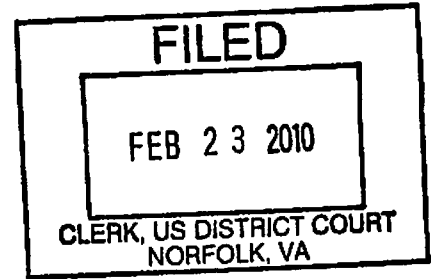


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION



UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 2:10cr 27
)
) 18 U.S.C. § 1343
STEPHEN M. GUNTHER,) Wire Fraud
)
)
 Defendant.) Forfeiture

CRIMINAL INFORMATION

THE UNITED STATES ATTORNEY CHARGES THAT:

During the period from in or about June 2006 through December 2006, in the Eastern District of Virginia, STEPHEN M. GUNTHER, the defendant, did devise and intend to devise a scheme and artifice to defraud Fremont Investment & Loan, American Home Mortgage, Diversified Mortgage and Baltimore American Mortgage Corporation, and for obtaining money from said lenders by means of materially false and fraudulent pretenses, representations and promises, which scheme and artifice, and the execution thereof, were in substance as follows:

1. At all material times, STEPHEN M. GUNTHER, the defendant, was an attorney licensed in Virginia with offices located in Virginia Beach, Virginia.
2. The defendant acted as a settlement agent in connection with the closing of residential real estate loans on the following properties:

1543 Crescent Pointe Lane, Virginia Beach, Virginia

145 D View Avenue, Norfolk, Virginia

7400 Hedgewood Lane, Norfolk, Virginia

3057 Kenelm Drive, Chesapeake, Virginia

3. The object of the scheme and artifice devised and executed by the defendant was to obtain financing from Fremont Investment & Loan, American Home Mortgage, Diversified Mortgage and Baltimore American Mortgage Corporation to fund the closings on the aforesaid properties, on the basis of HUD-1 Settlement Statements prepared and submitted by the defendant which, as the defendant well knew, did not accurately reflect receipts and disbursement of funds.

4. It was a part of said scheme and artifice to defraud that in connection with the closing on the property located at 1543 Crescent Point Lane, Virginia Beach, Virginia on June 29, 2006, the defendant knowingly violated the closing instructions of the lender, Baltimore American Mortgage Corporation by concealing an agreement that the defendant would advance closing costs and be reimbursed by a third party. The defendant used \$8,475.04 of his own personal funds to pay closing costs, which according to the HUD-1 Settlement Statement should have been paid by the buyer. The defendant subsequently received reimbursement of that amount, plus \$500.00 in addition to his attorney's fee, from funds listed on the HUD-1 Settlement Statement as an item to be paid to "W.S.L. Elements," all of which was undisclosed on said statement and therefore not known to the lender.

5. It was a part of said scheme and artifice to defraud that in connection with the closing on the property located at 145 D View Avenue, Norfolk, Virginia on July 31, 2006, the defendant knowingly violated the closing instructions of the lender, American Home Mortgage by concealing an agreement that the defendant would advance closing costs and be reimbursed by a third party. The defendant used \$18,281.55 of his own personal funds to pay closing costs, which according to the HUD-1 Settlement Statement should have been paid by the buyer. The

defendant subsequently received reimbursement of that amount, plus \$930.00 in addition to his attorney's fee, from funds listed on the HUD-1 Settlement Statement as an item to be paid to "W.S.L. Elements," all of which was undisclosed on said statement and therefore not known to the lender.

6. It was a further part of said scheme and artifice to defraud that in connection with the closing on the property located at 7400 Hedgewood Lane, Norfolk, Virginia on August 24, 2006, the defendant knowingly violated the closing instructions of the lender, Diversified Mortgage, by concealing an agreement between himself and a third party whereby the loan proceeds would be disbursed without the defendant receiving closing costs from the buyer as reflected on the HUD-1 Settlement Statement. In fact, the defendant disbursed loan proceeds without first receiving \$110,332.39 in closing costs from the buyer as listed on the HUD-1 Settlement Statement. The defendant knew that the buyer listed on the HUD-1 Settlement Statement was a straw purchaser who would not pay the closing costs. After the loan proceeds were disbursed by the defendant, he was paid the buyer's closing costs from funds listed on the HUD-1 Settlement Statement as an item to be paid to "W.S.L. Elements," all of which was undisclosed on said statement and therefore not known to the lender.

