

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
SOUTHWESTERN DIVISION

UNITED STATES OF AMERICA

v.

LAURETTA HORTON

) I N F O R M A T I O N

)

) Case No. 1:12-cr-170

)

) Violation: 18 U.S.C. § 371

)

)

)

The United States Attorney Charges:

**Introductory Allegations**

At all times material to this Information:

1. Defendant LAURETTA HORTON was the director of accounting at American Mortgage Specialists, Inc. ("AMS") and was, at times, also identified as the controller for AMS.
2. DAVID MCMASTER was the vice president in charge of operations at AMS. MCMASTER directly supervised LAURETTA HORTON.
3. SCOTT POWERS was the chief executive officer of AMS, and was, at times, the president of AMS. SCOTT POWERS supervised DAVID MCMASTER and effectively controlled all aspects of AMS.
4. AMS, an Arizona corporation headquartered in Mesa, Arizona, was in the business of originating residential real estate mortgage loans to borrowers in Arizona and other states and then selling the loans to institutional investors, including J.P. Morgan Chase and Wells Fargo. AMS obtained funding for the loans by selling participation interests in the loans to financial institutions, including BNC National Bank ("BNC").

5. BNC was a national bank with headquarters in Bismarck, North Dakota, and had offices in several states, including Arizona. BNC was a member of the Federal Home Loan Bank of Des Moines, one of twelve regional banks established by Congress to support mortgage lending and BNC's deposits were insured by the Federal Deposit Insurance Corporation ("FDIC"). In January 2009, BNC's holding company received approximately \$20,000,000 in federal funds under the Troubled Asset Relief Program ("TARP") and approximately \$17,000,000 of the TARP funds was subsequently injected into BNC by the holding company.

6. On or about October 30, 2006, BNC entered into a loan participation agreement with AMS to provide funding for loans originated by AMS. BNC was a 100 percent participant in any loan in which it participated, that is, BNC provided all of the funding for the loan.

7. AMS was required by its agreements and understandings with BNC to provide financial information to BNC, including periodic financial statements, and to maintain certain minimum tangible net worth amounts and meet certain financial ratios. LAURETTA HORTON and DAVID MCMASTER prepared the AMS financial statements, which included representations about AMS's current assets, such as cash and loans held for sale; its current liabilities; its sales revenue; and its operating expenses. LAURETTA HORTON periodically sent the financial statements to BNC via email.

**Conspiracy to Commit Bank Fraud and  
Wire Fraud Affecting a Financial Institution**

8. From at least in or about February 1, 2009, an exact date unknown, and continuing until in or about April 30, 2010, in the District of North Dakota and elsewhere, defendant

LAURETTA HORTON

knowingly and willfully combined, conspired, confederated, and agreed with DAVID MCMASTER and SCOTT POWERS and with other persons known and unknown to commit offenses against the United States, in violation of Title 18, United States Code, Section 371, that is: (i) Bank Fraud, in violation of Title 18, United States Code, Section 1344, by executing and devising a scheme and artifice to defraud BNC National Bank, a national bank and financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, and to obtain any of the moneys, funds, credits, assets, securities and other property under the custody and control of that financial institution, by means of false and fraudulent pretenses, representations, and promises; and (ii) Wire Fraud, in violation of Title 18, United States Code, Section 1343, affecting a financial institution, by executing and devising a scheme and artifice to defraud BNC National Bank and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, knowing that they were false and fraudulent when made, and transmitting and causing to be transmitted certain wire communications in interstate and foreign commerce, for the purpose of executing the scheme.

**Object of the Conspiracy**

9. It was an object and purpose of the conspiracy that LAURETTA HORTON and her co-conspirators, by making and causing to be made materially false and misleading representations and material omissions concerning the operations and financial condition of AMS, fraudulently would obtain and continue obtaining funding from BNC for AMS and would obtain personal benefits for LAURETTA HORTON and her co-conspirators.

**Manner and Means of the Conspiracy**

The conspirators employed various manner and means in furtherance of the conspiracy, including the following:

10. It was a part of the conspiracy that LAURETTA HORTON and her co-conspirators, fraudulently would provide to BNC and cause to be provided to BNC materially false and misleading information about AMS's operations and financial condition, including a falsely inflated dollar amount for the "cash" current asset item in the AMS balance sheet provided to BNC, and about undisclosed payments that AMS was making to the IRS for back payroll taxes owed.

11. It was further a part of the conspiracy that LAURETTA HORTON and DAVID MCMASTER, in order to reach the minimum requirements in its financial covenants with BNC, would falsely inflate the cash current asset item in the AMS balance sheet provided to BNC by including the amount of funds shown in the restricted "purchase" account at BNC, which were funds from the loan sales not immediately available to AMS, and that when the cash current asset amount was less than \$1 million, even as inflated by the amount of the restricted purchase account, DAVID MCMASTER would simply increase the cash item on the AMS financial statements to exceed \$1 million, creating the appearance that AMS had substantial liquid assets, when, in fact, cash actually available to AMS was significantly below that amount.

