

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
WESTERN DIVISION

UNITED STATES OF AMERICA )  
 ) No. \_\_\_\_\_  
 vs. ) Violations: Title 18, United States Code,  
 ) Sections 1343 and 1014  
 RYAN COLE, )  
 JAMES GRABER, and )  
 KRISTIN KING )

**COUNT ONE**

The NOVEMBER 2015 GRAND JURY charges:

1. At times material to this indictment:
  - a. The Small Business Administration (“SBA”) was an agency of the United States established by Congress to provide financial assistance to qualified small businesses.
  - b. The SBA “7(a) Loan Guaranty Program” authorized the SBA to provide financial assistance to eligible, credit-worthy start-up and existing small businesses through loan guarantees to participating lenders. The SBA did not loan money to small businesses under the 7(a) Loan Guaranty Program. Rather, when the SBA approved a loan under the 7(a) Loan Guaranty Program, it provided a guaranty to the lender that the SBA would repay a percentage of a qualified loan in the event that a borrower defaults. An SBA 7(a) loan transferred the risk of borrower non-payment from the lender to the SBA, up to the amount of the guaranty.
  - c. Bank A was a financial institution the deposits of which were insured by the Federal Deposit Insurance Corporation. Bank A was a participatory lender in the SBA 7(a) Loan Guaranty Program.
  - d. Federal regulations required that Bank A must disclose whether the 7(a) loan would reduce the exposure of Bank A in a position to sustain a loss and whether the 7(a) loan

would repay a debt due to Bank A. Federal regulations also required that Bank A must disclose all relationships between the small business, its associates, and the lender.

#### **Defendants and Relevant Parties and Entities**

e. SunLee Development, LLC was a limited liability corporation organized in the State of Illinois. Individual A originally was SunLee Development's only member. On April 7, 2008, RYAN COLE was added as a member of SunLee Development.

f. SunLee Development owned a commercial building located at 4001 North Perryville Road, Loves Park, Illinois ("4001 North Perryville"). On April 11, 2008, SunLee Development obtained a \$3,000,000 loan from Bank A. The loan was secured by a first mortgage against the 4001 North Perryville property as well as an assignment of rents from 4001 North Perryville. RYAN COLE was an unlimited guarantor of the \$3,000,000 loan as well as two other SunLee Development loans at Bank A. As an unlimited guarantor, RYAN COLE was responsible for the approximately \$3,600,000 in the event of a default. On April 22, 2008, RYAN COLE, as a member of SunLee Development, obtained a \$550,000 loan from Individual A. The loan was secured by the property located at 4001 North Perryville.

g. The Perryville Investment Group, LLC was a limited liability corporation organized in the State of Illinois. The Perryville Investment Group consisted of RYAN COLE and individuals that leased space at 4001 North Perryville.

h. JAMES GRABER was a Vice President at Bank A.

i. KRISTIN KING was a Vice President and Government Guaranteed Lending Specialist at Bank A.

2. Beginning in or about 2008 and continuing through on or about April 24, 2012, in

the Northern District of Illinois, Western Division, and elsewhere,

RYAN COLE,  
JAMES GRABER, and  
KRISTIN KING,

defendants herein, together and with others both known and unknown to the Grand Jury, knowingly devised and participated in a scheme to defraud the Small Business Administration of its guarantee of the 7(a) loan to the Perryville Investment Group and other property by means of materially false and fraudulent pretenses, representations, and promises, and concealment of material facts, which scheme affected a financial institution and is described more fully below.

3. It was a part and object of the scheme for RYAN COLE, JAMES GRABER, and KRISTIN KING to cause Bank A to loan, and the Small Business Administration to guarantee, a \$3,980,000 SBA 7(a) loan between the Perryville Investment Group and Bank A for the purchase of real estate located at 4001 North Perryville.

