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FILED  
U.S. DISTRICT COURT

2006 MAR 30 A 8:22

DISTRICT OF UTAH

IN THE UNITED STATES DISTRICT COURT BY: DEPUTY CLERK

DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARK NEUSCH and  
MICHAEL DAVIS,

Defendants.

I N D I C T M E N T

12 U.S.C. § 1709-2

(Equity Skimming)

Count 1

18 U.S.C. § 157

(Bankruptcy Fraud)

Counts 2-4

The Grand Jury charges:

Judge David Sam

DECK TYPE: Criminal

DATE STAMP: 03/29/2006 @ 12:00:32

CASE NUMBER: 2:06CR00193 DS

Introduction

At all relevant times to this indictment:

1. The Department of Housing and Urban Development ("HUD") was an agency of the United States which operated a residential mortgage loan insurance program. Under the program, the Federal Housing Administration ("FHA"), an organization within HUD, insured home mortgages of individuals that qualified for participation in the program.

2. From on or about March 2002 to on or about December 2003, in the District of Utah, Defendants MARK NEUSCH and MICHAEL DAVIS, individually or as agents of M&M Properties and Reliable Properties, did devise and intend to devise a scheme and artifice to defraud, and for obtaining money and property from the United States of America, mortgage companies, private financial institutions, residential homeowners and renters, by means of false and fraudulent pretenses, representations, and promises, well knowing at the time that the pretenses, representations and promises would be and were false and fraudulent when made.

3. In general, the object of the scheme to defraud and for obtaining money by false and fraudulent pretenses, as conceived and executed by Defendants, was to acquire numerous residential properties by making misrepresentations to property owners to induce them to sign over title to the Defendants. Thereafter, the Defendants rented these dwellings to uninformed third parties and converted receipts and security deposits paid by the renters to the benefit and use of the Defendants, while permitting the real estate loans to go into or remain in default and eventual foreclosure because the mortgage payments had not been made.

4. Defendants devised the foregoing scheme and to carry it out, employed the following means:

a. Defendants, by researching the records of the Salt Lake County Recorder's Office, found properties in various stages of foreclosure.

b. In many instances, the Defendants then contacted numerous homeowners, who were experiencing difficulty in meeting their loan payments and were therefore motivated to transfer their residences to the Defendants, for the purpose of acquiring their properties.

c. Defendants induced these property owners to sign quitclaim deeds to transfer the properties to entities the Defendants controlled. The Defendants then caused the filing of the quitclaim deeds at the county recorder's office.

d. In these instances, Defendants, for purposes of inducing homeowners to deed and transfer their properties to Defendants, falsely and fraudulently led homeowners to believe the Defendants would save their homes from foreclosures and enable them to maintain their credit standing by making the monthly mortgage payments, by renting the properties or selling the properties by negotiating a "short sale" with the banks and sharing the profits with the homeowners.

e. After taking possession of the properties, the Defendants either lived in a few of the properties or more commonly advertized the properties for rent with Rental Express, a local residential rental company.

f. As part of the agreement to rent the properties, the Defendants would require renters to pay first and last months rent and a security deposit. In many instances, the Defendants failed to inform renters that the properties were in foreclosure.

g. Upon renting the properties, the Defendants converted the rental income, security deposits and receipts from various properties to their own benefit, thus failing to make the monthly payments on the property mortgages, which allowed mortgages to go into or remain in default and, ultimately, to be foreclosed.

h. Upon foreclosure, the renters would be evicted and be defrauded of rental payments and security deposits previously made.

5. In furtherance of the scheme, the Defendants acquired title to approximately fourteen properties and permitted them to go into or remain in default while the Defendants collected rental income and deposits which they failed to apply to the loan payments and diverted and used for their own benefit. As a result of the diversions, and as a direct consequence of Defendants' scheme, the United States of America and private lenders sustained loan losses.

6. In furtherance of the scheme, and in order to delay the foreclosure on several of these properties and thereby collect more rent, the Defendants transferred title to the properties to

various entities and filed voluntary bankruptcy petitions in the names of these entities with the United States Bankruptcy Court, District of Utah. As a result of these transfers and bankruptcies, the mortgage companies' efforts to complete foreclosure proceedings against these properties were delayed or stayed so that the Defendants could continue to collect rent from the properties.

7. Due to the failure of the Defendants to make the mortgage payments, the lending institutions initiated foreclosure proceedings against these properties.

