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Date 5-5-06
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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE**

U.S. DISTRICT COURT
DISTRICT OF N.H.
FILED

SEP 18 3 34 PM '02

JP

UNITED STATES OF AMERICA

v.

Cr. No. 02-145-01-JD

R. SCOTT BROOKS

INDICTMENT

CERTIFIED TO BE A TRUE COPY
JAMES R. STARR, CLERK

BY: JRC
DEPUTY CLERK

The Grand Jury charges:

COUNT ONE

FDIC Fraud - 18 U.S.C. § 1007

1. At all relevant times defendant R. SCOTT BROOKS was a resident of New Hampshire engaged in the business of real estate development.
2. The Federal Deposit Insurance Corporation ("FDIC") was an agency of the executive branch of the United States established in part to protect depositors by insuring deposits in member financial institutions in amounts up to \$100,000 per account. The FDIC also acted as receiver for the assets of failed member institutions, and in that capacity managed and disposed of loans and other assets of failed institutions.
3. In March and April 1988, defendant R. SCOTT BROOKS obtained two loans totaling approximately \$4.5 million (hereafter "the FDIC loans") from United Savings Bank, a predecessor to Dartmouth Bank, each a federally-insured member institution of the FDIC.
4. In October 1991, the FDIC was appointed receiver of Dartmouth Bank. The FDIC loans were subsequently serviced by New Dartmouth Bank and later by Banc One New Hampshire Asset Management Corporation, servicing and liquidation agents for the FDIC.

5. On November 21, 1991, the FDIC notified Brooks that the obligations under the FDIC loans were overdue and in arrears. On that same date, the FDIC made demand that Brooks pay the overdue amounts and provide current financial statements by December 9, 1991 to avoid immediate acceleration of all principal and interest. Brooks made no payments nor did he provide the financial statements to the FDIC by December 9, 1991. The FDIC considered Brooks' failure to make payment and to provide financial statements as "events of default."

6. In December 1991, the FDIC brought suit in Hillsborough County Superior Court to recover on the FDIC loans. Later Brooks and others brought suit against the FDIC in the United States District Court for the District of New Hampshire. The cases were consolidated in the United States District Court and in February 1996, the FDIC obtained a United States District Court judgment against Brooks and others in the amount of \$4,531,120.78 (hereafter "the \$4.5 million judgment"). All claims against the FDIC were dismissed.

7. The FDIC, as receiver of failed member institutions, directly and indirectly through its servicing and liquidation agents, requested obligors on defaulted promissory notes to provide financial information to the FDIC. The requested information was material to the FDIC's determination whether the obligors could make full or partial payments on the defaulted promissory notes. The information was also material to the FDIC's decision whether to compromise the notes, to pursue collection from assets or collateral, or to sell the notes to third parties at auction or in private sales.

8. On April 8, 1996, in response to an FDIC request, defendant R. SCOTT BROOKS submitted a 7-page "Affidavit of Financial Condition of R. Scott Brooks" which stated that it was "for the purpose of informing the FDIC of [Brooks'] present financial condition."

9. Based upon information including the affidavit supplied by BROOKS, the FDIC decided to sell the \$4.5 million judgment to a third party.

10. At a date uncertain, but prior to June 18, 1996, R. SCOTT BROOKS introduced to the FDIC a potential third party purchaser of the \$4.5 million judgment (hereafter "John Doe").

11. In order to insure that defaulted obligors were not re-purchasing, through straw purchasers, their own defaulted obligations at heavily discounted prices, the FDIC required a potential judgment purchaser to sign a "Purchaser Eligibility Certification" representing, inter alia, that the purchaser was not purchasing the asset on behalf of, or for resale or transfer to, any prohibited purchaser, including the defaulted obligor. R. SCOTT BROOKS was a defaulted obligor and a prohibited purchaser with respect the \$4.5 million judgment.

12. On or about June 18, 1996, John Doe signed a Purchaser Eligibility Certification with respect to the \$4.5 million dollar judgment.

13. On or about June 20, 1996, the FDIC, in reliance upon the financial information provided by R. SCOTT BROOKS and the Purchaser Eligibility Certification executed by John Doe, sold the \$4.5 million judgment to John Doe for \$160,000.


14. Contrary to the representations made in the Purchaser Eligibility Certification, John Doe purchased the \$4.5 million judgment at the request of, and as a favor to, defendant R. SCOTT BROOKS. BROOKS provided the \$160,000 used by John Doe to buy the \$4.5 million judgment from an account which BROOKS failed to disclose to the FDIC in his financial affidavit of April 8, 1996.

15. On or about January 8, 1997, at the request of defendant R. SCOTT BROOKS, John Doe signed an "Assignment of Judgment" by which he assigned the \$4.5 million judgment to "Total Financial Corporation," a Turks & Caicos Islands, British West Indies corporation, for no consideration.

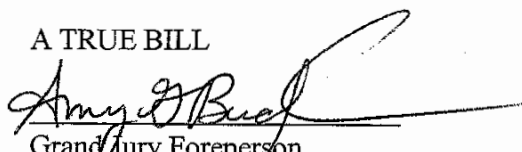
16. For the purpose of influencing the actions of the FDIC, defendant R. SCOTT BROOKS knowingly made and invited reliance on materially false statements and documents in that he: a) signed and submitted to the FDIC on April 8, 1996, an affidavit which contained materially false statements and representations concerning his then present financial condition; b) invited reliance on a Purchaser Eligibility Certification which he knew to contain materially false information; and c) knowingly made further materially false statements, both oral and in writing, to the FDIC in order to avoid paying monies owed to the FDIC and to affect the compromise and sale of the \$4.5 million judgment to a straw purchaser.

All in violation of Title 18, United States Code, Section 1007.

September 18, 2002



Arnold H. Huftalen
Assistant U.S. Attorney

A TRUE BILL

Grand Jury Foreperson
Deputy