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EASTERN DISTRICT OF CALIFORNIA
BY DEPUTY CLERK

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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,) CASE NO. CR S 08-376 EJG
12)
Plaintiff,) VIOLATIONS: 18 U.S.C. § 1341 -
13 v.) Mail Fraud (42 Counts); 18
14) U.S.C. § 1014 - False Statements
GARRET GRIFFITH GILILLAND III,) in Loan Applications (3 Counts);
15) 18 U.S.C. § 1957 - Money
WILLIAM E. BAKER,) Laundering (4 Counts); 31
16) U.S.C. § 5332 - Bulk Cash
SHANE BURRESON,) Smuggling; 18 U.S.C. §
17) 982(a)(1), 18 U.S.C. §
LEONARD WILLIAMS,) 981(a)(1)(C), 28 U.S.C. 2461(c),
18) and 31 U.S.C. § 5332(b)(2) -
NICOLE MAGPUSAO,) Criminal Forfeiture
19)
NICHE FORTUNE,)
20)
KESHA HAYNIE, and)
21)
REMY HENG,)
22)
Defendants.)

23 S E C O N D S U P E R S E D I N G I N D I C T M E N T

24 COUNTS ONE THROUGH THIRTY-SIX: [18 U.S.C. § 1341 - Mail Fraud]

25 The Grand Jury charges:

26 GARRET GRIFFITH GILILLAND III,
27 WILLIAM E. BAKER,
SHANE BURRESON,
28 CHRISTOPHER M. CHIAVOLA,
BRANDON RESENDEZ,
LEONARD WILLIAMS, and
NICOLE MAGPUSAO,

defendants herein, as follows:

I. INTRODUCTION

1
2 1. From approximately in or about January 2006 through in or
3 about May 2008, defendants GARRET GRIFFITH GILILLAND III, WILLIAM E.
4 BAKER, SHANE BURRESON, CHRISTOPHER M. CHIAVOLA, BRANDON RESENDEZ, and
5 NICOLE MAGPUSAO resided in Butte County, in the State and Eastern
6 District of California. Defendant LEONARD WILLIAMS resided in
7 Sacramento County, in the State and Eastern District of California.

8 2. From approximately in or about October 2006 through in or
9 about May 2008, defendant GILILLAND and other individuals known and
10 unknown to the Grand Jury operated an unlicensed mortgage and real
11 estate brokerage under the name of "Norcal Innovative Investments,
12 Inc.," located first at 2571 Cal Park Drive, Chico, California and
13 then at defendant GILILLAND's residence at 824 Whispering Winds Lane,
14 Chico, California.

15 3. On or about November 15, 2006, defendant GILILLAND caused to
16 be incorporated in California the following entities: G III
17 Construction, Inc. ("G III"); GIG Enterprises, Inc. ("GIG Enterprises"
18 or "GIG"); and Norcal Innovative Investments, Inc. ("NCII").
19 Defendant GILILLAND maintained control over G III and GIG Enterprises.
20 Defendant GILILLAND and defendant BURRESON jointly controlled NCII.
21 At times, NCII operated under the name of Creative Funding
22 Consultants.

23 4. At all times relevant to this Second Superseding Indictment,
24 G III, maintained bank accounts at Wells Fargo Bank, over which
25 defendant GILILLAND exercised control. GIG Enterprises maintained a
26 bank account at Tri Counties Bank, over which defendant GILILLAND
27 exercised control. NCII maintained a bank account at Tri Counties
28 Bank, over which defendants GILILLAND and BURRESON jointly exercised

1 control.

2 5. At all times relevant to this Second Superseding Indictment,
3 defendant GILILLAND maintained personal bank accounts at Wells Fargo
4 Bank and Bank of America. Defendant GILILLAND and defendant BURRESON
5 also maintained a personal bank account at Tri Counties Bank, over
6 which they shared signatory authority on the account.

7 6. From approximately July 2006 to approximately April 2007,
8 Defendant CHRISTOPHER M. CHIAVOLA worked with defendants GILILLAND and
9 BURRESON at NCII. Defendant CHIAVOLA used bank accounts at Washington
10 Mutual Bank in the name of CMC Property Management to receive funds
11 that were obtained as part of the scheme to defraud described herein.

12 7. During 2006, defendant BRANDON RESENDEZ worked with
13 defendants GILILLAND, BURRESON, and CHIAVOLA at NCII. Defendant
14 RESENDEZ used "Plan B Group, Inc.," a Wyoming Corporation, to receive
15 funds that were obtained as part of the scheme to defraud described
16 herein. As part of the scheme, defendant RESENDEZ purchased property
17 in his own name.

18 8. At all times relevant to this Second Superseding Indictment,
19 defendant LEONARD WILLIAMS was a real estate salesperson licensed in
20 the State of California. Defendant WILLIAMS used a bank account at
21 U.S. Bank in the name of Diamond Hill Financial, Inc. to receive funds
22 that were obtained as part of the scheme to defraud described herein.

23 9. At all times relevant to this Second Superseding Indictment,
24 Anthony G. Symmes (who is charged elsewhere), operated a construction
25 business and operated the following land-development corporations:
26 Mariposa Traditions, Inc.; Ceanothus Traditions, Inc.; Mariposa Vista,
27 Inc.; Rockin M, Inc.; Floral Arrangement, Inc.; Aspire Homes, Inc.,
28 and others.

1 10. At all times relevant to this Second Superseding Indictment,
2 defendant WILLIAM E. BAKER operated a construction business called
3 Baker & Baker Construction, which was a general building contractor
4 licensed in the State of California. Baker & Baker Construction
5 operated in and around Chico and Paradise, California.

6 11. As used in this Second Superseding Indictment, the term
7 "80/20" financing refers to a kind of real estate financing in which
8 two loans - one for 80% of the purchase price, the second for 20% of
9 the purchase price - combine to finance all or substantially all of
10 the purchase price of a residential real property.

