

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO. _____
v.	:	DATE FILED: <u>12/15/11</u>
ANTHONY DWAYNE BAXTER,	:	VIOLATION:
a/k/a Tony Allen Baxter,	:	18 U.S.C. § 1341 (mail fraud - 1 count)
a/k/a Anthony B. Allen,	:	18 U.S.C. § 1343 (wire fraud – 1 count)
a/k/a Anthony E. Baxter	:	18 U.S.C. § 1014 (loan fraud – 1 count)
	:	18 U.S.C. § 1452 (passport fraud – 1 count)
	:	18 U.S.C. § 152 (bankruptcy fraud – 2 counts)
	:	42 U.S.C. § 408 (mis-use of a social security number – 4 counts)

INDICTMENT

COUNT ONE

(Mail Fraud)

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. Defendant ANTHONY DWAYNE BAXTER was born on June 13, 1969, in Philadelphia, PA. Defendant BAXTER was issued Social Security Number xxx-xx-0226.
2. At various times throughout his life, defendant ANTHONY DWAYNE BAXTER used his true name, true Social Security Number, and true date of birth for various purposes, such as to establish bank accounts, claim life insurance proceeds, dispute credit card charges, and declare bankruptcy in Pennsylvania.
3. Beginning at least as early as 2003 and continuing through approximately 2007, defendant ANTHONY DWAYNE BAXTER used, on occasion, the name “Tony Allen

Baxter” with the Social Security Number xxx-xx-4846 and/or the date of birth June 13, 1976, for various purposes, such as to establish bank accounts, apply for a passport, lease a Mercedes, obtain a mortgage loan, and declare bankruptcy in New Jersey.

4. The Social Security Number xxx-xx-4846 actually belongs to G.M., who was born in 1981, and who was serving with the Army National Guard in Iraq and Afghanistan in the period of approximately 2003 through 2008.

THE SCHEME

5. From in or about November 2006 to on or about January 2, 2007, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

devised and intended to devise a scheme to defraud First Franklin, a division of National City Bank, and to obtain money and property by means of false and fraudulent pretenses, representations and promises.

MANNER AND MEANS

It was part of the scheme that:

6. In November 2006, defendant ANTHONY DWAYNE BAXTER applied for a mortgage loan for the purchase of a new home in Williamstown, New Jersey. To apply for the loan, on or about November 8, 2006, defendant BAXTER signed an initial Uniform Residential Loan Application (Form 1003), in which he gave his name as Tony A. Baxter and

stated that his Social Security Number was xx-xxx-4846, and that his date of birth was June 13, 1976. These statements were false.

7. Moreover, in the Form 1003 loan application, defendant ANTHONY DWAYNE BAXTER also falsely answered “no” to the following questions:

- b. Have you been declared bankrupt within the past 7 years?
- c. Have you had property foreclosed upon ... in the last 7 years?
- d. Are you a party to a lawsuit?
- e. Have you ... been obligated on any loan which resulted in foreclosure ...?
- f. Are you presently delinquent or in default on any Federal debt or any other loan, mortgage, financial obligation, bond, or loan guarantee?

Contrary to defendant BAXTER’s answers, in April 2002, Wells Fargo Home Mortgage, Inc. (“Wells Fargo”) had filed a Complaint in Foreclosure as to a Philadelphia property owned by defendant BAXTER; in May 2002, defendant BAXTER had filed a bankruptcy petition in Pennsylvania, effectively staying the foreclosure; in January 2004, following the bankruptcy court’s dismissal of defendant BAXTER’s bankruptcy petition, Wells Fargo had filed a praecipe to reinstate its Complaint in Foreclosure, and in February 2004, defendant BAXTER had again filed for bankruptcy in Pennsylvania. That petition was not dismissed until on or about May 15, 2007. Thus, as of November 8, 2006, defendant BAXTER’s bankruptcy petition was still pending, and Wells Fargo’s Complaint in Foreclosure was still pending.

8. Defendant ANTHONY DWAYNE BAXTER signed the false loan application (Form 1003), beneath an acknowledgment that “the undersigned specifically ...

acknowledges that ... an intentional or negligent misrepresentation of this information contained in this application may result in ... criminal penalties”

9. First Franklin, a lender, approved a mortgage loan for defendant ANTHONY DWAYNE BAXTER of \$391,500. On or about December 29, 2006, First Franklin caused a wire transfer of approximately \$398,153.64 from National City Bank’s account to the account of the settlement company at Commerce Bank in Marlton, New Jersey.

