraud and to obtain money by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing the scheme or artifice, and attempting to do so, did place or cause to be placed in any post office or authorized depository for mail matter, documents to be sent or delivered by the Postal Service, or deposit or cause to be deposited documents to be sent or delivered by any private or commercial interstate carrier, in violation of Section 1341, Title 18, United States Code.
- B. To knowingly devise a scheme or artifice or intend to devise a scheme or artifice to defraud and to obtain money by means of materially false and fraudulent pretenses, representations, or promises and, for the purpose of executing the scheme, did transmit or cause to be transmitted by means of wire or radio communications in interstate commerce, any writings, signals or sounds, in violation of Section 1343, Title 18, United States Code.

OBJECT OF THE CONSPIRACY

5. It was an object of the conspiracy that **GOSS** and others would broker mortgages for a fee by obtaining new mortgages or refinancing existing mortgages for borrowers through various lenders.

6. It was further an object of the conspiracy that **GOSS** and others would match up prospective borrowers with mortgage lenders by preparing the loan application and supporting documents for each borrower and submitting the completed loan application package to a lender, all for a fee. No fee was paid to **GOSS** unless he was successful in obtaining a loan for the prospective borrower.

7. It was further an object of the conspiracy for **GOSS** and others to enrich themselves to the detriment of the borrowers and lenders by creating false and fictitious documents to ensure that mortgage loans would be granted to borrowers, which allowed **GOSS** to convert some of the proceeds for his own use and benefit.

MANNER AND MEANS

8. It was a part of the conspiracy that **GOSS** and others would prepare false and fictitious documents to insure that lenders would make mortgage loans to prospective borrowers. These documents included, but were not limited to, false verification of deposit (“VOD”) documents; false verification of rent (“VOR”) documents; and false documents verifying a borrower’s income, including false Internal Revenue Service W-2 forms and false Social Security benefit letters. **GOSS** would also make false entries on loan applications consistent with the false documents submitted to the lenders to obtain the loans. The false and fictitious documents, along with the loan application containing false information, would be included in each loan application packet submitted by **GOSS** and others to potential lenders.

9. It was further a part of the conspiracy that **GOSS** and others would create fictitious creditors to which borrowers allegedly were indebted. These fictitious creditors would be listed along with legitimate creditors on the HUD-1 Settlement Statement, or an attachment thereto, so that the closing attorney would issue a check out of the proceeds of the loan to the fictitious creditor. These checks were then given to **GOSS** and others, who would convert those funds to their own use and benefit to the detriment of the borrowers and the lender.

10. It was further a part of the conspiracy that from June, 1999, through the date of this indictment, **GOSS** and others successfully obtained loans for approximately 35 borrowers totaling

over \$2 million by creating false documentation and making false entries on documents submitted to the lenders to obtain the loans. **GOSS** used the United States mails, private and commercial carriers and interstate wires, generally by means of facsimiles, to accomplish the purposes of the conspiracy.

OVERT ACTS

In furtherance of the unlawful conspiracy and in order to accomplish the objectives thereof, the following overt acts, among others, were committed:

11. In or about 1998 or 1999, **GOSS** began working for Real Estate Funding, Inc. as a mortgage broker.

12. On or about August 8, 1999, **GOSS** caused a false VOD document to be transmitted to a lender, falsely verifying funds on deposit at a bank in the name of Borrower #25, for the purpose of obtaining a mortgage loan of approximately \$35,200.00 for Borrower #25.

13. On or about November 23, 1999, **GOSS** caused a false verification of mortgage document to be transmitted to a lender, falsely verifying that Borrower #4 had an existing mortgage with a certain lender, for the purpose of refinancing a mortgage loan for Borrower #4.

14. On or about March 17, 2000, **GOSS** caused a \$3,000.00 check to be issued to Integris Financial, an entity falsely alleged to be a creditor of Borrower #1, from the proceeds of a mortgage loan for approximately \$98,100.00 obtained on behalf of Borrower #1.

15. On or about April 26, 2000, **GOSS** caused a \$5,051.15 check to be issued to MS Loans, Inc., an entity falsely alleged to be a creditor of Borrower #23, from the proceeds of a mortgage loan for approximately \$78,400.00 obtained on behalf of Borrower #23.

16. On or about April 28, 2000, **GOSS** incorporated Mississippi Mortgage Corporation for the purpose of brokering loans for a fee.

17. On or about October 17, 2000, **GOSS** caused a false VOD document to be transmitted to a lender, falsely verifying funds on deposit at a bank in the name of Borrower #24, for the purpose of obtaining a mortgage loan of approximately \$52,500.00 for Borrower #24.