11 II. THE SCHEME TO DEFRAUD

12 12. Beginning not later than in or about October 2006 and
13 continuing through in or about May 19, 2008, in the State and Eastern
14 District of California, and elsewhere, defendants GARRET GRIFFITH
15 GILILLAND III, WILLIAM E. BAKER, SHANE BURRESON, CHRISTOPHER M.
16 CHIAVOLA, BRANDON RESENDEZ, LEONARD WILLIAMS, NICOLE MAGPUSAO, and
17 others known and unknown to the Grand Jury (including Anthony G.
18 Symmes), did knowingly devise and intend to devise a material scheme
19 and artifice to defraud residential real property lenders and
20 participants in the secondary loan market and to obtain property by
21 means of materially false and fraudulent pretenses, representations
22 and promises. As a result of the scheme to defraud, the purchases
23 were 100% financed through lenders using so called "80/20 loans,"
24 which loans totaled approximately \$21 million in aggregate value.
25 Bank accounts controlled by defendants GILILLAND, BURRESON, and
26 others, received over \$2 million in fraud proceeds, and defendants
27 GILLILAND, BURRESON, and others, caused lenders to lose over \$4
28 million.

III. WAYS AND MEANS

The ways and means by which the mail fraud scheme was accomplished are set out below:

13. Between in or about October 2006 through in or about May 2008, defendants GARRET GRIFFITH GILILLAND III, SHANE BURRESON, CHRISTOPHER M. CHIAVOLA, BRANDON RESENDEZ, LEONARD WILLIAMS, and others known and unknown to the Grand Jury, recruited various individuals, including investors and straw or nominal purchasers, to purchase residential real properties, in various communities in the State and Eastern District of California, including those listed below:

Property Description	Purchaser
2655 Ceanothus Avenue Chico, California	CHRISTOPHER CHIAVOLA
2749 Ceanothus Avenue Chico, California	A.G.A.
2733 Ceanothus Avenue Chico, California	R.A.
1419 Yosemite Drive Chico, California	A.B.
824 Whispering Winds Lane Chico, California	GARRET GRIFFITH GILILLAND III
91 Key West Loop Chico, California	J.V.
2620 Ceanothus Avenue Chico, California	K.W.
1378 Wanderer Lane Chico, California	J.S.
2650 Ceanothus Avenue Chico, California	BRANDON RESENDEZ
87 Key West Loop Chico, California	J.J.
2861 Vistamont Way Chico, California	V.G.

Property Description	Purchaser
2718 Ceanothus Drive Chico, California	E.H.
180 Pauletah Place Chico, California	J.G.
2630 Ceanothus Avenue Chico, California	P.A.
2738 Ceanothus Avenue Chico, California	C.F.
1367 Ringtail Court Chico, California	J.G.
184 Pauletah Place Chico, California	M.D.
1392 Ringtail Court Chico, California	A.S.
1370 Wanderer Lane Chico, California	T.G.
2660 Ceanothus Avenue Chico, California	M.C.
63 Pauletah Place Chico, California	T.B.G.
3291 Rockin M Drive Chico, California	NICOLE MAGPUSAO
83 Pauletah Place Chico, California	NICOLE MAGPUSAO
2640 Ceanothus Avenue Chico, California	A.W.
3294 Rockin M Drive Chico, California	A.W.
2601 Sedona Avenue Chico, California	J.C.
1657 Arch Way Chico, California	L.F.
79 Pauletah Place Chico, California	E.M.A.
2839 Ceanothus Avenue Chico, California	P.P.
2819 Ceanothus Avenue Chico, California	E.C.

Property Description	Purchaser
2827 Ceanothus Avenue Chico, California	J.S.
577 Eaton Road Chico, California	G.S.
1679 Arch Way Chico, California	C.E.A.
14718 Masterson Way Magalia, California	C.E.A.

14. Defendants GARRET GRIFFITH GILILLAND III, SHANE BURRESON, CHRISTOPHER M. CHIAVOLA, and others, orchestrated and otherwise participated in the real estate transactions described above. Defendant GILILLAND and his associates acted as a mortgage broker and a real estate agent in the transactions described above.

15. Defendant GARRET GRIFFITH GILILLAND III and others assisted in obtaining "80/20" loans or 100% mortgage financing to finance the entirety of the transactions described in paragraph 14 above; caused materially false loan applications to be prepared on behalf of the purchasers using personal information defendant GILILLAND obtained from them; and submitted other documents to mortgage lenders in connection with the real property transactions. Such loan applications and other documents submitted to mortgage lenders contained materially false representations and omissions, including false representations and omissions about the borrowers' monthly income and/or employment, the borrowers' intent to occupy the property as a primary residence, the borrowers' assets and/or liabilities, and the true price of the real properties.

16. Defendants GARRET GRIFFITH GILILLAND III, SHANE BURRESON, CHRISTOPHER M. CHIAVOLA, and others, arranged with the sellers of the

1 properties described in paragraph 13 to purchase the properties at a
2 price above the true market price, and in several instances, above the
3 then-current list price of the properties. Defendants also arranged
4 with the sellers for a percentage of the difference between the actual
5 market price and the inflated purchase price of the properties to be
6 credited after the close of escrow to various bank accounts controlled
7 by defendants and others, including the bank accounts of G III, GIG
8 Enterprises, NCII, Diamond Hill Financial, Inc., CMC Property
9 Management, COL Investments, and the Chamorro Group. In some
10 instances, these credits were purportedly for improvements or repairs
11 to the properties. In furtherance of the scheme, at the close of
12 escrow for the real property transactions described in paragraph 13,
13 sellers diverted these monetary credits in amounts ranging from
14 approximately \$4,000 to approximately \$67,000 to bank accounts
15 controlled by defendants and others.

16 17. Defendants GARRET GRIFFITH GILILLAND III, WILLIAM E. BAKER,
17 SHANE BURRESON, CHRISTOPHER M. CHIAVOLA, BRANDON RESENDEZ, LEONARD
18 WILLIAMS, and others, deliberately caused some of the credits
19 described in paragraph 16 to be concealed from the lenders by not
20 disclosing them in purchase agreements, by concealing them from
21 appraisers, by concealing them from certain escrow companies, and by
22 not informing the lenders of the credits on HUD-1 settlement
23 statements. To the extent these credits were disclosed, they were
24 falsely characterized as credits for repairs or improvements to the
25 purchased properties. For the most part, the funds diverted to the
26 bank accounts that defendants and others controlled were not used to
27 make repairs or improvements to the purchased properties, but were
28 instead used for other purposes.