7. It was a further part of said scheme and artifice to defraud that in connection with the closing on the property located at 3057 Kenelm Drive, Chesapeake, Virginia on December 21, 2006, the defendant knowingly violated the closing instructions of the lender, Fremont Investment & Loan, by concealing an agreement between himself and a third party whereby the loan proceeds would be disbursed without the defendant receiving closing costs from the buyer as reflected on the HUD-1 Settlement Statement. In fact, the defendant disbursed loan proceeds

without first receiving \$21,046.90 in closing costs from the buyer as listed on the HUD-1 Settlement Statement. The defendant knew that the buyer listed on the HUD-1 Settlement Statement was a straw purchaser who would not pay the closing costs. After the loan proceeds were disbursed by the defendant, he was paid the buyer's closing costs from funds listed on the HUD-1 Settlement Statement as proceeds to be paid to the seller, all of which was undisclosed on said statement and therefore not known to the lender. Furthermore, instead of disbursing \$124,626.52 to the seller as reflected on the HUD-1 Settlement Statement, the defendant disbursed \$124,545.52 to a third-party, which was also concealed from the lender.

8. In reliance on the HUD-1 Settlement Statements which the defendant knew did not accurately reflect receipts and disbursements of funds, the above-referenced lenders made loans totaling approximately \$978,500.00. The notes on said loans were subsequently purchased by other companies who sustained losses when the loans on three of the four properties went into default and two were sold at foreclosure, with one pending sale. As a result, the following losses were sustained:

Saxson Mortgage Services – \$35,000.00 (approximate, pending sale)

Ocwen Loan Servicing – \$38,855.56

America's Servicing Company – \$58,000.00

Residential Credit Solutions – \$78,202.71

9. On or about December 22, 2006, in the Eastern District of Virginia, for the purpose of executing the aforesaid scheme and artifice, STEPHEN M. GUNTHER did cause to be transmitted by means of wire communication in interstate commerce, certain signs, signals, pictures and sounds, that is, a wire transfer of loan closing funds in the amount of \$189,369.35

from Fremont Investment & Loan in Anaheim, California to Bank of Hampton Roads in Norfolk, Virginia.

(In violation of Title 18, United States Code, Section 1343.)

FORFEITURE

The defendant, STEPHEN M. GUNTHER, if convicted of the offense set forth in this criminal information, shall, as part of the sentencing of the defendant pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to said violation.

Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), the defendant shall forfeit substitute property, up to the value of the property subject to forfeiture as described above, if, as a result of any act or omission of the defendant, any such property subject to forfeiture cannot be located upon the exercise of due diligence; has been transferred, sold to or deposited with a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty.

(In accordance with 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) and 18 U.S.C. §982(a)(2)(A).)

Neil H. MacBride
United States Attorney

By: Alan M. Salsbury

Alan M. Salsbury
Assistant United States Attorney
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Criminal Case Cover Sheet

U.S. District Court

Place of Offense: EDVA **Under Seal:** Yes ___ No **Judge Assigned:** _____
City Virginia Beach, VA **Superseding Information** _____ **Criminal Number:** 2:10cr 27
County/Parish _____ **Same Defendant** _____ **New Defendant** Stephen M. Gunther
 Magistrate Judge Case Number _____ **Arraignment Date:** _____
 Search Warrant Case Number _____
 R 20/R 40 from District of _____

Defendant Information:

Juvenile -- Yes ___ No **FBI #** _____
Defendant Name: Stephen M. Gunther **Alias Name(s)** _____
Address: _____ Hertford, NC
Employment: _____

Def
Birth date _____ 1970 **SS#** _____ 6749 **Sex** M **Race** White **Nationality** U.S. **Place of Birth** _____
Height 5'11" **Weight** 160 **Hair** Brown **Eyes** Blue **Scars/Tattoos** _____
Interpreter: No ___ Yes List language and/or dialect: _____

Location Status:

Arrest Date _____
___ Already in Federal Custody as of _____ in _____
___ Already in State Custody ___ On Pretrial Release ___ Not in Custody
___ Arrest Warrant Requested ___ Fugitive ___ Summons Requested
___ Arrest Warrant Pending ___ Detention Sought ___ Bond _____

Defense Counsel Information:

Name: James O. Broccoletti, Esq. ___ Court Appointed
 6663 Stoney Point South,
Address: Norfolk, VA 23502 Retained
Telephone: 757-466-0750 ___ Public Defender

U.S. Attorney Information:

AUSA Alan M. Salsbury **Telephone No:** 757-441-6331 **Bar #** 15682

Complainant Agency, Address & Phone Number or Person & Title:

Federal Bureau of Investigation, 150 Corporate Boulevard, Norfolk, VA 23502, SA Colin Woods

U.S.C. Citations:

	<u>Code/Section</u>	<u>Description of Offense Charged</u>	<u>Count</u>	<u>Capital/Felony/Misd/Petty</u>
Set 1	<u>18 U.S.C. § 1343</u>	<u>Wire Fraud</u>	<u>1</u>	<u>Felony</u>
Set 2	_____	_____	_____	_____
Set 3	_____	_____	_____	_____