

STATE OF NORTH CAROLINA

WAKE COUNTY

BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
09 DHC 26

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

WILLIAM D. ORANDER, III, Attorney,

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER OF DISCIPLINE

This matter was heard on 25 February 2010 before a hearing panel of the Disciplinary Hearing Commission composed of the Chair, F. Lane Williamson, and members Ronald R. Davis and David L. Williams. Jennifer A. Porter represented Plaintiff, the North Carolina State Bar. Defendant did not appear and was not represented.

Based upon the pleadings, the stipulated facts, and the evidence introduced at the hearing, the hearing panel hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar ("State Bar"), is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the General Statutes of North Carolina, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, William D. Orander, III ("Orander"), was admitted to the North Carolina State Bar in 1995, and is, and was at all times referred to herein, an attorney at law licensed to practice in North Carolina, subject to the laws of the State of North Carolina, the Rules and Regulations of the North Carolina State Bar and the Rules of Professional Conduct.

3. Orander was properly served with process, a hearing in this matter was set, and the matter came before the hearing panel with due notice to all parties.

4. During all or part of the relevant periods referred to herein, Orander was engaged in the practice of law in the State of North Carolina and maintained a law office in Goldsboro, Wayne County, North Carolina.

5. Orander was the closing attorney for numerous real estate transactions from about January 1, 2004 through December 31, 2006 in which individuals purchased property financed by loans secured by that property, including those transactions listed on attached Exhibit A¹.

6. For the real estate closings on the list attached as Exhibit A, Orander prepared HUD-1 Settlement Statements that falsely reflected that the loans were refinance loans as opposed to purchase loans and provided those false HUD-1 Settlement Statements to the lending institutions.

7. Orander knew that only the HUD-1 Settlement Statement that falsely showed the purchase transaction as a refinance transaction was being provided to the banks. Orander knew that another HUD-1 Settlement Statement that he also prepared for these closings that showed the purchase nature of the transaction was not going to the banks.

8. Orander prepared and submitted the false refinance HUD-1 Settlement Statements in conjunction with others who sought to disguise the purchase transactions as refinance transactions.

9. The institutions making the loans for the closings listed in Exhibit A underwrote the loans as if they were refinance loans rather than purchase loans. In several instances, the amount loaned exceeded the purchase price of the house, and the borrowers received money from the closings.

10. Orander knew that the lenders would loan more money to the borrowers for a refinance loan than for a purchase loan at the time of the conduct described herein.

11. Orander prepared the false refinance HUD-1 Settlement Statements to enable the borrowers to borrow more money than otherwise would have been approved for a purchase loan.

Based upon the foregoing Findings of Fact, the hearing panel enters the following

CONCLUSIONS OF LAW

1. All the parties are properly before the Disciplinary Hearing Commission and the Disciplinary Hearing Commission has jurisdiction over the Defendant, William D. Orander, III, and the subject matter.

¹ The Exhibit A for Hearing reflects changes from the Exhibit A that was attached to Plaintiff's Complaint that conform the list to the evidence presented at the hearing. The transactions in the rows that are not shaded gray are the transactions in which the conduct described herein is found to have occurred.

2. Defendant's conduct, as set out in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b)(2), for engaging in conduct in violation of the Rules of Professional Conduct in effect at the time of his actions as follows:

- a. By preparing and providing the lenders with false refinance HUD-1 Settlement Statements, Orander engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation in violation of Rule 8.4(c); and
- b. By preparing and providing the lenders with false refinance HUD-1 Settlement Statements and by closing transactions in which he knew the lender had received false refinance HUD-1 Settlement Statements, Orander assisted others in committing fraud upon the lender in violation of Rule 8.4(a), Rule 8.4(c), and Rule 1.2(d).

Based upon the foregoing Findings of Fact and Conclusions of Law and upon the evidence and arguments presented at the hearing concerning appropriate discipline, the hearing panel hereby finds by clear, cogent, and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. Banks are not normally thought of as vulnerable entities. Nevertheless, the banks relied upon Orander as closing attorney to carry out the closings in an ethical, lawful, and proper manner. These institutions are placed at risk by the conduct of attorneys that circumvent or knowingly facilitate others in the circumvention of safeguards employed to avoid fraud.