18. Defendants GARRET GRIFFITH GILILLAND III, SHANE BURRESON, and others known to the Grand Jury, placed renters in the purchased properties, collected the rents, and caused the mortgage payments to be made for a period of several months in an attempt to conceal the scheme from lenders by preventing immediate defaults on the residential loans.

IV. THE MAILINGS

19. On or about the dates set forth below, in the Eastern District of California, for the purpose of executing and attempting to execute the aforementioned scheme and artifice to defraud, the defendants identified below did knowingly cause to be placed in a post office or authorized depository for mail matter to be sent and delivered by the United States Postal Service, and deposited or caused to be deposited any matter or thing whatever to be sent and delivered by any private or commercial interstate carrier, and knowingly caused to be delivered by mail or such carrier according to the directions thereon, the items listed below:

<u>CT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>ITEM SENT</u>	<u>DEFENDANT(S)</u>
1	08/17/06	Butte County Recorder's Office, Oroville, CA	Greenpoint Mortgage Funding, Inc. Santa Rosa, CA	Deed of Trust sent by U.S. Mail Re: CHRISTOPHER CHIAVOLA's purchase of 2655 Ceanothus Avenue	GILILLAND CHIAVOLA

<u>CT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>ITEM SENT</u>	<u>DEFENDANT(S)</u>
2	09/29/06	Fidelity National Title and Escrow, Chico, CA	Argent Mortgage, Orange, CA	Loan Funding package sent by Federal Express Priority Overnight Re: A.G.A.'s purchase of 2749 Ceanothus Avenue	GILILLAND BURRESON
3	10/18/06	Butte County Recorder's Office, Oroville, CA	Argent Mortgage Company, LLC C/O Nationwide Title Clearing, North Palm Harbor, FL	Deed of Trust sent by U.S. Mail Re: R.A.'s purchase of 2733 Ceanothus Avenue	GILILLAND
4	10/12/06	Butte County Recorder's Office, Oroville, CA	Suntrust Mortgage, Inc., Richmond, VA	Deed of Trust sent by U.S. Mail Re: A.B.'s purchase of 1419 Yosemite	GILILLAND
5	10/26/06	Bidwell Title Co., Chico, CA	Payoff Dept. Washington Mutual, Milwaukee, WI	Check #296630 for \$351,291.24 sent via Federal Express Standard Overnight Re: GILILLAND's purchase of 824 Whispering Winds Lane	GILILLAND BURRESON BAKER

<u>CT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>ITEM SENT</u>	<u>DEFENDANT(S)</u>
6	10/30/06	D.P., West Columbia, S.C.	Fidelity National Title and Escrow, Chico, CA	Signed notarized loan documents sent via Federal Express Priority Overnight Re: J.V's purchase of 91 Key West Loop	GILILLAND BURRESON
7	11/06/06	Fidelity National Title and Escrow, Chico, CA	Argent Mortgage, Orange, CA	Disclosure documents Re: K.W.'s purchase of 2620 Ceanothus Avenue	GILILLAND BURRESON
8	11/15/06	New Century Title Co., La Mesa, CA	J.S., Paradise, CA	Preliminary Report sent via Golden State Overnight Re: J.S.'s purchase of 1378 Wanderer Lane	GILILLAND BURRESON
9	11/17/06	Butte County Recorder's Office, Oroville, CA	Suntrust Mortgage, Inc. Richmond, VA	Deed of Trust sent by U.S. Mail Re: B.R.'s purchase of 2650 Ceanothus Avenue	GILILLAND BURRESON RESENDEZ
10	12/13/06	Butte County Recorder's Office, Oroville, CA	Suntrust Mortgage, Inc., Richmond, VA	Deed of Trust sent by U.S. Mail Re: J.J.'s purchase of 87 Key West Loop	GILILLAND BURRESON

CT	DATE	SENDER	RECIPIENT	ITEM SENT	DEFENDANT(S)
11	12/20/06	New Century Title Co., La Mesa, CA	Mid Valley Title Co., Chico, CA	Title Transmittal sent via Golden State Overnight Re: V.G.'s purchase of 2861 Vistamont Way	GILILLAND CHIAVOLA
12	01/09/07	Butte County Recorder's Office, Oroville, CA	Argent Mortgage Company, LLC C/O Nationwide Title Clearing, Inc., North Palm Harbor, FL	Deed of Trust sent by U.S. Mail Re: E.H.'s purchase of 2718 Ceanothus Avenue	GILILLAND BURRESON
13	1/22/07	Butte County Recorder's Office, Oroville, CA	J. G., Chico, CA	Grant Deed sent by U.S. Mail Re: J.G.'s purchase of 180 Pauletah Place	GILILLAND BAKER
14	01/25/07	Butte County Recorder's Office, Oroville, CA	RESMAE Mortgage Corporation Brea, CA	Deed of Trust sent by U.S. Mail Re: P.A.'s purchase of 2630 Ceanothus Avenue	GILILLAND
15	01/31/07	Butte County Recorder's Office, Oroville, CA	Fieldstone Mortgage Company Columbia, MD	Deed of Trust sent by U.S. Mail Re: C.F.'s purchase of 2738 Ceanothus Avenue	GILILLAND BURRESON