12. It was further a part of the conspiracy that, in order to conceal from BNC that AMS was making \$55,000 per month payments under an installment agreement with the IRS regarding a delinquency in unpaid payroll taxes, LAURETTA HORTON and DAVID MCMASTER would disguise and bury the payments in the AMS income statement under "marketing" and "advertising"

expenses, well knowing that knowledge of the payments would have been material to BNC's decision to continue funding the loans.

Overt Acts

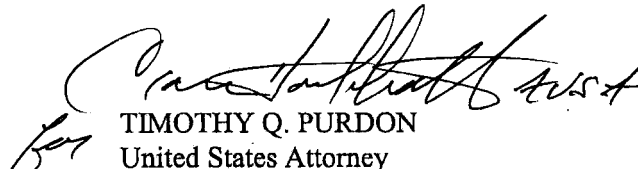
13. In furtherance of the conspiracy and to accomplish its objectives, at least one of the conspirators committed and caused to be committed the following overt acts, among others, in the District of North Dakota and elsewhere:

a. On or about February 19, 2009, LAURETTA HORTON sent an email, processed by servers located in North Dakota, to DAVID MCMASTER, asking DAVID MCMASTER in what two accounts to expense the \$55,000 IRS payments;

b. On or about February 19, 2009, DAVID MCMASTER sent a reply email, processed by servers located in North Dakota, to LAURETTA HORTON indicating that HORTON should expense the \$55,000 IRS payments IRS payments in the "Marketing and advertising" accounts; and,

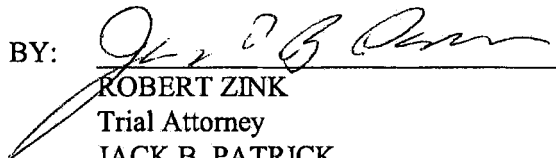
c. On or about September 17, 2009, LAURETTA HORTON sent an email to a BNC employee, processed by servers located in North Dakota, attaching purported AMS financials ending July 31, 2009, which included an AMS balance sheet showing a falsely inflated dollar amount for cash and which included an AMS income statement disguising the payments to the IRS for the payroll tax deficiency.

(All in violation of Title 18, United States Code, Section 371).

  
TIMOTHY Q. PURDON  
United States Attorney

DENIS J. McINERNEY  
United States Department of Justice  
Chief  
Criminal Division, Fraud Section

BY:

  
ROBERT ZINK  
Trial Attorney  
JACK B. PATRICK  
Senior Litigation Counsel  
Criminal Division, Fraud Section

**CRIMINAL CASE COVER SHEET- U.S. DISTRICT COURT****Place of Offense:**County: BurleighRecommended Division: SWExplanation: See place of offense**Related Case Information:**☒

Information

☐

Indictment

☐

Superseding

☐

Superseding Indictment

Docket No:

1:12-cr-170☐

Same Defendant

☒

New Defendant

Magistrate Judge Case No: \_\_\_\_\_

Search Warrant Case No: \_\_\_\_\_

R 20/R 40 from District: \_\_\_\_\_

**Defendant Information:**Defendant Name Lauretta Horton

Aliases \_\_\_\_\_

Address \_\_\_\_\_

Birthdate \_\_\_\_\_

Social Security No. \_\_\_\_\_

Sex \_\_\_\_\_

Alien \_\_\_\_\_

☐

Juvenile – Matter to be sealed

☐

Interpreter requested. Language and/or Dialect: \_\_\_\_\_

**U. S. Attorney Information:**

USA/AUSA

Jack B. Patrick/Robert Zink

Name of Agency

Federal Housing Finance Association**Location Status:**☒

Not arrested. Requesting

☒

Summons

☐

Warrant

☐

Arrested on \_\_\_\_\_

☐

On Pretrial Release as \_\_\_\_\_

by Order of Magistrate Judge \_\_\_\_\_

☐

Already in Federal Custody as of \_\_\_\_\_

in \_\_\_\_\_

☐

Already in State Custody in \_\_\_\_\_

☐

Detainer Filed on \_\_\_\_\_

☐

Fugitive

**U.S.C. Citations:**

Total # of Counts

1☐

Petty

☐

Misdemeanor

☒

Felony

U.S. Code/Index Key	Description of Offense Charged/Statutory Maximum Penalties	Count(s)
18 U.S.C. 371	Conspiracy to Commit Bank Fraud & Wire Fraud Affecting a Financial Institution (5 years/\$250,000)	1