

CARLIE CHRISTENSEN, Acting United States Attorney (No. 633)
SCOTT J. THORLEY, Assistant United States Attorney (#3248)
Attorneys for the United States of America
185 South State Street, Suite 300
Salt Lake City, Utah 84111
Telephone: (801) 524-5682
Email: Scott.Thorley@usdoj.gov

FILED
U.S. DISTRICT COURT
2009 MAY 12 P 1:51
DEAN J. COOK
BY: [Signature]

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JUSTIN LINDLE HATTON,

Defendant.

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: CASE NO. 2:09-CR-0907 TC
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:

:
: SECOND SUPERSEDING
: I N D I C T M E N T
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: VIO. 18 U.S.C. § 1014 (FALSE
: STATEMENTS TO A FINANCIAL
: INSTITUTION);
: 26 U.S.C. § 7206(1) (MAKING AND
: SUBSCRIBING A FALSE TAX
: RETURN);
: 18 U.S.C. § 2 (AIDING AND
: ABETTING).

The Grand Jury Charges:

BACKGROUND

At all times relevant to this Indictment:

1. First Utah Bank (First Utah) was a federally insured financial institution headquartered in Salt Lake City, Utah. First Utah was involved in the business of accepting, reviewing and sometimes approving applications line of credit loans to businesses and individuals, and for construction loans and mortgage loans secured by real estate. If those lines of credit or loans

were properly documented and met First Utah underwriting criteria, the loans were sometimes approved.

2. First Utah required that all submitted loan applications and related loan verification documents contain only true and complete information in order for lenders to accurately assess the risk involved in loan and loan renewal decisions.

3. The defendant JUSTIN LINDLE HATTON was the owner of a real estate investment and management entity known as Malibu Equity Group, Inc. (Malibu Equity) which was purportedly headquartered in South Jordan, Utah. Defendant HATTON was also the record owner of a lot in the Pepperwood Subdivision located at 5 East Bentbrook Lane, Sandy, Utah on which he proposed to build a residence.

OBJECT OF THE SCHEME TO DEFRAUD

4. It was the object of the scheme and artifice to defraud that defendant HATTON would fraudulently obtain a construction loan in the amount of approximately \$2,560,000 by making false statements to persuade First Utah to fund a mortgage on his lot and proposed residence in the Pepperwood Subdivision in Sandy Utah. It was further the object of the scheme to use several of these same false statements to obtain an unsecured line of credit loan in the amount of approximately \$200,000 through First Utah.

MANNER AND MEANS OF THE OF THE SCHEME TO DEFRAUD

5. The defendant HATTON falsely represented to First Utah terms of his employment, his income, and his willingness and ability to service and repay the construction loan mortgage and line of credit by creating, or causing to be created, and submitted to First Utah, among others, the following false or deceptive documents:

(a) a loan application reflecting monthly income in excess of \$125,000;

(b) a 2005 IRS tax return reflecting 2005 income of approximately \$1,506,402, which was purportedly prepared by a tax preparer at Stayner, Bates and Jensen, a public accounting firm;

(c) a 2006 IRS tax return reflecting 2006 income of approximately \$1,128,569 prepared by an tax preparer based on verbal and written information supplied by HATTON ;

(d) a 2006 IRS form 1120S reflecting income to Malibu Equity Group of approximately \$820,712, which form was purportedly prepared by a tax preparer at Stayner, Bates and Jensen, and was delivered to another tax preparer to help prepare the 2006 tax return;

(e) a self-employment letter purportedly written by an accountant at Stayner, Bates and Jensen, indicating that Hatton had a history of self-employment and was a client of Stayner, Bates and Jensen;

(f) altered checks reflecting fictitious payments to the builder of the Pepperwood home; and

(g) altered closing documents related to Hatton's purchase of the Pepperwood building lot falsely inflating the lot purchase price.

6. After the defendant JUSTIN LINDLE HATTON obtained the funding of the construction loan in the approximate amount of \$2,560,000, and the line of credit loan in the approximate amount of \$200,000, he refused and failed to make payments on the loans as the terms required to First Utah, thereby causing First Utah to suffer significant losses on both loans.

COUNTS 1 through 12
(False Statements to a Financial Institution)

7. The Grand Jury realleges the factual allegations contained in paragraphs 1 through 6 above, and incorporates them in each Count of the Indictment by this reference.