2. Southern Bank and New Century Bank each had lending policies specific to purchase transactions and lending policies specific to other financing referred to as refinance transactions.

3. For purchases, the lenders would loan 80%-85% of the purchase price or the appraised value, whichever is lower. The buyer would be expected to pay the remainder of the purchase price. It is significant to the banks that the buyers contribute that remaining 15%-20% of the purchase price as part of the banks' risk analysis, to ensure the borrowers have a stake in the property and are therefore less likely to walk away from the property and default on the loan.

4. The lenders relied on the HUD-1 Settlement Statements to accurately reflect the nature of the transaction and the receipt and disbursement of funds in these closings. Orander's preparation and submission of HUD-1 Settlement Statements that failed to accurately show the transaction as a purchase and did not accurately show the receipt and disbursement of funds for that purchase evaded the safeguards relied upon by the lender in purchase transactions.

5. Southern Bank and New Century Bank would typically loan 80%-85% of the appraised value of property for a refinance loan. No money would typically be required from the borrower at closing. The borrowers would typically receive money from a refinance loan. The underwriting on refinance loans is based on the borrower already having a stake in the property from the borrower's equity. Orander's preparation and submission of HUD-1 Settlement Statements that made purchase transactions falsely appear to be refinance transactions furthered and helped effectuate a scheme whereby the banks loaned significantly more than they otherwise would have for purchase transactions and whereby the borrowers received money from the loans in addition to acquiring property rather than contributing money toward the purchases.

6. Orander not only participated in the scheme to disguise purchase transactions as refinances as closing attorney, but also as borrower through his companies Goldtower Properties, LLC and Abbey Road Investments, Inc. As borrower, he participated in having documents falsely reflecting the transaction as a refinance provided to the bank, including false HUD-1 Settlement Statements and promissory notes falsely indicating the purpose of the loan to be a refinance. In the five transactions on Exhibit A in which one of his companies participated as borrower, the borrower companies received a total of \$96,677.64 in cash back from the loans.

7. Southern Bank has had to charge down most of its loans listed on Exhibit A, which means it has had to reduce the value of those loans. As a result it expects to collect \$283,655.00 less from these loans than it loaned. Southern Bank has had to charge off certain amounts on loans that went into default and where the properties were sold in foreclosure, realizing losses from those loans in the amount of \$37,261.00. Southern Bank loaned at least \$714,588.00 more than it would have for the loans on Exhibit A had it known the true nature of those transactions.

8. Orander engaged in conduct involving misrepresentation and deceit over a substantial period of time.

9. Clients are entitled to attorneys they can trust. Orander, by engaging in conduct involving misrepresentation and deceit over a substantial period of time, has shown himself to be untrustworthy. When an attorney violates that trust, it harms the public and the profession.

10. Orander suggested in his defense that the bank desired the HUD-1 Settlement Statements falsely show the purchase transactions as refinances. The evidence, however, did not support the notion that anyone at the banks other than a lone loan officer knew of or wanted purchase transactions disguised as refinances. Furthermore, it is no defense to attorney misconduct that a client requested such misconduct. Should a client request that an attorney engage in conduct involving dishonesty, fraud, deceit, or misrepresentation, it is the duty of the attorney to refuse to engage in, or assist with, such conduct.

11. Orander's obligation as closing attorney was to produce an accurate HUD-1 Settlement Statement for each transaction. Accurate HUD-1 Settlement Statements are necessary for the system of finance in real estate to function.

12. Orander has no prior disciplinary record concerning his license to practice law.

Based upon the foregoing Findings of Fact, Conclusions of Law, Findings of Fact Regarding Discipline, and upon the evidence and arguments presented at the hearing concerning appropriate discipline, the hearing panel hereby enters the following additional

CONCLUSIONS REGARDING DISCIPLINE

1. The hearing panel has carefully considered the factors listed in Rule .0114(w) of the North Carolina State Bar Discipline and Disability Rules. The hearing panel finds evidence of the following factors:

- a. From Rule .0114(w)(1):
 - i. Intent of the defendant to cause the resulting harm or potential harm. Orander prepared and submitted false HUD-1 Settlement Statements to the banks in order to assist in making the transactions look like refinances and obtain larger loans from the banks.
 - ii. Intent of the defendant to commit acts where the harm or potential harm is foreseeable. Our financial system is dependent upon accuracy and truthfulness in disclosure, and harm or potential harm is foreseeable anytime a financial institution is asked to make loan decisions based upon false information.
 - iii. Circumstances reflecting the defendant's lack of honesty, trustworthiness, or integrity. This factor is evident on its face given that Orander clearly prepared and submitted false HUD-1 Settlement Statements.
 - iv. Elevation of the defendant's own interest above that of the client. Although it did not appear that Orander got any more than a relatively modest attorney's fee for the closings generally, he did profit through his companies participating in this scheme as borrowers and getting loans in amounts that otherwise would not have been available. In this way he elevated his own interests over that of his clients, the banks.
 - v. Impairment of the client's ability to achieve the goals of the representation. Orander's participation in disguising purchases as

refinances impaired the banks' ability to accurately apply its lending policies.

- vi. Acts of dishonesty, misrepresentation, deceit, or fabrication, as articulated in the conclusion of law above, by creating and submitting false HUD-1 Settlement Statements disguising purchase transactions as refinances and closing loans in which he knew the banks were receiving this false information.

b. From Rule .0114(w)(2):

- i. Acts of dishonesty, misrepresentation, deceit, or fabrication, as stated in the rule violations found and further articulated in these findings and conclusions regarding discipline.

c. From Rule .0114(w)(3):

- i. No prior disciplinary offenses.
- ii. Dishonest or selfish motive. There is evidence of dishonest motive in Orander's intent to assist in making purchase transactions falsely appear to be refinances. There is evidence of a selfish motive in the personal benefit to Orander through those loans to entities in which he had an ownership interest.
- iii. Indifference to making restitution. There were no good faith efforts to rectify the consequences of his misconduct.
- iv. A pattern of misconduct. Orander engaged in submitting false information to the banks in 49 transactions identified in Exhibit A.
- v. Multiple offenses. Orander's conduct in 49 transactions violated several different provisions of the Rules of Professional Conduct as set out above.
- vi. Refusal to acknowledge wrongful nature of conduct. Orander did not acknowledge the wrongful nature of his conduct in his responses to the Grievance Committee, and the matters he presented in defense in response to the Grievance Committee were largely irrelevant. By his absence at the hearing before the hearing panel in this matter, he has also refused to acknowledge the wrongful nature of his conduct.
- vii. Degree of experience in the practice of law. At the time of the conduct, Orander had been practicing law for about ten (10) years. This is sufficient time to be considered an experienced practitioner. Certainly as a real estate lawyer Orander should have recognized the wrongful nature of this conduct.

2. Orander's conduct resulted in significant harm to Southern Bank and created potential significant harm for New Century Bank. Orander's conduct evaded safeguards relied upon by both Southern Bank and New Century Bank. Southern Bank loaned significantly more than it otherwise would have for the loans in Exhibit A, has suffered actual losses upon foreclosure of certain loans and expects to receive significantly less than it loaned for other outstanding loans on Exhibit A.

3. Orander's conduct, involving misrepresentation and deceit over a substantial period of time, resulted in significant harm to his clients and the profession and posed potential significant harm to the public that may have sought to retain him or those who may have dealt with him in other capacities. When an attorney violates the trust clients and others should be able to have in attorneys, it harms the public and the profession.

4. The hearing panel has carefully considered all of the different forms of discipline available to it, including admonition, reprimand, censure, suspension, and disbarment, in considering the appropriate discipline to impose in this case.