CT	DATE	SENDER	RECIPIENT	ITEM SENT	DEFENDANT(S)
16	02/21/07	Butte County Recorder's Office, Oroville, CA	Washington Mutual Bank Florence, SC	Deed of Trust sent by U.S. Mail Re: J.G.'s purchase of 1367 Ringtail Road	GILILLAND BURRESON
17	2/23/07	Butte County Recorder's Office, Oroville, CA	M.D, Chico, CA	Grant Deed sent by U.S. Mail Re: M.D.'s purchase of 184 Pauletah Place	GILILLAND BAKER
18	03/05/07	Butte County Recorder's Office, Oroville, CA	Argent Mortgage Company, LLC C/O Nationwide Title Clearing, Inc., North Palm Harbor, FL	Deed of Trust sent by U.S. Mail Re: A.S.'s purchase of 1392 Ringtail Court	GILILLAND BURRESON
19	04/25/07	Butte County Recorder's Office, Oroville, CA	Fidelity National Title Co., Florence, SC	Deed of Trust sent by U.S. Mail Re: T.G.'s purchase of 1370 Wanderer Lane	GILILLAND BURRESON
20	04/26/07	Butte County Recorder's Office, Oroville, CA	Alliance Bancorp, c/o Nationwide Title Clearing, Inc., Attn: Final Docs Unit North Palm Harbor, FL	Deed of Trust sent by U.S. Mail Re: M.C.'s purchase of 2660 Ceanothus Avenue	GILILLAND BURRESON

<u>CT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>ITEM SENT</u>	<u>DEFENDANT(S)</u>
21	05/03/07	Butte County Recorder's Office, Oroville, CA	T.B.G. Chico, CA	Grant Deed sent by U.S. Mail Re: T.B.G.'s purchase of 63 Pauletah Place	GILILLAND BAKER
22	07/16/07	Butte County Recorder's Office, Oroville, CA	Fieldstone Mortgage Company Columbia, MD	Deed of Trust sent by U.S. Mail Re: NICOLE MAGPUSAO's purchase of 3291 Rockin M Drive	GILILLAND MAGPUSAO
23	7/16/07	Butte County Recorder's Office, Oroville, CA	NICOLE MAGPUSAO, Chico, CA	Grant Deed sent by U.S. Mail Re: NICOLE MAGPUSAO's purchase of 83 Pauletah Place	GILILLAND MAGPUSAO BAKER
24	07/18/07	Butte County Recorder's Office, Oroville, CA	Nationwide Title Clearing, Inc. ATTN: Dusti Woodbury - CIT Unit North Palm Harbor, FL	Deed of Trust sent by U.S. Mail Re: A.W.'s purchase of 2640 Ceanothus Avenue	GILILLAND WILLIAMS
25	07/26/07	Butte County Recorder's Office, Oroville, CA	A.W., Chico, CA	Grant Deed sent via U.S. Mail Re: A.W.'s purchase of 3294 Rockin M Drive	GILILLAND WILLIAMS
26	08/13/07	Butte County Recorder's Office, Oroville, CA	Chase USA Attn: Trailing Documents Monroe, LA	Deed of Trust sent by U.S. Mail Re: J.C.'s purchase of 2601 Sedona Avenue	GILILLAND

<u>CT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>ITEM SENT</u>	<u>DEFENDANT (S)</u>
27	08/21/07	Butte County Recorder's Office, Oroville, CA	Nationwide Title Clearing, Inc. ATTN: Dusti Woodbury - CIT Unit 2100 Alt. 19 North Palm Harbor, FL 34683	Deed of Trust sent by U.S. Mail Re: L.F.'s purchase of 1657 Arch Way	GILILLAND
28	10/10/07	Butte County Recorder's Office, Oroville, CA	E.M.A., Los Angeles, CA	Grant Deed sent by U.S. Mail Re: E.A.'s purchase of 79 Pauletah Place	GILILLAND BAKER
29	10/15/07	Butte County Recorder's Office, Oroville, CA	Homecomings Financial, Minneapolis, MN	Deed of Trust sent by U.S. Mail Re: P.P.'s purchase of 2839 Ceanothus Avenue	GILILLAND
30	11/09/07	Butte County Recorder's Office, Oroville, CA	Mortgage Dept. Irvine, CA	Deed of Trust sent by U.S. Mail Re: E.C.'s purchase of 2819 Ceanothus Avenue	GILILLAND
31	12/17/07	Butte County Recorder's Office, Oroville, CA	Homecomings Financial, Minneapolis, MN	Deed of Trust sent by U.S. Mail Re: J.S.'s purchase of 2827 Ceanothus Avenue	GILILLAND

CT	DATE	SENDER	RECIPIENT	ITEM SENT	DEFENDANT(S)
32	02/20/08	Butte County Recorder's Office, Oroville, CA	Just Mortgage, Inc. Rancho Cucamonga, CA	Deed of Trust sent by U.S. Mail Re: G.S.'s purchase of 577 Eaton Rd.	GILILLAND
33	03/18/08	Butte County Recorder's Office, Oroville, CA	Just Mortgage, Inc. Rancho Cucamonga, CA	Deed of Trust sent by U.S. Mail Re: C.E.A.'s purchase of 1679 Arch Way	GILILLAND
34	5/19/08	Butte County Recorder's Office, Oroville, CA	Downey Savings & Loan Assoc., Newport Beach, CA	Deed of Trust sent by U.S. Mail Re: C.E.A.'s purchase of 14718 Masterson Way	GILILLAND

All in violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS THIRTY-FIVE THROUGH THIRTY-SEVEN: [18 U.S.C. § 1014 - False Statements in Loan Applications]

The Grand Jury further charges:

GARRET GRIFFITH GILILLAND III, and
NICOLE MAGPUSAO,

defendants herein, as follows:

1. The allegations set forth in paragraphs 1 through 11 and 13 through 18 of Counts One through Thirty-Four of this Second Superseding Indictment are realleged as if fully set forth herein.