4. It was further a part of the scheme that in September 2010, SunLee Development was behind on its loan payments due to tenants at 4001 North Perryville not paying their rent and JAMES GRABER sent RYAN COLE and Individual A a Forbearance Agreement. The Forbearance Agreement was between COLE, as guarantor, Individual A, for SunLee Development, and Bank A. The Forbearance Agreement noted that as of September 21, 2010, SunLee Development had three outstanding notes due to Bank A and that SunLee Development and the guarantor remained unable to pay and were in default.

5. It was further a part of the scheme that during 2010 and 2011, JAMES GRABER was aware that SunLee Development was having trouble paying its loans at Bank A due to tenants at 4001 North Perryville not paying their rent.

6. It was further a part of the scheme that RYAN COLE, JAMES GRABER and KRISTIN KING communicated via email and telephone about the loans, including issues relating to the lack of payment from SunLee Development on the loans.

7. It was further a part of the scheme that RYAN COLE organized a group of the tenants at 4001 North Perryville to purchase the building from SunLee Development with a SBA 7(a) loan. The group became known as the Perryville Investment Group. COLE was a member of the Perryville Investment Group.

8. It was further a part of the scheme that RYAN COLE provided a rent roll and leases to JAMES GRABER and others at Bank A. The rent roll included false information. GRABER was aware of the false information in the rent roll.

9. It was further a part of the scheme that Bank A continued to renew SunLee Development's three loans, including on or about November 15, 2011, even though SunLee Development's payments were consistently past due, three SunLee Development tenants at 4001 North Perryville were not current with rent payments to SunLee Development, and guarantor RYAN COLE provided minimal liquidity to support the SunLee Development loans.

10. It was further a part of the scheme that JAMES GRABER and RYAN COLE knew that as of February 28, 2011, SunLee Development was almost 90 days past due on paying its loans at Bank A. As of August 2, 2011, GRABER and COLE knew that SunLee Development owed more than \$57,000 in past due payments to Bank A. As of November 2, 2011, GRABER and COLE knew that SunLee Development's loans were past their maturity date and SunLee Development owed more than \$65,000 in past due payments to Bank A.

11. It was further a part of the scheme that RYAN COLE formed Perryville

Investments, LLC, an Illinois limited liability corporation. JAMES GRABER opened or had someone at Bank A open an account in the name of Perryville Investments.

12. It was further a part of the scheme that JAMES GRABER required before Bank A would agree to renew the three SunLee Development loans that Individual A subordinate the April 22, 2008, \$550,000 loan between RYAN COLE, as a member of SunLee Development, and Individual A.

13. It was further a part of the scheme that RYAN COLE knowingly provided a false rent roll to the appraiser hired to appraise the building located at 4001 North Perryville. JAMES GRABER knew the rent roll provided to the appraiser was false.

14. It was further a part of the scheme that on February 8, 2012, RYAN COLE provided to JAMES GRABER and KRISTIN KING a false financial statement that identified liabilities of only \$578,800 when, in fact, COLE knew that his liabilities were far greater due in part because he was an unlimited guarantor of more than \$3,000,000 in SunLee Development loans with Bank A.

15. It was further a part of the scheme that JAMES GRABER subsequently made or caused to make a Bank A Commercial Loan Presentation (a prerequisite to submitting the 7(a) loan application to the SBA for approval) in support of the 7(a) loan application that falsely stated that RYAN COLE's liabilities as of February 8, 2012, were \$578,000 when, in fact, GRABER knew COLE's liabilities totaled more than \$3,000,000. GRABER also falsely stated in the Commercial Loan Presentation that rents from 4001 North Perryville would be sufficient to pay the monthly payment on the 7(a) loan when, in fact, GRABER knew that the rents from 4001 North Perryville could not pay the existing monthly loan payment to Bank A.

16. It was further a part of the scheme that on or about March 16, 2012, RYAN COLE, JAMES GRABER and KRISTIN KING knowingly submitted a \$3,980,000 7(a) loan application to the SBA for the Perryville Investments Group that contained false statements. For example, the 7(a) loan application included the Commercial Loan Presentation identified in paragraph 15 and RYAN COLE's personal financial statement, both of which contained false statements. The 7(a) loan application also falsely stated that COLE did not have an ownership interest in SunLee Development and falsely stated that rents from 4001 North Perryville would be sufficient to pay the monthly payment.