5. The hearing panel has considered all lesser forms of sanctions available to it and finds that disbarment is the only appropriate discipline in this case, for the following reasons:

- a. Orander committed misdeeds involving moral turpitude and violations of the public trust, including fraudulent conduct, material misrepresentations, and deceit. Misconduct involving misrepresentations and deceit are among the most serious that an attorney can commit. Such offenses demonstrate that the offending attorney is not trustworthy. Clients are entitled to have trustworthy attorneys;
- b. The factors under Rule .0114(w) that are established by the evidence in this case are of a nature that support imposition of disbarment as the appropriate discipline;
- c. Entry of an order imposing lesser discipline than disbarment would fail to acknowledge the seriousness of the offenses committed by Orander, would be inconsistent with discipline issued in prior cases involving similar misconduct, and would send the wrong message to attorneys and the public regarding the conduct expected of members of the North Carolina State Bar; and
- d. The protection of the public and the legal profession requires that Orander not be permitted to resume the practice of law until he demonstrates the following: that he has reformed; that he understands his obligations to his clients, the public, and the legal profession; and that permitting him to practice law will not be detrimental to the public or the integrity and standing of the legal profession or the administration of justice.

Disbarment is the only discipline available that requires an attorney to make such a showing before he or she may be reinstated.

Based upon the foregoing Findings of Fact, Conclusions of Law, and Findings of Fact Regarding Discipline, and Conclusions Regarding Discipline, the hearing panel hereby enters the following

ORDER OF DISCIPLINE

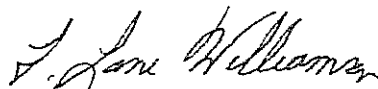
1. Defendant, William D. Orander, III, is hereby DISBARRED from the practice of law in North Carolina.

2. Defendant shall submit his license and membership card to the Secretary of the North Carolina State Bar no later than 30 days following service of this order upon Defendant.

3. Defendant shall comply with the wind down provisions contained in 27 N.C. Admin. Code Chapter I, Subchapter B, § .0124(b) of the North Carolina State Bar Discipline & Disability Rules. Defendant shall file an affidavit with the Secretary of the North Carolina State Bar within 10 days of the effective date of this order, certifying he has complied with the wind down rule.

4. The costs of this action are taxed to Defendant. Defendant must pay the costs within 30 days of service of the statement of costs upon him.

17th Signed by the Chair with the consent of the other hearing panel members, this the day of March 2010.



F. Lane Williamson, Chair
Disciplinary Hearing Panel

	Borrower	Seller	Property	Date	Lender
1.	ASP Properties, LLC	Wachovia Bank, N.A.	271 Woodland Church Road, Dudley, NC 28333	4/20/2004	Southern Bank and Trust Company
2.	ASP Properties, LLC	Deutsche Bank National Trust	119 Daffodil Drive Dudley, NC 28333	5/24/2004	Southern Bank and Trust Company
3.	ASP Properties, LLC	Wachovia Bank, N.A.	118 Daffodil Drive Dudley, NC 27833	5/25/2004	Southern Bank and Trust Company
4.	ASP Properties, LLC	Sound Investments of New Bern, Inc.	114 Heather Glen Drive Goldsboro, NC 27530	5/25/2004	Southern Bank and Trust Company
5.	Artis Lee Davis and wife, Ella H. Davis	Manufacturers & Traders Trust Company, Trustee	608 11th Street Goldsboro, NC 27530	7/15/2004	Southern Bank and Trust Company
6.	Goldtower Properties, LLC	Fannie Mae	206 Devonshire Goldsboro, NC 27530	8/12/2004	Southern Bank and Trust Company
7.	ASP Properties, LLC	Deutsche Bank National Trust	125 Daffodil Drive Goldsboro, NC 27530	8/12/2004	Southern Bank and Trust Company
8.	ASP Properties, LLC	Wells Fargo Bank Minnesota, NA	202 Sami Street Goldsboro, NC 27530	8/23/2004	Southern Bank and Trust Company
9.	Joseph N. Falcone and wife Mary E. Falcone	Department of Veteran Affairs	103 Sallie Place Goldsboro, NC 27534	9/22/2004	Southern Bank and Trust Company
10.	ASP Properties, LLC	Wachovia Bank, N.A.	215 Devonshire Goldsboro, NC 27530	10/4/2004	Southern Bank and Trust Company
11.	Tracy L. Merritt	H. Terry Hutchens, PA	257 Charlie Braswell Road Goldsboro, NC 27534	10/20/2004	Southern Bank and Trust Company
12.	R.K. Parker, LLC	Homecomings Financial Network, Inc.	202 Timber Hollow Dudley, NC 28333	11/8/2004	Southern Bank and Trust Company
13.	William D. Herring and Lori S. Herring	Humphrey and Humphrey, LLC	3215-3217 Chris Street Kinston, NC 28504	11/9/2004	Southern Bank and Trust Company
14.	J-Co Enterprises, LLC	Wachovia Bank, N.A.	105 Broughton Lane La Grange, NC 28551	1/6/2005	Southern Bank and Trust Company
15.	Rhonda Coker	Deutsche Bank National Trust	106 Melodie Lane Goldsboro, NC 27530	3/7/2005	Southern Bank and Trust Company
16.	William D. Herring and W. Stephen Moore	Ada K. Melvin	410 W. Ash Street Goldsboro, NC 27530	3/23/2005	Southern Bank and Trust Company
17.	Rhonda Coker	Long Beach Mortgage Company	202 Janice Drive Dudley, NC 28333	3/28/2005	Southern Bank and Trust Company
18.	T&D Home Buyers, LLC	Wachovia Bank, N.A.	1971 Hinnant Road Pikeville, NC 27863	3/30/2005	Southern Bank and Trust Company

