

FILED IN OPEN COURT
ON 4/4/13
Julie A. Richards, Clerk
US District Court
Eastern District of NC

WMG

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:13-CR-105-1 (1)

UNITED STATES OF AMERICA)

v.)

MARK THOMAS BOWE)

INDICTMENT

The Grand Jury charges that:

INTRODUCTION

1. During times material to this case, MARK THOMAS BOWE was an individual who conducted business in and around Raleigh within the Eastern District of North Carolina.

2. BOWE was a licensed mortgage broker who was actively engaged in the mortgage lending business. As a mortgage broker, BOWE was authorized by the state to assist individuals who desired to purchase a home to obtain a loan from a bank or mortgage lender.

3. BOWE operated through various companies in connection with his mortgage brokerage activities including, but not limited to, New Equity Mortgage, LLC and Anna Mortgages, LLC, located at 1425 Rock Quarry Road, Suite 105-B, in Raleigh.

4. BOWE participated with various other individuals known to the Grand Jury in a scheme to defraud banks and lenders. The defendant and the other participants in the scheme were engaged in the business of buying and selling houses for profit (sometimes referred to as “flipping”), using bank and mortgage lender financing.

5. Under the guise of an “investment opportunity”, participants in the scheme located individuals (referred to herein as a “straw buyers”) who were willing to allow their name

and credit to be used to obtain loans for home purchases in return for a cash payment of a few thousand dollars. The straw buyers often did not possess the necessary income and assets, or were already too burdened with other debts, to qualify for financing on the properties. The straw buyers also did not have the income necessary to make all of the mortgage payments on the loans, or to make necessary down-payments to close on the loans. Participants in the scheme convinced straw buyers to become involved by making various representations, including: (1) the straw buyers would not have to live in the homes; (2) the straw buyers would not have to contribute any of their own money to participate; (3) the straw buyers would not have to make interest payments on the loans taken out in their names; and (4) the properties purchased in the names of the straw buyers would be resold to a third party within a short period of time.

6. BOWE participated in the scheme by, among other things, falsifying various aspects of loan applications that were submitted to banks and lenders to qualify buyers for mortgages. The loan applications BOWE created contained a standard warning that “misrepresentation(s) of the information contained in this application may result in . . . criminal penalties, including, but not limited to, fines or imprisonment under the provisions of Title 18, United States Code, Section 1001, et seq. and liability for monetary damages to the lender . . .”

7. In spite of the warning in the loan applications, BOWE falsified various aspects of the loan applications including, but not limited to:

- (a) the amount and source of income and assets of the borrower;
- (b) the existing debts of the borrower; and
- (c) the borrower’s intent to occupy the property being purchased as the borrower’s primary residence.

8. In some instances, BOWE completed loan applications which falsely represented that the information contained within the application had been obtained from a telephonic interview when, in truth and fact, the borrower never spoke to BOWE in a telephonic interview or provided the information in the loan application.

9. BOWE and another conspirator also promoted the scheme by deceiving and attempting to deceive lenders into believing that some borrowers held assets at an investment company, known as Mutual Southern Investments. BOWE and another conspirator supplied false verifications of deposit and false account statements purporting to show that borrowers held assets with Mutual Southern Investments when, in truth and fact, Mutual Southern Investments did not exist, and the assets were entirely fictitious.

10. BOWE and other participants in the scheme benefitted by receiving kickbacks or payments out of the loan proceeds at the time of the loan closing. In some instances, BOWE received payments in excess of the amounts identified on the HUD-1 settlement statements that were supplied to the banks and lenders to compensate BOWE for his role in the scheme.

11. The false documents discussed herein were transmitted to the banks and lenders by interstate wire transmissions. Banks and lenders received the false documents and disbursed loan proceeds in reliance upon the false and fraudulent statements and representations they contained. To fund the loan transactions orchestrated by the participants, the banks and lenders wired loan proceeds into the closing account of an attorney in North Carolina from accounts located outside of North Carolina.

12. The participants in the scheme did not make all of the interest payments on the loans in the names of straw buyers, and also did not resell the properties as promised. The straw

borrowers ultimately defaulted on the loans, resulting in substantial losses to the banks and lenders.

COUNT 1
Conspiracy to Commit Bank and Wire Fraud
18 U.S.C. § 1349

13. Introductory Paragraphs 1 through 12 are realleged and incorporated by reference as though fully set forth in this count.

The Conspiracy

14. Beginning at a time unknown, but no later than January of 2003, and continuing to a time unknown, but no earlier than October of 2008, within the Eastern District of North Carolina, and elsewhere, the defendant, MARK THOMAS BOWE, did knowingly combine, conspire, confederate, and agree with others known to the grand jury, to commit offenses against the United States, to wit:

- (a) having devised and intending to devise any scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, for the purpose of executing the scheme and artifice, to transmit and cause to be transmitted by means of wire in interstate commerce, that is, by electronic mail and facsimile, writings, signals and sounds, in violation of Title 18, United States Code, Section 1343 (“**Wire Fraud**”); and
- (b) to knowingly execute and attempt to execute a scheme and artifice to defraud a financial institution and to obtain any moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, a financial institution, by means of false and fraudulent pretenses, representations, and

promises, in violation of Title 18, United States Code, Section 1344 (“**Bank Fraud**”).

Purpose of the Conspiracy

15. It was the purpose of the conspiracy for BOWE and other conspirators to reap profits through, among other things, the preparation and submission of false documents to banks and lenders on mortgage loans.