18. On or about November 23, 2000, **GOSS** caused a false VOD document to be transmitted to a lender, falsely verifying funds on deposit at a bank in the name of Borrower #34, for the purpose of obtaining a mortgage loan of approximately \$36,800.00 for Borrower #34.

19. On or about February 12, 2001, **GOSS** caused a false VOD document to be transmitted to a lender, falsely verifying funds on deposit at a bank in the name of Borrower #7, for the purpose of obtaining a mortgage loan of approximately \$54,000.00 for Borrower #7.

20. On or about March 10, 2001, **GOSS** caused a false VOR document to be transmitted to a lender, falsely verifying that Borrower #5 had paid \$400 per month rent to Delta Management since May, 1997, for the purpose of obtaining a mortgage loan of approximately \$39,500.00 for Borrower #5.

21. On or about March 28, 2001, **GOSS** caused a false VOR document to be transmitted to a lender, falsely verifying that Borrower #2 had paid \$340 per month rent to Delta Management since January, 1999, for the purpose of obtaining a mortgage loan of approximately \$38,250.00 for Borrower #2.

22. On or about December 20, 2001, **GOSS** caused a \$2,429.06 check to be issued to G & S Investments, an entity falsely alleged to be a creditor of Borrower #31, from the proceeds of a mortgage loan for approximately \$52,800.00 obtained on behalf of Borrower #31.

23. On or about May 1, 2002, **GOSS** caused a false and fictitious form W-2, showing Capital City Construction as the employer for Borrower #10, to be transmitted to a lender for the purpose of obtaining a mortgage loan of approximately \$52,000.00 for Borrower #10.

24. On or about May 10, 2002, **GOSS** caused a false and fictitious form W-2, showing G & S Investments as the employer for Borrower #13, to be transmitted to a lender for the purpose of obtaining a mortgage loan of approximately \$118,400.00 for Borrower #13.

25. On or about June 26, 2002, **GOSS** caused a loan application containing false information, listing Tri-County Properties as a creditor and G & S Investments as an employer, to be transmitted to a lender for the purpose of obtaining a mortgage loan for himself for approximately \$274,500.00.

26. On or about July 25, 2002, **GOSS** caused a false and fictitious form W-2, showing G & S Investments as the employer for Borrower #27, to be transmitted to a lender for the purpose of obtaining a mortgage loan of approximately \$114,000.00 for Borrower #27.

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

COUNTS 2-9

27. The allegations contained in paragraphs 1-3 and 5-10 of this indictment are hereby realleged and incorporated herein as constituting and describing the scheme and artifice to defraud charged in Counts 2 through 9.

28. Beginning on or about October, 2000, and continuing through August, 2002, in Hinds County, in the Jackson Division of the Southern District of Mississippi and elsewhere, the defendant, **TOBY WAYNE GOSS**, aided and abetted by others known and unknown to the Grand Jury, knowingly and intentionally devised, intended to devise and carried out and attempted to carry out

a scheme to defraud borrowers and lenders and to obtain money by materially false and fraudulent pretenses, representations and promises.

29. It was a part of the scheme that **GOSS** and other affiliated mortgage brokers would seek out prospective borrowers and attempt to qualify them for a home mortgage, typically one that the borrower could not afford.

30. It was a part of the scheme that **GOSS** and other mortgage brokers would obtain the basic information from the borrower. Thereafter, in order to qualify the borrower for the mortgage, **GOSS** or others at his direction, would enter false information onto the loan application forms in an effort induce the lender to make the loan.

31. It was further a part of the scheme that **GOSS** and others would prepare or obtain false documents, which would also be submitted to the lender, to support the false information contained on the loan application, including but not limited to, false VODs, false VORs, false VOMs, and false Internal Revenue Service W-2 forms. to verify income. By creating and submitting these false documents, **GOSS** enabled unqualified borrowers to obtain mortgages.

32. It was further a part of the scheme that **GOSS** and others would cause fictitious creditors to be listed on a borrower's HUD-1 Settlement Statement showing that the borrower owed money to a fictitious entity when in fact no such debt was owed. **GOSS** and others would receive these checks made payable to fictitious entities on or about the closing date of the loan.

33. It was further a part of the scheme that **GOSS** and others, knowing that many of the borrowers were unable to afford a down payment, would provide the borrower with the cash for the down payment. This would be accomplished by depositing currency directly into the borrower's account or by purchasing a cashier's check in the name of the borrower. **GOSS** or others at his

direction would falsely list that the borrower would provide cash at closing or had funds for the down payment on the loan application and on occasion would provide a false and fraudulent VOD purporting to come from the borrower's bank. By falsely and fraudulently making it appear that the buyer would provide cash at closing or had made his own down payment, **GOSS** created the appearance of a qualified and secured mortgage, thus making the mortgage more marketable and saleable to a mortgage investor.

