

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

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UNITED STATES OF AMERICA)

v.)

THOMAS KOMASA)
HEIDI KOMASA)

Crim. No. 2:10-CR-72-1-2

(18 U.S.C. §§ 1341,
1343, 1344, 1349)

INDICTMENT

The grand jury charges:

1. In approximately 1995, Thomas Komasa and Heidi Choiniere began living together. The couple eventually married.

2. At all times material to this indictment, National City Mortgage Corp. was a wholly-owned subsidiary of National City Bank, a financial institution whose deposits were then insured by the Federal Deposit Insurance Corporation.

3. In 2000, Thomas Komasa purchased a home on Maguam Shore Road in Swanton, Vermont. Komasa financed the purchase with a mortgage from National City Mortgage.

4. In 2001, Komasa refinanced his Maguam Shore Road residence by obtaining a mortgage from Option One Mortgage Corp. With the proceeds of this refinancing, Komasa paid off the National City Mortgage loan.

5. In 2003, the mortgage holder instituted foreclosure

proceedings on Komasa's Maguam Shore Road home. Eventually, in 2006, the mortgage holder obtained a writ of possession and took title to the property.

THE SCHEME TO DEFRAUD

6. Beginning in 2004 and continuing through 2006, Thomas and Heidi Komasa devised a scheme to purchase parcels of residential real estate in Chittenden County, Vermont for investment purposes. The Komasas financed each purchase by taking out a substantial loan on each property. As property values increased, the Komasas frequently refinanced these mortgage loans, taking cash out of their equity in the properties and using that cash for investment and other purposes.

7. As part of the scheme, Heidi Komasa applied for each loan in her name. It was part of the scheme that Heidi Komasa, aided by Thomas Komasa, would provide materially false information in the mortgage applications about the Komasas' income, about their assets and liabilities, and about their intention to occupy the premises as a principal residence. It was further part of the scheme that Thomas and Heidi Komasa would provide lenders with false and fraudulent documentation, including falsified tax returns, falsified verifications of mortgage accounts and falsified statements from accountants or

persons who purported to be accountants. As a result of these false representations and statements, the Komosas were able to obtain mortgage loans for which they otherwise were not qualified.

40 High Grove Court, Burlington

8. On or about September 27, 2004, the Komosas purchased a condominium at 40 High Grove Court, Unit 10, in Burlington for \$312,000. They financed this purchase with a \$249,600 mortgage from American Home Mortgage Acceptance, Inc. The mortgage application, signed by Heidi Komasa, contained the following materially false representations, statements or omissions, or falsified documentation:

- a. That Heidi Komasa's monthly income was \$10,000.
- b. A Verification of Mortgage which stated that Robert White held a private mortgage on the Komosas' residence on Maguam Shore Road in Swanton and that they were current in their payments.
- c. A letter, purporting to be on the letterhead of O.P.M. Accounting Services, and purportedly bearing the signature of Robert Jordan, CPA, advising that Jordan had for seven years served as the CPA for Zeus Builders and Development, Inc., a company owned by the Komosas.

9. On or about July 22, 2005, the Komosas refinanced this property by obtaining two cash-out loans, one for \$269,500 and a second loan for \$77,000, from American Home Mortgage. The mortgage application, signed by Heidi Komasa, contained the following materially false representations, statements or omissions, or falsified documentation:

a. That Heidi Komasa's monthly income was \$6,667.

10. On or about November 4, 2005, the Komosas refinanced the \$77,000 American Home Mortgage loan on 40 High Grove Court by obtaining a \$121,000 cash-out second mortgage from Corinthian Mortgage Corp. The mortgage application, signed by Heidi Komasa, contained the following materially false representations, statements or omissions, or falsified documentation:

a. That Heidi Komasa's monthly income was \$16,666.

b. Failing to disclose that the Komosas owned real property at 211 Elmwood Avenue, Burlington and had a significant monthly payment on that mortgage loan.

11. On or about June 1, 2006, after the Komosas were in default on this loan, they faxed the lender a falsified IRS Form 1040 which purported to show that during tax year 2005, the Komosas had \$15,600 in taxable income.