	Borrower	Seller	Property	Date	Lender
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19.	Christopher M. Withrow and wife, Penny G. Withrow	Steven Fox and wife, Michelle Fox	203 Autumn Winds Drive Goldsboro, NC 27530	4/14/2005	Southern Bank and Trust Company
20.	Rhonda Coker	US Bank National Association	109 Melodie Lane Goldsboro, NC 27530	4/15/2005	Southern Bank and Trust Company
21.	Donald F. Rarick, Jr., and wife, Cheryl L. Rarick	T&D Homebuyers, LLC	462 Potts Road Dudley, NC 28333	4/21/2005 2006	Southern Bank and Trust Company
22.	J-Co Enterprises, LLC	Wachovia Bank, N.A.	204 Brook Meadows Drive La Grange, NC 28351	4/22/2005	Southern Bank and Trust Company
23.	William D. Herring and W. Stephen Moore	Margaret McKeel Albritton	405 West Pine Street Goldsboro, NC 27530	5/9/2005	Southern Bank and Trust Company
24.	Lightning Properties, LLC	Wells Fargo Bank, N.A.	125 Party Road Pikeville, NC 27863	5/25/2005	Southern Bank and Trust Company
25.	Robert K. Parker	Washington Mutual Bank, N.A.	112 Broughton Lane La Grange, NC 28551	5/25/2005	Southern Bank and Trust Company
26.	Joseph N. Falcone and wife Mary E. Falcone	Ezdehar Sarsour and husband Ghazi Sarsour	203 Holly Road Goldsboro, NC 27534	5/31/2005	Southern Bank and Trust Company
27.	Scott Goodwin	Deutsche Bank National Trust	102 Redman Court La Grange, NC 28551	5/31/2005	Southern Bank and Trust Company
28.	James H. King and wife, Sally L. King	Pluto Real Estate, Inc.	601 Linen Lane Goldsboro, NC 27534	6/6/2005	Southern Bank and Trust Company
29.	R.K. Parker, LLC	Suntrust Mortgage	3981 Falling Creek Road La Grange, NC 28551	6/27/2005	Southern Bank and Trust Company
30.	ASP Properties, LLC	Option One Mortgage Corporation	108 Melodie Lane Goldsboro, NC 27530	7/6/2005	The Little Bank
31.	Amy N. Latour	Michael Arthur and, Darrell Arthur	566 Pinkney Church Road Pikeville, NC 27863	7/15/2005	Southern Bank and Trust Company
32.	Abbey Road Investments, Inc.	Larry Rook and wife, Betty Rook	106 W. Wayne Street & 206 Main Street Fremont, NC 27830	7/18/2005	Southern Bank and Trust Company
33.	William D. Herring and W. Stephen Moore	Mamie H. Bundy	1104 Laurel Street Goldsboro, NC 27530	7/25/2005	Southern Bank and Trust Company
34.	William D. Herring and W. Stephen Moore	Charles W. Gardner and wife, Shirley Kirby Gardner	3119 US Hwy 70 West, Goldsboro, NC 27530	8/4/2005	Southern Bank and Trust Company
35.	Rosanna J. White and David J. White	American General Finance Co.	220 Rollinwood Drive Goldsboro, NC 27530	8/16/2005	Southern Bank and Trust Company