Overt Acts

16. In furtherance of the conspiracy, and to effect the objects thereof, there were committed in the Eastern District of North Carolina various overt acts by the conspirators including, but not limited to, the creation of at least one false document to obtain a mortgage loan.

All in violation of Title 18, United States Code, Section 1349.

COUNT 2
Bank Fraud & Aiding and Abetting
18 U.S.C. §§ 1344 and 2

THE SCHEME

17. Beginning at a time unknown, but no later than January of 2003, and continuing to a time unknown, but no earlier than October of 2008, within the Eastern District of North Carolina, and elsewhere, the defendant, MARK THOMAS BOWE, executed and attempted to execute a scheme and artifice:

a. To defraud a financial institution whose accounts were insured by the Federal Deposit Insurance Corporation, and

b. To obtain moneys owned by and under the control of a financial institution by means of materially false and fraudulent pretenses and representations.

MANNER AND MEANS

18. Introductory paragraphs 1 through 12 are realleged and incorporated herein as though fully set forth in this Count.

EXECUTION OF THE SCHEME

19. On or about February 24, 2006, in the Eastern District of North Carolina and elsewhere, the Defendant, MARK THOMAS BOWE, aiding and abetting others, executed, and attempted to execute, the scheme and artifice set forth above, in that the defendant caused Washington Mutual Bank to disburse loan proceeds by means of materially false and fraudulent pretenses and representations on a loan for L.M. for the purchase of a residence located at 4304 White Chapel Way in Raleigh, North Carolina for \$595,000.

All in violation of Title 18, United States Code, Sections 1344 and 2.

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COUNT 3
Wire Fraud & Aiding and Abetting
18 U.S.C. §§ 1343 & 2

The Scheme to Defraud

20. Beginning at a time unknown, but no later than January of 2003, and continuing to a time unknown, but no earlier than October of 2008, the defendant, MARK THOMAS BOWE, knowingly devised, and intended to devise, a scheme and artifice to defraud banks and mortgage lenders as to a material matter, and to obtain money and property from banks and mortgage lenders by means of materially false and fraudulent pretenses.

The Manner and Means of the Scheme

21. Introductory paragraphs 1 through 12 are realleged and incorporated herein as though fully set forth in this Count.

The Use of the Wires

22. On or about February 17, 2006, in the Eastern District of North Carolina and elsewhere, for the purpose of executing the aforementioned scheme and artifice to defraud and attempting to do so, the defendant, MARK THOMAS BOWE, aiding and abetting others, knowingly caused to be transmitted in interstate commerce, by means of wire communications, certain writings, signs, and signals, to wit, a fax transmission relating to a loan for L.M., from New Equity Mortgage within the state of North Carolina, to Washington Mutual Bank, located outside of the state of North Carolina, and in so doing, affected an institution whose deposits were insured by the Federal Deposit Insurance Corporation.

All in violation of Title 18, United States Code, Sections 1343 and 2.

COUNT 4
***Making a False Statement to Influence a Bank
on a Loan & Aiding and Abetting
18 U.S.C. §§ 1014 and 2***

23. Introductory paragraphs 1 through 12 are realleged and incorporated herein as though fully set forth in this Count.

24. On or about February 17, 2006, in the Eastern District of North Carolina and elsewhere, the Defendant, MARK THOMAS BOWE, aiding and abetting others, knowingly made and caused to be made false statements on a loan for L.M. to purchase the property at 4304 White Chapel Way, to wit, a fax transmission of a loan application stating:

- a) L.M. intended to occupy the property as his primary residence,
- b) L.M. was employed at EZN Homes as a Vice President,
- c) L.M. had a monthly income of \$13,500,
- d) No representations regarding L.M.'s existing debt of \$76,087 to Greenpoint Mortgage Funding, Inc., a loan previously brokered by BOWE on behalf of L.M.,
- e) No representations regarding L.M.'s existing debt of \$94,213.19 to GN Mortgage, LLC, a loan previously brokered by BOWE on behalf of L.M.;

said statement being made for the purpose of influencing Washington Mutual Bank, whose deposits were insured by the Federal Deposit Insurance Corporation, all in violation of Title 18, United States Code, Sections 1014 and 2.

FORFEITURE ALLEGATIONS

25. BOWE is given notice of the provisions of 18 U.S.C. Sections 982. As a result of the foregoing offenses as alleged in this Indictment, the defendant shall forfeit to the United States any and all property constituting, or derived from, any proceeds the said defendant

obtained directly or indirectly as a result of the said offense. If as a result of any act or omission of the defendant any forfeitable property:

- a) cannot be located upon the exercise of due diligence;
- b) has been transferred or sold to, or deposited with, a third person;
- c) has been placed beyond the jurisdiction of the court;
- d) has been 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 Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

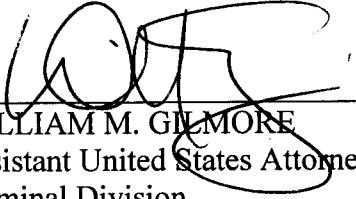
REDACTED VERSION

A TRUE BILL Pursuant to the E-Government Act and the federal rules, the unredacted version of this document has been filed under seal.

FOREPERSON

DATE: 4-4-13

THOMAS G. WALKER
United States Attorney


By: WILLIAM M. GILMORE
Assistant United States Attorney
Criminal Division