10. At settlement on January 2, 2007, defendant ANTHONY DWAYNE BAXTER again signed a loan application (Form 1003) for this mortgage, again falsely representing that his name was Tony A. Baxter, his Social Security Number was xxx-xx-4846, and his date of birth was June 13, 1975, and again falsely answering “No” to the questions about bankruptcies, foreclosures, delinquencies, and law suits.

11. At the conclusion of the settlement, the settlement company mailed checks payable from its settlement trust account to Monroe Township MUA for water and sewer charges on the HUD-1 settlement statement, and caused the loan documents to be delivered by Federal Express to the lender, First Franklin, a division of National City Bank, at an address in Mount Laurel, New Jersey.

12. On or about January 2, 2007, the settlement company also completed a wire transfer request to wire approximately \$379,533.10, which was the proceeds due to the seller from closing, from the settlement company’s trust account at Commerce Bank in Marlton, New Jersey, to JPMorgan Chase Bank. The money was wired on or about January 5, 2007.

13. On or about January 2, 2007, in Berlin, in the District of New Jersey, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

for the purpose of executing the scheme described above, and attempting to do so, knowingly caused checks payable from the settlement company's trust account to be mailed by the settlement company to Monroe Township MUA for water and sewer charges on the HUD-1 settlement statement, and also caused the loan documents to be delivered to the lender, First Franklin, by Federal Express.

In violation of Title 18, United States Code, Section 1341.

COUNT TWO

(Wire Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 and 12 of Count One are incorporated here.
2. On or about January 2, 2007, in Berlin, in the District of New Jersey, and

elsewhere, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

for the purpose of executing the scheme described above, caused to be transmitted by means of wire communication in interstate commerce a wire transfer of approximately \$379,533.10 from the settlement company's trust account at Commerce Bank in Marlton, New Jersey, to JPMorgan Chase Bank in New York, for the benefit of MDC Holding, Inc., the parent company of Richmond American Homes, the seller, which was the proceeds due to the seller from closing.

All in violation of Title 18, United States Code, Section 1343.

COUNT THREE

(Loan Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of Count One are incorporated here.
2. At all times material to this indictment, First Franklin, a division of National City Bank, was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation.
3. On or about January 2, 2007, in Berlin, in the District of New Jersey, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

knowingly made and caused to be made to First Franklin, a division of National City Bank, a false statement for the purpose of influencing the actions of First Franklin upon a loan, that is a \$391,500 mortgage loan for the purchase of a house in Williamstown, New Jersey, in that defendant BAXTER caused to be submitted to First Franklin a false loan application in which defendant BAXTER represented that he was Tony A. Baxter, with Social Security No. xxx-xx-4846, and date of birth of June 13, 1976, and further represented that he was not presently delinquent or in default on any loan, mortgage, financial obligation, bond, or loan guarantee, when, as defendant BAXTER knew, he was not Tony A. Baxter with Social Security Number 4846 and date of birth of June 13, 1976, and as defendant BAXTER also knew, he owned a

house in Pennsylvania as to which Wells Fargo Bank had filed a Complaint in Foreclosure, which was then pending.

In violation of Title 18, United States Code, Section 1014.

COUNT FOUR

(Bankruptcy Fraud – False Statements – 18 U.S.C. §152(3))

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about January 10, 2008, defendant ANTHONY DWAYNE BAXTER filed or caused to be filed in the United States Bankruptcy Court for the District of New Jersey a bankruptcy petition entitled In re Tony A. Baxter, Case Number 08-10757.
2. In the petition, defendant ANTHONY DWAYNE BAXTER represented that his name was Tony A. Baxter and that his SSN was xxx-xx-4846. In fact, “Tony A. Baxter” was not defendant BAXTER’s name, and SSN xxx-xx-4846 had been issued to G.M., not to defendant BAXTER.
3. Additionally, in the petition, in the section titled “Prior Bankruptcy Case Filed Within Last 8 Years,” in the block for “Location Where Filed,” defendant ANTHONY DWAYNE BAXTER answered, “None.” In fact, defendant BAXTER had filed for bankruptcy twice before, in Pennsylvania, once in 2002 and again in 2004.
4. On or about January 10, 2008, in the District of New Jersey, defendant defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

in connection with his bankruptcy case number No. 08-10757, knowingly and fraudulently made a false declaration, certificate, verification, or statement under penalty of perjury in a case under title 11, using a false name and a Social Security Number that had been issued to another person, and falsely representing that he had not previously filed for bankruptcy.