2. On or about the dates set forth below, in the County of Butte, State and Eastern District of California, and elsewhere, defendants GARRET GRIFFITH GILILLAND III and NICOLE MAGPUSAO, as

1 listed below, knowingly made and caused to be made false statements
 2 and reports for the purpose of influencing the lenders set forth
 3 below, the accounts of which were then and there insured by the
 4 Federal Deposit Insurance Corporation, in connection with home loans
 5 being sought in the defendants' own names or in the names of the straw
 6 purchasers including, by among other things, falsely inflating each
 7 borrower's gross monthly income, falsely reporting borrower employment
 8 history, and falsely reporting the sale price of the properties by
 9 concealing rebates and referral fees from the sellers, as set forth
 10 below:

<u>CT</u>	<u>DATE OF FALSEHOOD</u>	<u>PROPERTY ADDRESS</u>	<u>LENDER</u>	<u>FALSE STATEMENTS</u>	<u>DEFENDANT</u>
35	6/28/06	1585 Arch Way Chico, CA	Chase Bank USA, NA	Owner occupied, home address, \$7767.83 monthly income, employment with AGS Construction Services for 2.2 years, sales price	GILILLAND
36	4/26/07	2689 Ceanothus Ave., Chico, CA	National City Bank	Self-employed with G III construction, Inc. for 3 years, 9 months, sales price	GILILLAND
37	6/24/07	83 Pauletah Place, Chico, CA	Deutsche Bank	Owner occupied home, gross monthly income of \$8,750 from Savings Direct Magazine, sales price	MAGPUSAO GILILLAND

26 All in violation of Title 18, United States Code, Sections 1014 and 2.
 27 ///
 28 ///

1 COUNTS THIRTY-EIGHT THROUGH FORTY-FIVE: [18 U.S.C. § 1341 - Mail
2 Fraud]

3 The Grand Jury further charges:

4 CHRISTOPHER M. CHIAVOLA,
5 BRANDON RESENDEZ,
6 NICHE FORTUNE, and
7 KESHA HAYNIE,

8 defendants herein, as follows:

9 I. INTRODUCTION

10 1. Defendant CHRISTOPHER M. CHIAVOLA used bank accounts at
11 Washington Mutual Bank in the name of CMC Property Management to
12 receive funds that were obtained as part of the scheme to defraud
13 described herein.

14 2. Defendant RESENDEZ used "Plan B Group, Inc.," a Wyoming
15 Corporation, to receive funds that were obtained as part of the scheme
16 to defraud described herein. As part of the scheme, defendant
17 RESENDEZ purchased property in his own name.

18 3. In 2006, defendant NICHE FORTUNE worked as a lead generator
19 for NCII. In January 2007, defendant NICHE FORTUNE opened a bank
20 account at Bank of America in the name of Fortune Property Investments
21 and was assigned a bank account ending in #3487. Defendant FORTUNE
22 used this bank account to receive funds that were obtained as part of
23 the scheme to defraud described herein.

24 4. At all times relevant to this Second Superseding Indictment,
25 defendant KESHA HAYNIE was a real estate salesperson licensed by the
26 State of California, and was the sister of defendant FORTUNE.

27 5. The allegations set forth in paragraph 11 of Counts One
28 through Thirty-Four of this Second Superseding Indictment are
realleged as if fully set forth herein.

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1 II. THE SCHEME TO DEFRAUD

2 6. Beginning not later than in or about April 2007 and
3 continuing through in or about December 2007, in the State and Eastern
4 District of California, and elsewhere, defendants CHRISTOPHER M.
5 CHIAVOLA, BRANDON RESENDEZ, NICHE FORTUNE, KESHA HAYNIE, and others
6 known and to the Grand Jury (including Anthony G. Symmes, charged
7 elsewhere), did knowingly devise and intend to devise a material
8 scheme and artifice to defraud residential real property lenders and
9 participants in the secondary loan market and to obtain property by
10 means of materially false and fraudulent pretenses, representations
11 and promises. As a result of the fraud, defendants CHRISTOPHER M.
12 CHIAVOLA, BRANDON RESENDEZ, NICHE FORTUNE, KESHA HAYNIE, and others
13 (including Anthony G. Symmes), obtained real property or money to
14 which they were not entitled.

15 III. WAYS AND MEANS

16 The ways and means by which the mail fraud scheme was
17 accomplished are set out below:

18 7. Between in or about April 2007 through in or about December
19 2007, defendants CHRISTOPHER M. CHIAVOLA, BRANDON RESENDEZ, NICHE
20 FORTUNE, KESHA HAYNIE, and others known and unknown to the Grand Jury,
21 recruited various individuals, including investors and straw or
22 nominal purchasers, to purchase residential real properties in various
23 communities in the State and Eastern District of California, as listed
24 below:

25

Property Description	Purchaser
1390 Lucy Way Chico, California	T.C.
1386 Lucy Way Chico, California	BRANDON RESENDEZ

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27
28

Property Description	Purchaser
2608 Doral Way Chico, California	C.L.
3289 Rockin M Drive Chico, California	R.B.
3280 Rockin M Drive Chico, California	R.B.
594 Desiree Lane Chico, California	C.F.
1358 Lucy Way Chico, California	M.L.C.
1663 Arch Way Chico, California	M.D.V.

8. Anthony G. Symmes sold all of the houses above through one or more entities he controlled. Defendants CHRISTOPHER M. CHIAVOLA, BRANDON RESENDEZ, NICHE FORTUNE, KESHA HAYNIE, and others, orchestrated and otherwise participated in the real estate transactions described above. Defendant HAYNIE and her associates acted as a mortgage broker and a real estate agent in the transactions described above.

9. Defendant HAYNIE and others assisted in obtaining "80/20" loans or 100% mortgage financing to finance the entirety of the transactions described in paragraph 7; caused materially false loan applications to be prepared on behalf of the purchasers, using personal information defendant HAYNIE obtained from them; and submitted other documents to mortgage lenders in connection with the real property transactions. Such loan applications and other documents submitted to mortgage lenders contained materially false representations and omissions, including false representations and omissions about the borrowers' monthly income and/or employment, the borrowers' intent to occupy the property as a primary residence, the

1 borrowers' assets and/or liabilities, and the true price of the real
2 properties.

3 10. It was further part of the scheme and artifice that
4 defendants CHRISTOPHER M. CHIAVOLA, BRANDON RESENDEZ, NICHE FORTUNE,
5 KESHA HAYNIE, and others, arranged with the sellers of the properties
6 described in paragraph 7 to purchase the properties at a price above
7 the true market price, and in several instances, above the then-
8 current list price of the properties. Defendants also arranged with
9 the seller for a percentage of the difference between the actual
10 market price and the inflated purchase price of the properties to be
11 credited after the close of escrow to various bank accounts controlled
12 by defendants and others, including the bank accounts of CMC Property
13 Management, Plan B Group, and Fortune Property Investments. In some
14 instances, these credits were purportedly for improvements or repairs
15 to the properties. In furtherance of the scheme, at the close of
16 escrow for each of the real property transactions described in
17 paragraph 7, sellers diverted these monetary credits to bank accounts
18 controlled by defendants and others.