34. For the purpose of executing the scheme and in furtherance of the scheme, **GOSS** caused to be transmitted by means of wire or radio communications in interstate commerce, certain writings, signals or sounds. These wire transmissions in interstate commerce consisted of funds wire transferred into Trustmark National Bank Account No. XXX-XXX-3550, located in the Jackson Division of the Southern District of Mississippi, from places outside of Mississippi, on or about the dates set forth below:

<u>COUNT</u>	<u>DATE</u>	<u>DESCRIPTION</u>
2	10/6/00	\$48,093.50 wire transferred into Trustmark National Bank to fund a mortgage loan for Borrower #29.
3	10/25/00	\$53,049.00 wire transferred into Trustmark National Bank to fund a mortgage loan for Borrower #24.
4	12/6/00	\$36,975.50 wire transferred into Trustmark National Bank to fund a mortgage loan for Borrower #34.
5	12/12/00	\$43,503.00 wire transferred into Trustmark National Bank to fund a mortgage loan for Borrower #21.
6	3/15/01	\$40,190.28 wire transferred into Trustmark National Bank to fund a mortgage loan for Borrower #5.
7	2/27/01	\$54,505.67 wire transferred into Trustmark National Bank to fund a mortgage loan for Borrower #7.

- | | | |
|---|----------|---|
| 8 | 4/6/01 | \$37,824.15 wire transferred into Trustmark National Bank to fund a mortgage loan for Borrower #2. |
| 9 | 12/20/01 | \$51,952.36 wire transferred into Trustmark National Bank to fund a mortgage loan for Borrower #31. |

All in violation of Sections 1343 and 2, Title 18, United States Code.

COUNT 10

35. The allegations contained in paragraphs 1-3 and 28-33 of this indictment are hereby realleged and incorporated herein as if fully set forth in this paragraph.

THE MONEY LAUNDERING CONSPIRACY

36. Beginning on or about March, 2000, and continuing through March, 2002, in Hinds County, in the Jackson Division of the Southern District of Mississippi and elsewhere, the defendant **TOBY WAYNE GOSS** did knowingly conspire with other persons both known and unknown to the Grand Jury to commit the following offenses against the United States:

to conduct and attempt to conduct financial transactions affecting interstate commerce, which transactions involved the proceeds of specified unlawful activity, that is, mail fraud and/or wire fraud, with the intent to promote the carrying on of such specified unlawful activity, in violation of Section 1956(a)(1)(A)(i), Title 18, United States Code;

All in violation of Section 1956(h), Title 18, United States Code.

OBJECT OF THE CONSPIRACY

37. It was the object of the conspiracy for the co-conspirators to use lenders' and borrowers' money, which was derived from mail fraud and/or wire fraud, to conduct various financial transactions which would enrich themselves to the detriment of the lenders and borrowers by converting some of the proceeds of mortgage loans to their own use and benefit.

MANNER AND MEANS OF THE CONSPIRACY

38. It was a part of the conspiracy that **GOSS** and others would create false and fraudulent documents, to be submitted along with borrowers' loan applications, to induce lenders to make mortgage loans to borrowers who would not have qualified for the loans but for the fraudulent information provided by **GOSS** and others to the lenders. **GOSS** and others successfully obtained loans for approximately 35 borrowers totaling over \$2 million by creating false documentation and making false entries on documents submitted to the lenders to obtain the loans.

39. It was further a part of the conspiracy that an unindicted co-conspirator would issue checks to **GOSS** representing mortgage broker fees for each of the fraudulently obtained loans to induce **GOSS** to continue his participation in the conspiracy.

40. It was further a part of the conspiracy that an unindicted co-conspirator would issue checks to fictitious creditors for some of the fraudulently obtained loans and forward those checks to **GOSS** to induce him to continue his participation in the conspiracy.

OVERT ACTS IN FURTHERANCE OF THE CONSPIRACY

In furtherance of the unlawful money laundering conspiracy and in order to accomplish the objectives thereof, the following overt acts, among others, were committed:

41. On or about March 17, 2000, an unindicted co-conspirator issued a check to MS Loans for \$2,000.00, out of the proceeds of a mortgage loan to Borrower #1.

42. On or about October 24, 2000, an unindicted co-conspirator issued a check to Mississippi Mortgage, Inc. for \$2,866.30, out of the proceeds of a mortgage loan to Borrower #24.

43. On or about December 7, 2000, an unindicted co-conspirator issued a check to Mississippi Mortgage, Inc. for \$2,596.00, out of the proceeds of a mortgage loan to Borrower #34.

44. On or about December 12, 2000, an unindicted co-conspirator issued a check to Mississippi Mortgage, Inc. for \$2,250.00, out of the proceeds of a mortgage loan to Borrower #21.

