

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:15-cr-0095-T-26MAP

RANDY L. PLATFOOT

**NOTICE OF MAXIMUM PENALTY, ELEMENTS OF OFFENSE,
PERSONALIZATION OF ELEMENTS AND FACTUAL BASIS**

ESSENTIAL ELEMENTS

The essential elements of a violation of Title 18, United States Code,
Section 1014 are as follows:

- First:** That the defendant knowingly made a false statement or report to the financial institution described in the indictment;
- Second:** That the deposits of the institution were insured by the FDIC; and
- Third:** That the defendant made the false statement or report willfully and with intent to influence the action of the institution upon an application, advance, commitment or loan, or any change or extension thereof.

PENALTY

The penalty for the offense charged in Counts One and Two of the Indictment is a maximum term of imprisonment of thirty (30) years, a maximum fine of \$1,000,000, and a term of supervised release of up to five years.

FACTUAL BASIS

The defendant met Craig Adams, who advised Platfoot that he could help Platfoot make money in real estate but that it would involve Platfoot's buying property, tearing it down, and then re-selling the property. At the time that they met, Platfoot was employed in the carpet/flooring business.

38600 East State Road 70, Myakka City, Florida

On August 16, 2005, Platfoot signed a contract to purchase this property for the sum of \$985,000. Platfoot suggested that he finance the sale by taking out a purchase money mortgage for \$738,000 and assuming a second-mortgage with the sellers for \$400,000. The loan which Platfoot took out was from Washington Mutual Bank ("WaMu"), a financial institution whose deposits were then insured by the FDIC.

The loan application which WaMu received in support of the \$738,000 mortgage loan reflected that Platfoot was earning \$15,750 monthly from "Other Income". Platfoot signed that application on September 28, 2005. The loan application also reflected that there was no subordinate financing connected to this transaction and that the seller would be bringing \$247,521 to the table at closing.

The HUD-1 contained in the files of the title company and signed by Platfoot on September 29, 2005 reflected that there was, indeed, a second mortgage of \$400,000. WaMu's copy of that HUD-1 in their files did not reflect

that \$400,000 second mortgage. The second mortgage was prepared and signed by the defendant and a copy of it is in the title company files as well.

Platfoot ultimately was unable to make the mortgage payments on the property and the bank (JPP Morgan Chase, as the successor institution to WaMu) obtained a civil judgment against him.

In June, 2013, agents interviewed Platfoot. In that statement, he acknowledged the HUD-1 from the WaMu bank file and indicated that the signature on the document appeared to be his. He admitted that he did not pay the \$205,270 at closing as the HUD-1 reflected. He stated that all he paid was a \$50,000 earnest money deposit. He reviewed the alternate HUD-1, which reflected the second mortgage of \$400,000, and indicated that the signature on that document could also be his. Platfoot also stated that he paid \$10,000 to Adams for his role in the transaction. He said that Adams used "creative financing" to get these loans and property sales done.

The loan application also indicated that Platfoot was making \$15,750 monthly in "other income", a figure which, if accurate, would result in an annual income of \$189,000. In Platfoot's 2013 interview with the agents, he indicated that he did not recall how much income he had earned in 2005 but that it was probably not a lot. The IRS never received an income tax return for Platfoot for tax year 2004, 2005, or 2006.

Investigating agents made contact with the CPA firm which had prepared Platfoot's 2004, 2005, and 2006 personal income tax returns (none of which he

apparently ever filed with the IRS). With respect to the defendant's 2004 income tax returns, the income tax return which they prepared reflected his total and adjusted gross income for tax year 2004 was well under \$189,000. As to 2005, the tax preparer prepared a tax return which also reflected that Platfoot's total income for tax year 2005 was well under \$189,000.

3435 La Paloma Avenue, Sarasota, Florida

Platfoot had owned a home at this location. In April, 2007, he applied for a re-finance loan for \$1,595,000 from WaMu. In his loan application, he indicated that he owned a carpeting company and he set forth a monthly income of \$20,000 and a monthly income of \$11,180 in rents. On the "Liabilities" section of the loan application, he listed only a small debt to Chase Bank and failed to list the second mortgage which he owed on the Myakka City property. He signed that application and dated it on April 24, 2007. The transaction closed on that date and Platfoot made a few payments on the note before he defaulted on it.

With respect to the re-finance loan application, there is some evidence as to Platfoot's 2006 income. The IRS has advised that he never submitted a tax return for that year. However, the tax records for 2006 from the defendant's tax preparer reflected no wages at all, a small amount of interest income, and losses

elsewhere, yielding a total negative income for tax year 2006. The defendant's 2007 tax return, which he did file with the IRS, reflected a very small total income for that year as well. His tax preparer's records confirm this fact.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2015, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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