3871 Shelburne Road, Shelburne

12. On or about July 6, 2005, the Komasas purchased a single-family residence at 3871 Shelburne Road in Shelburne for \$440,000. They financed this purchase with a \$440,000 mortgage from Option One Mortgage Co. The mortgage application, signed by Heidi Komasa, contained the following materially false representations, statements or omissions, or falsified documentation:

- a. That Heidi Komasa's monthly income was \$16,500.
- b. Falsely asserting that the Komasas intended to occupy 3871 Shelburne Road as their primary residence.

13. On or about January 6, 2006, the Komasas refinanced this property by obtaining a \$61,650 cash-out second mortgage from Quicken Loans Inc. The mortgage application, signed by Heidi Komasa, contained the following materially false representations, statements or omissions, or falsified documentation:

- a. That Heidi Komasa's monthly income was \$18,333.
- b. That on the date of the application, the Komasas occupied the property as their primary residence.
- c. Failing to disclose that the Komasas owned real property at 74 Overlake Park, Burlington and owed

approximately \$1,000,000 on that mortgage loan.

211 Elmwood Avenue, Burlington

14. On or about September 23, 2005, the Komosas purchased a single family residence at 211 Elmwood Avenue in Burlington for \$225,000. They financed this purchase with a \$213,750 mortgage from National City Mortgage Co. The mortgage application, signed by Heidi Komasa, contained the following materially false representations, statements or omissions, or falsified documentation:

- a. That Heidi Komasa's monthly income was \$10,000.
- b. That the Komosas had \$60,000 in two accounts at New England Federal Credit Union.
- c. Inflating the value of real property owned at 3871 Shelburne Road, Shelburne.
- d. Failing to disclose the substantial mortgages encumbering the properties at 40 High Grove Court and 3871 Shelburne Road.
- e. Falsely asserting that the Komosas intended to occupy 211 Elmwood Avenue as their primary residence.

15. On or about January 27, 2006, the Komosas refinanced this property by obtaining a \$295,200 cash-out loan from National City Mortgage. The mortgage application, signed by Heidi Komasa,

contained the following materially false representations, statements or omissions, or falsified documentation:

- a. That Heidi Komasa's monthly income was \$20,000.
- b. That the Komasas had more than \$27,000 in an account at New England Federal Credit Union.
- c. Inflating the value of real property owned at 3871 Shelburne Road, Shelburne.
- d. Failing to disclose that the Komasas owned real property at 74 Overlake Park, Burlington and owed approximately \$1,000,000 on that mortgage loan.
- e. Falsely asserting that the Komasas intended to occupy 211 Elmwood Avenue as their primary residence.

74 Overlake Park, Burlington

16. On or about November 14, 2005, the Komasas purchased a single-family residence at 74 Overlake Park in Burlington for \$1,000,000. They financed this purchase with an \$800,000 mortgage and a \$200,000 mortgage, both from American Brokers Conduit. The mortgage application, signed by Heidi Komasa, contained the following materially false representations, statements or omissions, or falsified documentation:

- a. Overstating the fair market value of real property at

40 High Grove Court and understating the amount of the mortgage encumbering that property.

- b. Failing to disclose that the Komosas owned real property at 3871 Shelburne Road and 211 Elmwood Avenue and owed substantial monthly mortgage payments on those properties.

3 Spring Street, Burlington

17. On or about January 11, 2006, the Komosas purchased a single family residence at 3 Spring Street in Burlington for \$178,500. They financed this purchase with a \$160,650 mortgage from National City Mortgage. The mortgage application, signed by Heidi Komasa, contained the following materially false representations, statements or omissions, or the following falsified documentation:

- a. That Heidi Komasa's monthly income was \$20,000.
- b. Failing to disclose that the Komosas owned real property at 74 Overlake Park, Burlington and owed approximately \$1,000,000 on that mortgage loan.
- c. That the Komosas then resided at 211 Elmwood Avenue.

18. In July 2006, the Komosas sold the 3 Spring Street property for \$194,000 and paid off the mortgage. They defaulted

on the loans on 40 High Grove Court, 3871 Shelburne Road, 211 Elmwood Avenue and 74 Overlake Park. Those properties were foreclosed upon and the lenders suffered substantial losses as a result.

COUNT 1

19. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

20. Beginning in 2004 and continuing until 2006, in the District of Vermont, the defendants Thomas and Heidi Komasa knowingly and willfully conspired and agreed with each other to commit the following offenses under chapter 63 of Title 18 of the United States Code:

- (a) mail fraud, in violation of 18 U.S.C. § 1341;
- (b) wire fraud, in violation of 18 U.S.C. § 1343; and
- (c) bank fraud, in violation of 18 U.S.C. § 1344.