45. On or about December 12, 2000, an unindicted co-conspirator issued a check to Mississippi Mortgage, Inc. for \$2,714.00, out of the proceeds of a mortgage loan to Borrower #21.

46. On or about February 27, 2001, an unindicted co-conspirator issued a check to T. G. Financial Services for \$1,116.50, out of the proceeds of a mortgage loan to Borrower #7.

47. On or about March 15, 2001, an unindicted co-conspirator issued a check to Mississippi Mortgage for \$2,393.00, out of the proceeds of a mortgage loan to Borrower #5.

48. On or about April 1, 2001, an unindicted co-conspirator issued a check to Mississippi Mortgage for \$1,530.00, out of the proceeds of a mortgage loan to Borrower #2.

All in violation of Section 1956(h), Title 18, United States Code.

COUNTS 11-18

49. The allegations contained in paragraphs 1-10 and 28-33 of this indictment are hereby realleged and incorporated herein as constituting and describing the scheme and artifice to defraud from which the proceeds to participate in these money laundering transactions was derived.

50. On or about the dates set forth below, in Hinds County, in the Jackson Division of the Southern District of Mississippi and elsewhere, the defendant, **TOBY WAYNE GOSS**, together with others known and unknown to the Grand Jury, did knowingly conduct and attempt to conduct the following financial transactions affecting interstate commerce, which transactions involved the proceeds of specified unlawful activity, that is, mail fraud and wire fraud, with the intent to promote the carrying on of such specified unlawful activity, and that while conducting and attempting to

conduct such financial transactions, knew that the property involved in the financial transactions, that is funds, represented the proceeds of some form of unlawful activity:

<u>COUNT</u>	<u>DATE</u>	<u>BORROWER #</u>	<u>CHECK#</u>	<u>FINANCIAL INSTITUTION</u>	<u>AMOUNT</u>
11	3/17/00	1	20304	Trustmark National Bank	\$2,000.00
12	10/24/00	24	7893	Trustmark National Bank	\$2,866.30
13	12/7/00	34	1699	Trustmark National Bank	\$2,596.00
14	12/12/00	21	1728	Trustmark National Bank	\$2,250.00
15	12/12/00	21	1727	Trustmark National Bank	\$2,714.00
16	2/27/01	7	2387	Trustmark National Bank	\$1,116.50
17	3/15/01	5	9284	Trustmark National Bank	\$2,393.00
18	4/1/01	2	9554	Trustmark National Bank	\$1,530.00

All in violation of Section 1956(a)(1)(A)(i), Title 18, United States Code.

COUNT 19

51. The allegations contained in paragraphs 1-10 and 28-33 of this indictment are hereby realleged and incorporated herein as constituting and describing the scheme and artifice to defraud from which the proceeds to participate in these money laundering transactions was derived.

52. On or about ^{March 24, 2002,} in Hinds County in the Southern District of Mississippi and elsewhere, the defendant, **TOBY WAYNE GOSS**, aided and abetted by others known and unknown to the Grand Jury, knowingly engaged and attempted to engage in a monetary transaction by, through, or to a financial institution, affecting interstate commerce, in criminally derived property that was of a value greater than \$10,000.00, that is issuing Check No. 2793 in the amount of \$13,000.00 from an account over which he had custody and control at Trustmark National Bank for the purpose of

making a down payment on the purchase of a house, such funds being derived from a specified unlawful activity, that is wire fraud and/or mail fraud, all in violation of Section 1957, Title 18, United States Code.

COUNT 20

53. As a result of the offenses alleged in Counts 10 through 19, the defendant, **TOBY WAYNE GOSS**, shall forfeit to the United States all property, real and personal, involved in the aforesaid offenses and all property traceable to such property, including but not limited to:

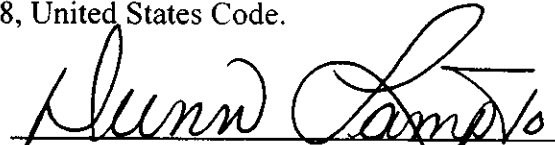
a. Approximately **\$2.2 million** in United States Currency and all interest and proceeds thereto, in that such sum in aggregate is property which was involved in the aforesaid offenses or is traceable to such property, in violation of Sections 982, 1956 and 1957, Title 18, United States Code.

b. If any of the property described above as being subject to forfeiture, as a result of any act or omission of any defendant –

- (1) Cannot be located upon the exercise of due diligence;
- (2) Has been transferred or sold to or deposited with a third person;
- (3) Has been placed beyond the jurisdiction of the Court;
- (4) Has been substantially diminished in value; or
- (5) Has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Section 982(b)(1) Title 18, United States Code, to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property, that is approximately **\$2.2 million**.

All in violation of Section 982(a)(1), Title 18, United States Code.



DUNN LAMPTON
United States Attorney