8. On or about the dates listed below, in the Central Division of the District of Utah,

JUSTIN LINDLE HATTON,

the defendant herein, did knowingly make the statements to First Utah Bank in the documents set forth below, which the Defendant then well knew to be false and fraudulent, either misrepresenting aspects of his employment, his investment in the building project, or overstating his income and ability to repay loans, for the purpose of influencing the action of First Utah Bank, an institution the funds of which were then insured by the Federal Deposit Insurance Company, upon applications for a construction loan, line of credit loan, or renewals of said loans, to wit:

COUNT	DATE (On or About)	DOCUMENT	DESCRIPTION OF FALSE STATEMENT
1	3/12/07	JUSTIN LINDLE HATTON Self-Employment Verification Letter for Construction Loan	Letter dated January 03, 2007 addressed to "To Whom it May Concern," delivered to First Utah on letterhead of Stayner, Bates and Jensen verifying HATTON's self-employment
2	3/12/07	2005 IRS Form 1040 Tax Return for JUSTIN LINDLE HATTON for Construction Loan	Adjusted gross income for 2005 tax year of approximately \$1,506,402, prepared by a tax preparer at Stayner, Bates and Jensen P.C.
3	3/12/07	2006 IRS Form 1120S for Malibu Equity Group for Construction Loan	Business income of Malibu Equity Group for 2006 tax year of approximately \$820,712, prepared by a tax preparer at Stayner, Bates and Jensen P.C.
4	3/12/07	2006 IRS Form 1040 Tax Return for JUSTIN LINDLE HATTON for Construction Loan	Adjusted gross income for 2006 tax year of approximately \$1,128,569
5	3/12/07	Check to Builder	Verification to Lender that Hatton had paid \$100,000 to Chelsea Construction

6	3/12/07	Check to Builder	Verification to Lender that Hatton had paid \$150,000 to Chelsea Construction
7	3/12/07	Check to Builder	Verification to Lender that Hatton had paid \$150,000 to Chelsea Construction
8	3/12/07	Check to Builder	Verification to Lender that Hatton had paid \$55,000 to Chelsea Construction
9	3/12/07	Real Estate Purchase Contract	Purchase price of the Hatton's Pepperwood lot number 1074 was \$795,000
10	3/12/07	HUD-1 Settlement Statement for Pepperwood lot number 1074	Purchase price of the Hatton's Pepperwood lot number 1074 was \$795,000
11	April, 2007	2006 IRS Form K-1 for Malibu Equity Group to JUSTIN LINDLE HATTON for Line of Credit Loan	2006 Malibu Equity Group cash flow of approximately \$2,163,673, ordinary business income of approximately \$820,705, and net rental income of approximately \$307,864
12	5/28/08	2006 IRS Form 1040 Tax Return for JUSTIN LINDLE HATTON for renewal of Line of Credit Loan	Adjusted gross income for 2006 tax year of approximately \$1,128,569

All in violation of Title 18, United States Code, § 1014, and §§ 2(a) and 2(b).

COUNT 13

(Making and Subscribing a False Tax Return)

9. The Grand Jury realleges the factual allegations contained in paragraphs 1 through 6 above, and incorporates them in this Count of the Indictment by this reference.

10. On or about April 15, 2006, in the Central Division of the District of Utah, and elsewhere,

JUSTIN LINDLE HATTON,

the defendant herein, a resident of South Jordan, Utah, did willfully make and subscribe a joint U.S. Individual Income Tax Return for the calendar year 2005, which return was verified by a written declaration that it was made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. That income tax return, which was filed with the Internal Revenue Service, reported capital gains income in the amount of approximately \$20,849, whereas, as the defendant then and there well knew and believed, he received capital gains income in the amount of approximately \$173,369.49 in addition to the amount stated in the return;

All in violation of Title 26, United States Code, § 7206(1).

NOTICE OF INTENTION TO SEEK CRIMINAL FORFEITURE

(18 U.S.C. Section 981(a)(1)(C); 28 U.S.C. Section 2461)

As a result of committing the felony offenses alleged in Counts 1 through 13 of the Indictment, each of which is punishable by imprisonment for more than one year, defendant JUSTIN LINDLE HATTON shall forfeit to the United States pursuant to 18 U.S.C. Section 982(a)(7); 28 U.S.C. Section 2461 any and all property constituting or derived from any proceeds said defendants obtained directly or indirectly as a result of the said felony charges alleged in the Counts listed in this Notice, and any property traceable thereto, including but not limited to the following:

PROCEEDS (MONEY JUDGMENT)

As to JUSTIN LINDLE HATTON: The approximate aggregate sum of Eight Hundred Thousand Dollars (\$800,000.00) in United States currency received and diverted by JUSTIN

LINDLE HATTON in connection with the above-referenced offenses.

If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount involved in such offense.

SUBSTITUTE ASSETS

If any of the above-described forfeitable property, as a result of any act or omission of the defendants,

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be divided without difficulty;

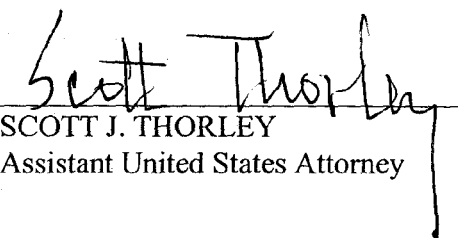
it is the intent of the United States, pursuant to 28 U.S.C. Section 2461(c) and 21 U.S.C. Section 853 (p), to seek forfeiture of any property of said defendants up to the value of the above-forfeitable property.

A TRUE BILL:

/s/

FOREPERSON OF THE GRAND JURY

CARLIE CHRISTENSEN
Acting United States Attorney


SCOTT J. THORLEY
Assistant United States Attorney