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36.	J-Co Enterprises, LLC	Jarvis D. Grady and wife, Mary Grady	203 Forest Knolls Road Goldsboro, NC 27534	8/18/2005	Southern Bank and Trust Company
37.	Darrell Arthur and Michael Arthur	DLJ Mortgage, Inc., C/O America's Servicing Company	3948 Friendship Church Rd Walstonburg, NC 27888	8/30/2005	Southern Bank and Trust Company
38.	R.K. Parker, LLC	Bank of America, N.A.	111 Autumn Winds Drive Goldsboro, NC 27530	9/9/2005	Southern Bank and Trust Company
39.	Kristie G. Parker	Bank of America, N.A.	102 Orchard Run Drive Mount Olive, NC 28365	9/19/2005	Southern Bank and Trust Company
40.	Scott Goodwin	Homeq Servicing Corporation f/k/a TMS Mortgage Inc. d/b/a The Money Store	104 Carla Ann Drive Goldsboro, NC 27530	9/19/2005	Southern Bank and Trust Company
41.	Gerale J. Condron	Evelyn Walden	2020 Old Grantham Road Goldsboro, NC 27530	9/26/2005	Southern Bank and Trust Company
42.	William D. Herring and W. Stephen Moore	TCIF REO2, LLC	710 E. Elm Street Goldsboro, NC 27530	10/28/2005	Southern Bank and Trust Company
43.	Lightning Properties, LLC	Pearlie B. Darden	211 Quail Drive Goldsboro, NC 27534	10/31/2005	Southern Bank and Trust Company
44.	William D. Herring and W. Stephen Moore	Barowe, LLC	245 Millers Chapel Road Goldsboro, NC 27530	11/2/2005	Southern Bank and Trust Company
45.	J-Co Enterprises, LLC	Secretary of Housing Development	201 Robinson Drive Goldsboro, NC 27534	12/20/2005	Southern Bank and Trust Company
46.	Gerale J. Condron	Self Help Ventures Fund	105 Nugget Drive Dudley, NC 28333	1/13/2006	Southern Bank and Trust Company
47.	Abbey Road Investments, Inc.	Netbank	42 Brook Place La Grange, NC 28551	1/20/2006	Southern Bank and Trust Company
48.	Kristie G. Parker	Deutsche Bank National Trust	1146 Daw Pate Road Pikeville, NC 27863	2/16/2006	Southern Bank and Trust Company
49.	Robert K. Parker	Christopher M. Evans and wife, Melissa Evans	103 Hyde Park Place Goldsboro, NC 27530	2/17/2006	New Century Mortgage Bank
50.	Joseph N. Falcone and wife Mary E. Falcone	Countrywide Home Loans, Inc.	405 Sherwood Avenue Goldsboro, NC 27534	2/17/2006	Southern Bank and Trust Company
51.	Darrell Arthur	HSBC Mortgage Services	107 Daffodil Drive Dudley, NC 27833	3/24/2006	Southern Bank and Trust Company
52.	Goldtower Properties, LLC	Security Trust	602 Handley Acres Drive Goldsboro, NC 27530	7/13/2006	New Century Mortgage Bank

	Borrower	Seller	Property	Date	Lender
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53.	R. K. Parker, LLC	Deutsche Bank National Trust	102 Pleasant Ridge Road Goldsboro, NC 27530	7/25/2006	Southern Bank & Trust Company
54.	Gerale J. Condron	Secretary of Housing Development	913 Hobbs Street Clayton, NC 27520	8/14/2006	New Century Mortgage Bank
55.	Gerale J. Condron	Household Realty Corporation	9527 Hwy 70 Clayton, NC 27520	10/13/2006	New Century Mortgage Bank
56.	<i>Abbey Road Investments, Inc.</i>	<i>BB&T</i>	<i>206 Dock Street Fremont, NC 27830</i>	<i>10/13/2006</i>	<i>New Century Mortgage Bank</i>