19 11. Defendants CHRISTOPHER M. CHIAVOLA, BRANDON RESENDEZ, NICHE
20 FORTUNE, KESHA HAYNIE, and others, deliberately caused some of the
21 credits described in paragraph 10 above to be concealed from the
22 lenders by not disclosing them in purchase agreements, by concealing
23 them from appraisers, by concealing them from certain escrow
24 companies, and by not informing the lenders of the credits on HUD-1
25 settlement statements. To the extent these credits were disclosed,
26 they were falsely characterized as credits used to make repairs or
27 improvements to the purchased properties. In fact, the funds diverted
28 to the bank accounts controlled by defendants and others, above, were

1 not used to make repairs or improvements to the purchased properties,
2 but were instead used for other purposes.

3 IV. THE MAILINGS

4 12. On or about the dates set forth below, in the Eastern
5 District of California, for the purpose of executing and attempting to
6 execute the aforementioned scheme and artifice to defraud, the
7 defendants identified below did knowingly cause to be placed in a post
8 office or authorized depository for mail matter to be sent and
9 delivered by the United States Postal Service, and deposited or caused
10 to be deposited, to be sent and delivered by any private or commercial
11 interstate carrier, the items listed below:

<u>CT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>ITEM SENT</u>	<u>DEFENDANT(S)</u>
38	04/02/07	Fidelity National Title and Escrow, Chico, CA	Washington Mutual, Stockton, CA	Loan Funding package sent by Federal Express Priority Overnight Re: T.C.'s purchase fo 1390 Lucy Way	FORTUNE HAYNIE
39	04/11/07	Fidelity National Title and Escrow, Chico, CA	Washington Mutual, Stockton, CA	Loan Funding package sent by Federal Express Priority Overnight Re: BRANDON RESENDEZ's purchase of 1386 Lucy Way	RESENDEZ CHIAVOLA
40	06/14/07	Butte County Recorder's Office, Oroville, CA	C.L. 2608 Doral Way, Chico, CA 95973	Grant Deed sent by U.S. mail Re: C.L.'s 2608 Doral Way	FORTUNE HAYNIE

<u>CT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>ITEM SENT</u>	<u>DEFENDANT (S)</u>
41	07/12/07	Butte County Recorder's Office, Oroville, CA	R.B., Chico, CA	Grant Deed sent by U.S. Mail Re: R.B.'s purchase of 3289 Rockin M Drive	CHIAVOLA
42	07/27/07	Fidelity National Title and Escrow, Chico, CA	MLSG, Inc., Funding Dept., Reno, NV	Loan Funding Package sent by Federal Express Priority Overnight Re: R.B.'s purchase of 3280 Rockin M Drive	CHIAVOLA
43	08/01/07	Butte County Recorder's Office, Oroville, CA	C.F. Chico, CA	Grant Deed sent by U.S. Mail Re: C.F.'s purchase of 594 Desiree Lane	FORTUNE
44	09/07/07	Fidelity National Title and Escrow, Chico, CA	M.S., 109 Calle El Padre, Los Gatos, CA	Loan Funding Package sent by Federal Express Priority Overnight Re: M.L.C.'s purchase of 1358 Lucy Way	CHIAVOLA
45	12/13/07	Fidelity National Title and Escrow, Chico, CA	Wilson Resources, Inc., Funding Dept., Granite Bay, CA	Loan Funding Package sent by Federal Express Priority Overnight Re: M.D.V.'s purchase of 1663 Arch Way	CHIAVOLA

All in violation of Title 18, United States Code, Sections 1341 and 2.

///

1 COUNTS FORTY-SIX THROUGH FORTY-EIGHT: [18 U.S.C. § 1957 - Money
 2 Laundering]

3 The Grand Jury further charges:

4 GARRET GRIFFTH GILILLAND III, and
 5 SHANE BURRESON,

6 defendants herein, as follows:

7 1. On or about the dates set forth below, in Butte County, in
 8 the State and Eastern District of California, and elsewhere,
 9 defendants GARRET GRIFFITH GILILLAND III and SHANE BURRESON, did
 10 knowingly engage in and affecting interstate commerce monetary
 11 transactions in amounts over \$10,000 identified below, the proceeds of
 12 which were criminally derived property, that is, derived from mail
 13 fraud, in violation of Title 18, United States Code, Section 1341, as
 14 alleged in Counts 1 through 34 of this Second Superseding Indictment:

CT	DATE	MONETARY TRANSACTION	DEFENDANT(S)
46	10/12/06	\$12,000 withdrawal from GILILLAND's and BURRESON's Tri Counties bank account number ending 3231	GILILLAND
47	10/27/06	\$16,000 withdrawal from GILILLAND's and BURRESON's Tri Counties Bank account number ending 3231	BURRESON
48	12/25/06	Deposit of check #102 drawn on GILILLAND's and BURRESON's Tri Counties Bank account number ending in 3231 payable to "Burreson Farms" for \$25,000 into Tri Counties Bank account number ending 2659	BURRESON

25 All in violation of Title 18, United States Code, Sections 1957
 26 and 2.

27 ///

28 ///

1 COUNT FORTY-NINE: [18 U.S.C. § 1957 - Money Laundering]

2 The Grand Jury further charges: T H A T

3 CHRISTOPHER M. CHIAVOLA,

4 defendant herein, on or about June 20, 2007, in Butte County, in the
5 State and Eastern District of California, and elsewhere, did knowingly
6 engage in and affecting interstate commerce a monetary transaction in
7 an amount over \$10,000; to wit, defendant CHRISTOPHER M. CHIAVOLA
8 purchased an official check #106815676 for \$12,500 drawn on CMC
9 Property Management's Washington Mutual Bank account number ending
10 5676 payable to Chris M. Chiavola, the proceeds of which were
11 criminally derived property, that is, derived from mail fraud, in
12 violation of Title 18, United States Code, Section 1341, as alleged in
13 Counts 38 through 45 of this Second Superseding Indictment.