17. It was further a part of the scheme that RYAN COLE, JAMES GRABER, and KRISTIN KING knowingly concealed material facts from the SBA such as:

a. the relationship between the Perryville Investment Group, RYAN COLE and Bank A including that COLE was a guarantor of the three loans at Bank A totaling more than \$3,000,000 and that COLE was a member of SunLee Development;

b. that the SBA 7(a) loan would reduce the exposure of Bank A that was in a position to sustain a loss on the three SunLee Development loans; and

c. that the SBA 7(a) loan would repay a debt due to Bank A.

18. It was further a part of the scheme that on April 13, 2012, the SBA 7(a) loan closed. The loan proceeds from the SBA 7(a) loan paid off SunLee Development's past due taxes, liens, and \$3,274,907.73 of the SunLee Development loans at Bank A. Additionally, \$69,450 of the loan proceeds were paid to Perryville Investments and subsequently deposited by RYAN COLE into Perryville Investments's bank account at Bank A.

19. It was further a part of the scheme that KRISTIN KING attempted to sell the loan

on the secondary market within days of the closing. KING falsely certified on a Secondary Participation Guaranty Agreement that the 7(a) loan was underwritten, closed, and serviced in accordance with all SBA loan program requirements. On April 24, 2012, Bank A sold the loan on the secondary market for \$3,218,362.50.

20. It was further a part of the scheme that defendants would and did misrepresent, conceal, and hide, and cause to be misrepresented, concealed, and hidden, the acts and the purposes of the acts done in furtherance of the scheme to defraud.

21. On or about March 27, 2012, at Rockford, in the Northern District of Illinois, Western Division,

RYAN COLE,  
JAMES GRABER, and  
KRISTIN KING,

defendants herein, for the purpose of executing the aforesaid scheme to defraud and to obtain money and property by material false and fraudulent pretenses, representations, and promises, and attempting to do so, such scheme affecting a financial institution, knowingly caused SBA's Hazard, Kentucky Standard 7(a) Processing Center to transmit an electronic datafax letter to Bank A in Rockford, Illinois confirming receipt of the Perryville Investment Group's 7(a) loan application;

In violation of Title 18, United States Code, Section 1343.

**COUNT TWO**

On or about February 8, 2012, at Rockford, in the Northern District of Illinois, Western Division,

RYAN COLE,

defendant herein, made false statements to the Small Business Administration for the purpose of influencing in any way the action of the Small Business Administration in that defendant stated and represented in his personal financial statement submitted to Bank A as part of a Small Business Administration 7(a) loan that his liabilities totaled \$578,800 when, in fact, defendant knew that his liabilities were far greater due in part because he was an unlimited guarantor of more than \$3,000,000 in SunLee Development loans with Bank A;

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



**COUNT THREE**

On or about February 8, 2012, at Rockford, in the Northern District of Illinois, Western Division,

RYAN COLE,

defendant herein, made false statements to the Small Business Administration for the purpose of influencing in any way the action of the Small Business Administration in that defendant provided a rent roll that contained false information as part of a Small Business Administration 7(a) loan for 4001 North Perryville Road, Loves Park, Illinois, which defendant knew contained information that was false;

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

**COUNT FOUR**

On or about March 16, 2012, at Rockford, in the Northern District of Illinois, Western Division,

JAMES GRABER, and  
KRISTIN KING,

defendants herein, made false statements to the Small Business Administration for the purpose of influencing in any way the action of the Small Business Administration in that defendants submitted an application for a Small Business Administration 7(a) loan on behalf of the Perryville Investment Group LLC that defendants knew contained false statements, namely, that Ryan Cole's liabilities totaled \$578,800 and that Bank A did not have a conflict of interest with Ryan Cole, a key employee of the Perryville Investment Group LLC, whereas defendants knew both statements were false;

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

A TRUE BILL:

\_\_\_\_\_  
FOREPERSON

\_\_\_\_\_  
ACTING UNITED STATES ATTORNEY