In violation of Title 18, United States Code, Section 152(3).

COUNT FIVE

(Bankruptcy Fraud – Concealed Assets)

THE GRAND JURY FURTHER CHARGES THAT:

1. On or about January 10, 2008, defendant ANTHONY DWAYNE BAXTER filed or caused to be filed in the United States Bankruptcy Court for the District of New Jersey a bankruptcy petition entitled In re Tony A. Baxter, Case Number 08-10757.

2. On or about January 10, 2008, defendant ANTHONY DWAYNE BAXTER filed or caused to be filed in the United States Bankruptcy Court for the District of New Jersey various schedules as part of his bankruptcy case number 08-10757, including a schedule entitled “Schedule B - Personal Property.”

3. On or about January 10, 2008, in Camden, in the District of New Jersey, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

in connection with his bankruptcy case number No. 08-10757, which is a case under Title 11 of the United States Code, knowingly and fraudulently concealed and caused to be concealed from creditors and the United States Trustee, real property belonging to his estate, that is, his claim for life insurance proceeds as beneficiary of a \$100,000 life insurance policy on T.B., and his then-pending suit against Garden State Life Insurance Company for bad faith in denying that claim.

In violation of Title 18, United States Code, Sections 152(1).

COUNT SIX

(Passport Fraud)

THE GRAND JURY FURTHER CHARGES THAT:

On or about December 4, 2006, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

knowingly and willfully made false statements in an application for an United States passport; with intent to induce and secure, for his own use, the issuance of a passport under the authority of the United States, contrary to the laws regulating the issuance of passports and the rules prescribed pursuant to such laws, that is, defendant BAXTER stated that his name was "Tony A. Baxter," that he was born in Atlanta, Georgia, and was, therefore, a United States citizen, and that his Social Security Number was xxx-xx-4846, which statements he knew to be false.

In violation of Title 18, United States Code, Section 1542.

COUNT SEVEN

(Mis-use of a Social Security Number)

THE GRAND JURY CHARGES THAT:

On or about June 5, 2008, in Lafayette Hill, in the Eastern District of Pennsylvania, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

with intent to deceive, and for the purpose of obtaining a rental lease, falsely represented that a Social Security account number with the last four digits 6444 had been assigned to him by the Commissioner of Social Security when in fact such number was not the Social Security account number assigned to him.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

COUNT EIGHT

(Mis-use of a Social Security Number)

THE GRAND JURY FURTHER CHARGES THAT:

On or about March 31, 2009, in Philadelphia, in the Eastern District of Pennsylvania, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

with intent to deceive, and for the purpose of obtaining a rental lease, falsely represented that a Social Security account number with the last four digits 3344 had been assigned to him by the Commissioner of Social Security when in fact such number was not the Social Security account number assigned to him.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

COUNT NINE

(Mis-use of a Social Security Number)

THE GRAND JURY FURTHER CHARGES THAT:

On or about September 24, 2009, through on or about January 6, 2010, in the Eastern District of Pennsylvania, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

with intent to deceive, and for the purpose of operating a bank account at Bank of America, falsely represented that a Social Security account number with the last four digits 3344 had been assigned to him by the Commissioner of Social Security when in fact such number was not the Social Security account number assigned to him.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

COUNT TEN

(Mis-use of a Social Security Number)

THE GRAND JURY FURTHER CHARGES THAT:

From on or about October 14, 2009, through on or about April 6, 2010, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

**ANTHONY DWAYNE BAXTER,
a/k/a Tony Allen Baxter,
a/k/a Anthony B. Allen,
a/k/a Anthony E. Baxter,**

with intent to deceive, and for the purpose of operating a bank account with Wachovia Bank, falsely represented that a Social Security account number with the last four digits 3344 had been assigned to him by the Commissioner of Social Security when in fact such number was not the Social Security account number assigned to him.

In violation of Title 42, United States Code, Section 408(a)(7)(B).

A TRUE BILL:


**ZANE DAVID MEMEGER
UNITED STATES ATTORNEY**

GRAND JURY FOREPERSON