14 All in violation of Title 18, United States Code, Sections 1957
15 and 2.

16 COUNT FIFTY: [31 U.S.C. § 5332 - Bulk Cash Smuggling]

17 The Grand Jury further charges: T H A T

18 GARRET GRIFFITH GILILLAND III, and
19 REMY HENG,

20 defendants herein, and others unknown to the Grand Jury, on or about
21 October 10, 2008, in the State and Eastern District of California and
22 elsewhere, with intent to evade a currency reporting requirement under
23 Title 31, United States Code, Section 5316, did knowingly conceal and
24 cause to be concealed more than \$10,000 in currency in a container and
25 caused such currency to be transported and transferred, and attempted
26 to transport and transfer such currency, from a place within the
27 United States, to a place outside of the United States, by,
28 specifically, placing and causing to be placed \$20,000 in currency

1 inside a Federal Express package sent from Sacramento, California to a
2 foreign country.

3 All in violation of Title 31, United States Code, Section 5332
4 and Title 18, United States Code, Section 2.

5 FORFEITURE ALLEGATIONS: [18 U.S.C. § 982(a)(1), 982(a)(2)(A), 31
6 U.S.C. § 5332(b)(2) - Criminal Forfeiture]

7 1. The Grand Jury alleges as to:

8 GARRET GRIFFITH GILILLAND III,
9 WILLIAM E. BAKER,
10 SHANE BURRESON,
11 CHRISTOPHER M. CHIAVOLA,
12 BRANDON RESENDEZ,
13 LEONARD WILLIAMS,
14 NICHE FORTUNE,
15 KESHA HAYNIE, and
16 NICOLE MAGPUSAO,

17 defendants herein, as follows:

18 Upon conviction of one or more of the offenses alleged in Counts
19 One through Thirty-Four of this Second Superseding Indictment,
20 defendants shall forfeit to the United States pursuant to 18 U.S.C. §
21 982(a)(2)(A), any property constituting, or derived from, proceeds the
22 person obtained directly or indirectly, as the result of said
23 violation, including but not limited to the following:

- 24 (a) A Breitling wristwatch; and
25 (b) A sum of money equal to the proceeds derived from the
26 scheme or conspiracy described in ¶ 1 through ¶ 19 of
27 Counts One through Thirty-Four of this Second
28 Superseding Indictment, in an amount of at least
\$4,000,000.00, for which the defendants are jointly and
severally liable.

2. The Grand Jury further alleges as to:

GARRET GRIFFITH GILILLAND III
and
NICOLE MAGPUSAO,

defendants herein, as follows:

Upon conviction of one or more of the offenses alleged in Counts

1 Thirty-Five through Thirty-Seven of this Second Superseding
2 Indictment, defendants GARRET GRIFFITH GILILLAND III and NICOLE
3 MAGPUSAO shall forfeit to the United States, pursuant to 18 U.S.C. §
4 982(a)(2)(A), any property constituting, or derived from, proceeds
5 defendant obtained directly or indirectly, as the result of a
6 violation of 18 U.S.C. § 1014, including but not limited to the
7 following:

8 (a) A Breitling wristwatch; and

9 (b) A sum of money equal to the proceeds derived from the
10 scheme or conspiracy described in ¶ 1 through ¶ 19 of
11 Counts One through Thirty-Four of this Second
12 Superseding Indictment, and in ¶ 1 through ¶ 2 of
13 Counts Thirty-Five through Thirty-Seven of this Second
14 Superseding Indictment, in an amount at least
15 \$4,000,000.00, for which the defendants are jointly and
16 severally liable.

17 3. The Grand Jury further alleges as to:

18 CHRISTOPHER M. CHIAVOLA,
19 BRANDON RESENDEZ,
20 NICHE FORTUNE, and
21 KESHA HAYNIE,

22 defendants herein, as follows:

23 Upon conviction of one or more of the offenses alleged in Counts
24 Thirty-Eight through Forty-Five of this Second Superseding Indictment,
25 defendants CHRISTOPHER CHIAVOLA, BRANDON RESENDEZ, NICHE FORTUNE,
26 KESHA HAYNIE, shall forfeit to the United States pursuant to 18 U.S.C.
27 § 982(a)(2)(A), any property constituting, or derived from, proceeds
28 the person obtained directly or indirectly, as the result of said
violation, including but not limited to the following:

(a) A sum of money equal to the proceeds derived from the
scheme or conspiracy described in ¶ 1 through ¶ 12 of
Counts Thirty-Eight through Forty-Five of the Second
Superseding Indictment, in an amount at least
\$1,000,000.00, for which the defendants are jointly and
severally liable.

1 4. The Grand Jury further alleges as to:

2 GARRET GRIFFITH GILILLAND III,
3 defendant herein, as follows:

4 Upon conviction of the offenses alleged in Count Forty-Six of
5 this Second Superseding Indictment, defendant GARRET GRIFFITH
6 GILILLAND III shall forfeit to the United States pursuant to 18 U.S.C.
7 § 982(a)(1), any property, real or personal, involved in such offense,
8 or any property traceable to such property, including but not limited
9 to:

- 10 (a) Approximately \$12,000 in U.S. currency; and
11 (b) A sum of money equal to the proceeds derived from
12 the offense charged in Count Forty-Six of this
Second Superseding Indictment.

13 5. The Grand Jury further alleges as to:

14 SHANE BURRESON,
15 defendant herein, as follows:

16 Upon conviction of one or more of the offenses alleged in Counts
17 Forty-Seven through Forty-Eight of this Second Superseding Indictment,
18 defendant SHANE BURRESON shall forfeit to the United States pursuant
19 to 18 U.S.C. § 982(a)(1), any property, real or personal, involved in
20 such offense, or any property traceable to such property, including
21 but not limited to:

- 22 (a) Approximately \$41,000 in U.S. currency; and
23 (b) A sum of money equal to the proceeds derived from
24 the offense charged in Counts Forty-Seven and
Forty-Eight of this Second Superseding Indictment.

