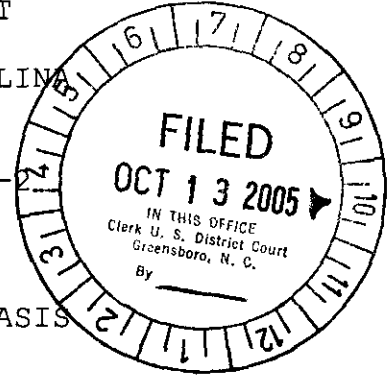


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA : 1:05CR230-2
 :
 v. :
 :
 PHILLIP WAYNE MIDDLEBROOKS : 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, Defendant Phillip Wayne Middlebrooks and Charles Richardson, Jr., with the assistance of others, caused multiple fraudulent real estate transactions in and around Guilford County, North Carolina, resulting in losses to mortgage lenders. As part of the scheme, Defendant 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 the transactions. During this process, Defendant 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, thus concealing from the mortgage lenders the fact that the properties were being "flipped" at inflated prices under suspicious circumstances.

Unbeknownst to the mortgage lenders, Defendant Middlebrooks and Richardson (with assistance from their real estate closing attorney Rick Franklin Shumate) structured the transactions as "double-closings" in which they nominally purchased the real property at the lower price and simultaneously resold it to the straw-buyers at the higher price. As part of this process (again without the knowledge of the mortgage lenders), mortgage loan funds intended for the use of the straw-buyers were redirected to cover the payments from Defendant Middlebrooks and Richardson to the original sellers (and/or the original sellers' mortgage lenders). After the payment of closing costs, Defendant Middlebrooks and Richardson skimmed off the fraudulently-created "equity," i.e., the difference between the original sales prices and the amounts of the mortgage loans in the straw-buyers' names.

Defendant 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

Defendant Middlebrooks and Richardson would make the mortgage payments and would transfer the real property out of the straw-buyers' names. Although Defendant 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 Defendant Middlebrooks and Richardson).

The transactions involved in the scheme included the purchase of 3220 Cross Tree Way, Winston-Salem, North Carolina, in the name of Paul Hairston on or about July 26, 2000. In securing the mortgage loan that led to a wire transfer in the amount of \$239,305 to Shumate's trust account from Wilmington National Finance to finance that transaction, Defendant Middlebrooks and Richardson provided and caused the provision of material false information to the mortgage lender, including that Hairston worked for a trucking company operated by associates of Defendant Middlebrooks and Richardson (when in fact they knew Hairston was unemployed), that Hairston was purchasing the property as a primary residence (when in fact Defendant Middlebrooks and Richardson had agreed to pay Hairston to allow the use of his name in connection with real estate transactions and this particular transaction represented the third of four such straw-purchases they conducted with Hairston during less

than two months), and that Defendant Middlebrooks and Richardson owned the property prior to the date of the double-closing (when in fact they did not).

Records reveal that, following the double-closing on or about July 26, 2000, a package containing the executed mortgage documents was sent via Federal Express, a commercial interstate carrier, from Shumate's office in Greensboro, North Carolina, to Wilmington National Finance. The delivery of these materials in this fashion was required by the mortgage lender as part of the transaction and was a reasonably foreseeable step in the process caused by Defendant Middlebrooks and Richardson.

Federal law enforcement officials interviewed Defendant Middlebrooks about his involvement in these activities. Defendant Middlebrooks acknowledged that he and Richardson had operated what he referred to as a "buyer-partner" program. As part of the program, Defendant Middlebrooks and Richardson paid "buyer-partners" for the use of their credit in connection with the purchasing of residences for lease to other people. According to Defendant Middlebrooks, he and Richardson knew that fraudulent information was provided to mortgage lenders, including as to the income and employment of "buyer-partners," and that he and Richardson facilitated this deception. Defendant Middlebrooks also admitted that "buyer-partners" were used to conduct multiple transactions within a short period of time to

prevent their involvement in the first such transaction from showing up on the credit checks done by mortgage lenders involved in the second or subsequent transaction(s). He further acknowledged splitting the profits from the transactions with Richardson, but failing to keep up mortgage payments for the properties as promised.

This the 13th day of October, 2005.

Respectfully submitted,

ANNA MILLS WAGONER
United States Attorney



L. PATRICK AULD
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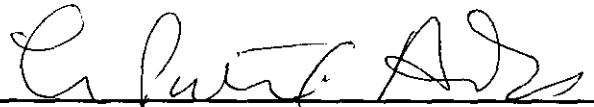
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CERTIFICATE OF SERVICE

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:

John D. Bryson



L. PATRICK AULD
Assistant United States Attorney
Deputy Chief, Criminal Division
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