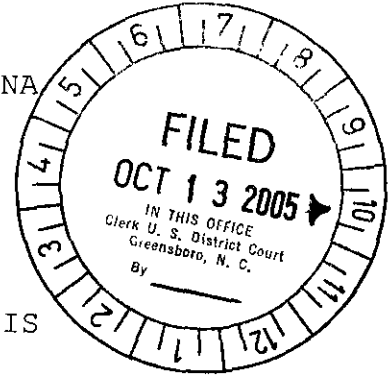


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA : 1:05CR230-3
 :
 v. :
 :
 RICK FRANKLIN SHUMATE : FACTUAL BASIS



NOW COMES the United States of America, by and through Anna Mills Wagoner, United States Attorney for the Middle District of North Carolina, and as a factual basis under Rule 11, Federal Rules of Criminal Procedure, states the following:

Investigation by federal law enforcement officers, including review of voluminous documents and interviews with numerous individuals, revealed that from approximately August 1999, through January 2001, Phillip Wayne Middlebrooks and Charles Richardson, Jr., with the assistance of others (including in most instances a mortgage broker from Oasis Mortgage Company), caused multiple fraudulent real estate transactions in and around Guilford County, North Carolina, resulting in losses to mortgage lenders. As part of the scheme, Middlebrooks and Richardson identified real property for sale, recruited straw-buyers to obtain mortgage loans to purchase the real property at prices substantially above the actual sales prices, and provided or caused the provision of false information to mortgage lenders about the straw-buyers (for example, as to the straw-buyers' employment and the straw-buyers' intent to use the real property

as a primary residence) to secure mortgage loans in the straw-buyers' names to finance these deals.

During this process, Middlebrooks and Richardson routinely completed paperwork (such as sales contracts) reflecting that they owned the various pieces of property when in fact they did not then own such property. Middlebrooks and Richardson enlisted the services of Defendant Rick Franklin Shumate in connection with closing these transactions. Before providing financing, mortgage lenders required the submission of a preliminary opinion of title. Under North Carolina law, this preliminary opinion of title must be given by a licensed attorney. Defendant Shumate submitted or caused the submission of preliminary opinions of title for numerous transactions involving Middlebrooks and Richardson which reflected that said individuals owned property which they in fact then did not own. These actions (by Middlebrooks, Richardson, and Defendant Shumate) had the effect of concealing from the mortgage lenders the fact that the properties were being "flipped" at inflated prices under suspicious circumstances.

After fraudulently securing financing for the straw-buyers (and unbeknownst to the mortgage lenders), Middlebrooks and Richardson (with assistance from Defendant Shumate) structured the transactions as "double-closings" in which they purchased the real property at the lower price and simultaneously resold it to

the straw-buyers at the higher price (based on which the mortgage loans were made). Funds from the mortgage loans in the straw-buyers' names covered payments to the original sellers (and/or the original sellers' mortgage lenders) and, after the payment of closing costs, Middlebrooks and Richardson skimmed off the "equity," i.e., the difference between the original sales prices and the amounts of the mortgage loans in the straw-buyers' names.

Middlebrooks and Richardson paid (or promised to pay) kick-backs to the straw-buyers for participating in the scheme and deceived the straw-buyers into believing that Middlebrooks and Richardson would make the mortgage payments and would transfer the real property out of the straw-buyers' names. Although Middlebrooks and Richardson collected rents for real property held in the names of straw-buyers, they did not keep up mortgage payments and instead allowed real property to go into foreclosure (causing losses to mortgage lenders and damaging the straw-buyers' credit, not that of Middlebrooks and Richardson).

The transactions in question included the purchase of four different properties in the name of Paul Hairston from on or about June 19, 2000, to on or about August 14, 2000. In each of these four transactions (two of which occurred on successive days), Defendant Shumate had Hairston execute multiple documents required by the mortgage lenders stating that Hairston was purchasing each property as a primary residence which he intended

to occupy. The documents in question included the deeds of trust for each property. According to Hairston, Defendant Shumate did not review the documents with him, but rather simply folded each succeeding page over to the spot where Hairston was to sign and directed him to do so.

Defendant Shumate then forwarded these documents which falsely declared that Hairston would occupy each of the properties as his primary residence to the mortgage lenders in order to complete the closing process. According to Hairston, Defendant Shumate did not provide copies of the closing documents to Hairston as the mortgage lenders had instructed, thus indicating that Defendant Shumate recognized Hairston was not a true party to the transactions. Defendant Shumate also closed other transactions for Richardson and Middlebrooks in which a single straw-buyer purchased multiple properties as owner-occupied, primary residences.

Federal law enforcement officials interviewed Defendant Shumate about his involvement in these activities on August 27, 2004. During that interview, Defendant Shumate acknowledged that, under North Carolina law, in closings, he represented the mortgage lender as well as the buyer and/or seller. Defendant Shumate further advised that, as part of the closing process, he reviewed the documents involved with the buyer, including specifically the deed of trust. According to Defendant Shumate,

in the past, he had declined to go through with closings when he became aware of discrepancies as to whether a buyer obtaining a primary residence loan actually would occupy the property because he knew mortgage lenders had different requirements for lending on primary residences versus investment properties.

In addition, Defendant Shumate asserted that he would not close transactions for one person to purchase four properties each as a primary residence. However, Defendant Shumate stated that, in connection with the closings he conducted for Richardson and Middlebrooks, he did not realize that individuals purchased multiple properties as primary residences. If believed, that statement would have had the effect of influencing federal law enforcement officials' assessment of Defendant Shumate's culpability for participating in these fraudulent transactions.

This the 13th day of October, 2005.

Respectfully submitted,

ANNA MILLS WAGONER
United States Attorney



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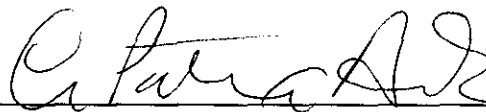
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is an employee in the Office of the United States Attorney for the Middle District of North Carolina and is a person of such age and discretion as to be competent to serve papers.

That on the 13th day of October, 2005, he served a true and correct copy of the foregoing FACTUAL BASIS by hand-delivery to:

William L. Osteen, Jr.
A. Wayland Cooke



L. PATRICK AULD
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