(18 U.S.C. § 1349)

COUNT 2

21. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

22. On or about July 6, 2005, in the District of Vermont and elsewhere, the defendants Thomas and Heidi Komasa, having devised the scheme and artifice to defraud and for obtaining money from Option One Mortgage Co. by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, caused to be sent and delivered by commercial interstate carrier, from Vermont to a location outside Vermont, a mortgage application containing false and fraudulent statements.

(18 U.S.C. §§ 1341 & 2)

COUNT 3

23. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

24. On or about July 22, 2005, in the District of Vermont and elsewhere, the defendants Thomas and Heidi Komasa, having devised the scheme and artifice to defraud and for obtaining money from American Home Mortgage Acceptance Corp. by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, caused to be sent and delivered by commercial interstate carrier, from Vermont to a location outside Vermont, a mortgage application containing false and fraudulent statements.

(18 U.S.C. §§ 1341 & 2)

COUNT 4

25. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

26. On or about September 23, 2005, in the District of Vermont and elsewhere, the defendants Thomas and Heidi Komasa, having devised the scheme and artifice to defraud and for obtaining money owned by and under the custody and control of National City Mortgage Corp. and National City Bank, financial institutions, by means of materially false and fraudulent pretenses, representations and promises, knowingly executed and attempted to execute such scheme by causing to be sent to the lenders a mortgage application containing false and fraudulent statements.

(18 U.S.C. §§ 1344 & 2)

COUNT 5

27. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

28. On or about November 10, 2005, in the District of Vermont and elsewhere, the defendants Thomas and Heidi Komasa, having devised the scheme and artifice to defraud and for obtaining money from Corinthian Mortgage Corp. by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, caused a wire communication in interstate commerce, to wit, the wire transfer of \$36,097.89 from a location outside Vermont to a New England Federal Credit Union account in Vermont in the name of Heidi Komasa.

(18 U.S.C. §§ 1343 & 2)

COUNT 6

29. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

30. On or about November 11, 2005, in the District of Vermont and elsewhere, the defendants Thomas and Heidi Komasa, having devised the scheme and artifice to defraud and for obtaining money from American Brokers Conduit by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, caused to be transmitted, by means of wire communication in interstate commerce, from a location inside Vermont to a location outside Vermont, certain documents relating to their mortgage application.

(18 U.S.C. §§ 1343 & 2)

COUNT 7

31. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

32. On or about January 6, 2006, in the District of Vermont and elsewhere, the defendants Thomas and Heidi Komasa, having devised the scheme and artifice to defraud and for obtaining money from Quicken Loans Inc. by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, caused a wire communication in interstate commerce, to wit, the wire transfer of \$60,224.86 from a location outside Vermont to a New England Federal Credit Union account in Vermont in the name of Heidi Komasa.

(18 U.S.C. §§ 1343 & 2)

COUNT 8

33. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

34. On or about January 11, 2006, in the District of Vermont and elsewhere, the defendants Thomas and Heidi Komasa, having devised the scheme and artifice to defraud and for obtaining money owned by and under the custody and control of National City Mortgage Corp. and National City Bank, financial institutions, by means of materially false and fraudulent pretenses, representations and promises, knowingly executed and attempted to execute such scheme by causing to be sent to the lenders a mortgage application containing false and fraudulent statements.

(18 U.S.C. §§ 1344 & 2)

COUNT 9

35. The grand jury repeats and realleges paragraphs 1-18 of this indictment.

36. On or about January 27, 2006, in the District of Vermont and elsewhere, the defendants Thomas and Heidi Komasa, having devised the scheme and artifice to defraud and for obtaining money owned by and under the custody and control of National City Mortgage Corp. and National City Bank, financial institutions, by means of materially false and fraudulent pretenses, representations and promises, knowingly executed and attempted to execute such scheme by causing to be sent to the lenders a mortgage application containing false and fraudulent statements.

(18 U.S.C. §§ 1344 & 2)

A TRUE BILL



TRISTRAM J. COFFIN (GLW)
United States Attorney

Burlington, Vermont
April 22, 2010