8. Both FHA and VA, as the insurer or guarantor of loans to the mortgage lenders for these properties, paid claims constituting unpaid principal, interest, taxes and other charges.

Count 1

(Equity Skimming)

9. The factual allegations in paragraphs 1 through 9 of this indictment are incorporated by reference and realleged as though fully set forth herein.

10. From March 2002, and continuously thereafter up to and including December 2003, in the Central Division of the District

of Utah, Defendants,

MARK NEUSCH and MICHAEL DAVIS,

and other individuals known to the grand jury, with the intent to defraud, willfully engaged in a pattern and practice of purchasing single-family dwellings listed below. Each of the dwellings were subject either to a loan in default at the time of purchase of a loan or a loan in default within one year following the purchase of the dwelling, and each of the loans were secured by a mortgage or deed of trust insured or held by the United States Secretary of Housing and Urban Development, by and through the FHA, or guaranteed by the VA. Moreover, the Defendants failed to make payments under the mortgages as the payments became due, and Defendants applied the application of rents from the properties to their own use, either directly or through business entities controlled by the Defendants:

	<u>Address</u>	<u>Insured by</u>
a.	6529 South Purple Sage Drive West Jordan, Utah	FHA
b.	4112 South King Arthur Drive West Valley City, Utah	FHA
c.	3764 Stable Bay Magna, Utah	FHA
d.	3746 South Dunn Court Magna, Utah	FHA
e.	6370 South Wakefield Way West Valley City, Utah	FHA

- f. 5132 Milstead Lane  
Salt Lake City, Utah
- g. 7689 West Blue Ribbon Bay  
Magna, Utah
- h. 3708 Brook Hollow Court  
West Valley City, Utah

FHA

FHA

FHA

All in violation of Title 12, United States Code, Section  
1709-2.

Count 2

(Bankruptcy Fraud)

11. The factual allegations in paragraphs 1 through 11 of this indictment are incorporated by reference and realleged as though fully set forth herein.

12. On or about July 26, 2002, in the Central Division of the District of Utah, Defendant,

MARK NEUSCH,

for the purpose of executing the aforesaid scheme and artifice to defraud, knowingly caused a voluntary petition to be filed under Title 11 with the United States Bankruptcy Court in the name of M&M Properties, Case Number 02-32279, which held title to the following properties:

- a. 4705 West Harmon  
West Valley City, Utah
- b. 4112 South King Arthur Drive  
West Valley City, Utah
- c. 3746 South Dunn Court  
Magna, Utah

- d. 6529 South Purple Sage Drive  
West Jordan, Utah

All in violation of Title 18, United States Code, Section

157.

Count 3

(Bankruptcy Fraud)

13. The factual allegations in paragraphs 1 through 11 of this indictment are incorporated by reference and realleged as though fully set forth herein.

14. On or about June 3, 2003, in the Central Division of the District of Utah, Defendants,

MICHAEL DAVIS and MARK NEUSCH,

and another individual known to the Grand Jury, for the purpose of executing the aforesaid scheme and artifice to defraud knowingly caused a petition to be filed under Title 11 with the United States Bankruptcy Court in the name of Reliable Properties, Case Number 03-29674, which held title to the following properties:

- a. 7654 South Sunrise Place East  
West Jordan, Utah
- b. 7328 West Adams Road  
Magna, Utah
- c. 3412 South 7895 West  
Magna, Utah
- d. 8041 West Country West Drive  
Magna, Utah
- e. 7460 West 3500 South  
Magna, Utah

All in violation of Title 18, United States Code, Section  
157.

Count 4

(Bankruptcy Fraud)

15. The factual allegations in paragraphs 1 through 11 of this indictment are incorporated by reference and realleged as though fully set forth herein.

16. On or about April 21, 2003, in the Central Division of the District of Utah, Defendant,

MARK NEUSCH,

and another individual known to the Grand Jury, for the purpose of executing the aforesaid scheme and artifice to defraud, knowingly caused a petition to be filed under Title 11 with the United States Bankruptcy Court in the name of DBK Properties, Case Number 03-26907, which held title to the following properties:

- a. 3876 South Ditsie Drive  
Magna, Utah
- b. 7689 West Blue Ribbon Bay  
Magna, Utah

All in violation of Title 18, United States Code, Section

157.

A TRUE BILL

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FOREPERSON OF THE GRAND JURY

STEPHEN J. SORENSON  
Acting United States Attorney  
District of Utah

*Cy H. Castle*  
CY H. CASTLE  
Special Assistant U.S. Attorney