25 6. The Grand Jury further alleges as to:

26 CHRISTOPHER M. CHIAVOLA,
27 defendant herein, as follows:

28 Upon conviction of the offenses alleged in Count Forty-Nine of

1 this Second Superseding Indictment, defendant CHRISTOPHER M. CHIAVOLA
2 shall forfeit to the United States pursuant to 18 U.S.C. § 982(a)(1),
3 any property, real or personal, involved in such offense, or any
4 property traceable to such property, including but not limited to:

- 5 (a) Approximately \$12,500 in U.S. currency; and
6 (b) A sum of money equal to the proceeds derived from
7 the offense charged in Count Forty-Nine of this
8 Second Superseding Indictment.

8 7. The Grand Jury further alleges as to:

9 GARRET GRIFFITH GILILLAND III and
10 REMY HENG,

11 defendants herein, as follows:

12 Upon conviction of the offense alleged in Count Fifty of this
13 Second Superseding Indictment, defendants GARRET GRIFFITH GILILLAND
14 III and REMY HENG shall forfeit to the United States pursuant to 31
15 U.S.C. § 5332(b)(2), any property, real or personal, involved in such
16 offense, or any property traceable to such property, including but not
17 limited to:

- 18 (a) Approximately \$20,000 in U.S. currency.
19 (b) A sum of money equal to the amount involved in, or
20 traceable to the amount involved in, the offense
21 charged in Count Fifty of this Second Superseding
22 Indictment, of at least \$20,000, for which the
23 defendants are jointly and severally liable.

24 8. If any property, as a result of any act or omission of the
25 defendant cannot be located upon the exercise of due diligence; has
26 been transferred or sold to, or deposited with, a third person; has
27 been placed beyond the jurisdiction of the Court; has been
28 substantially diminished in value; or has been commingled with other
property which cannot be subdivided without difficulty; it is the
intent of the United States, pursuant to 18 U.S.C. § 982(b)(1), 28


1 U.S.C. § 2461(c), and 31 U.S.C. § 5332(b)(3), incorporating 21 U.S.C.
2 § 853(p), to seek forfeiture of any other property of said defendants
3 up to the value of the property subject to forfeiture, including but
4 not limited to the following:

- 5 (a) 2003 West Coast Chopper Motorcycle,
6 Vin#1W9SJ25073P279147, Registered Owner:
7 Garret Griffith Gililland.

8 A TRUE BILL.

9 **/s/ Signature on file w/AUSA**

10 _____
11 FOREPERSON

11 
12 BENJAMIN B. WAGNER
13 United States Attorney

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

THE UNITED STATES OF AMERICA

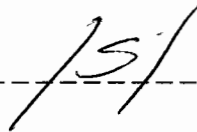
vs.

**GARRET GRIFFITH GILLILAND III,
WILLIAM E. BAKER,
SHANE BURRESON,
CHRISTOPHER CHIAVOLA,
BRANDON RESENDEZ,
LEONARD WILLIAMS,
NICOLE MAGPUSAO,
NICHE FORTUNE,
KESHA HAYNIE, and
REMY HENG,**

SECOND SUPERSEDING INDICTMENT

VIOLATIONS: 18 U.S.C. § 1341 - Mail Fraud (42 Counts);
18 U.S.C. § 1014 - False Statements in Loan Applications (3 Counts);
18 U.S.C. § 1957 - Money Laundering (4 Counts);
31 U.S.C. § 5332 - Bulk Cash Smuggling; 18 U.S.C. § 982(a)(1),
18 U.S.C. § 981(a)(1)(C), 28 U.S.C. 2461(c), and
31 U.S.C. § 5332(b)(2) - Criminal Forfeiture

A true bill,



Foreman.

Filed in open court this 17th day

of June, A.D. 20 10



Clerk.

Bail, \$ **NO PROCESS NECESSARY** *as to Gilliland + Magpusao*

WARRANT: NO BAIL PENDING HEARING *as to all other Δs*

PENALTY SLIP

GARRET GRIFFITH GILILLAND III: Counts 1 - 37, 46, and 50

WILLIAM E. BAKER: Counts 5, 13, 17, 21, 23, and 28

SHANE BURRESON: Counts 2, 5 - 10, 12, 15, 16, 18, 19, 20, and 48

CHRISTOPHER CHIAVOLA: Counts 1, 11, 39, 41, 42, 44, 45 and 49

BRANDON RESENDEZ: Counts 9 and 39

LEONARD WILLIAMS: Counts 24 and 25

NICOLE MAGPUSAO: Counts 22, 23, and 37

NICHE FORTUNE: Counts 38, 40, and 43

KESHA HAYNIE: Counts 38 and 40

REMY HENG: Count 50

COUNTS 1 - 34 and 38 - 45	18 U.S.C. 1341 - Mail Fraud	PENALTY:	NMT 20 years imprisonment NMT \$250,000 fine; or both TSR: NMT 3 years But for counts affecting a financial institution: NMT 30 years imprisonment NMT \$1 million fine; or both TSR: NMT 5 years
COUNTS 35 - 37	18 U.S.C. 1014 - False Statements in Loan Applications	PENALTY:	NMT: 30 years imprisonment NMT: \$1,000,00 fine; or both TSR: NMT 5 years
COUNTS 46 - 49	18 U.S.C. § 1957 - Monetary Transactions in Property Derived from Specified Unlawful Activity	PENALTY:	NMT: 10 years imprisonment NMT: \$250,000 fine (or an alternate fine of double the amount laundered here); or both TSR: NMT 3 years
COUNT 50	31 U.S.C. 5332 - Bulk Cash Smuggling	PENALTY:	NMT: 5 years imprisonment NMT: \$250,000 fine; or both TSR: NMT 3 years Forfeiture: any property, real or personal, involved in the offense, and any property traceable to such property

SPECIAL ASSESSMENT: \$100.00 for each count

Forfeiture Allegations: Criminal forfeiture of money or property is subject to proof in a separate proceeding immediately following conviction at a criminal trial on counts 1-50.