

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

3

UNITED STATES OF AMERICA,)
)
Plaintiff,)
v.)
)
BRIAN D. BAILEY,)
)
Defendant.)

Criminal Action No. 14- 05 - UNA

REDACTED

INDICTMENT

The Grand Jury for the District of Delaware charges that:

INTRODUCTION

At all times material to this Indictment:

Common Individuals and Entities

1. Wilmington Trust Corporation ("WL"), headquartered in Wilmington, Delaware, was a Bank Holding Company whose securities were traded on the New York Stock Exchange under the trading symbol "WL."

2. Wilmington Trust Company ("WTC") comprised WL's Delaware-based, wholly-owned retail and commercial banking subsidiary and was a financial institution, as defined by Title 18, United States Code, Section 20, with deposits insured by the Federal Deposit Insurance Corporation. Beginning in or around December 2008, WTC participated in the Department of the Treasury's Capital Purchase Program ("CPP"), a subset of the Troubled Asset Relief Program ("TARP").

3. Artisans' Bank, Inc. ("Artisans"), headquartered in Wilmington, Delaware, was a financial institution, as defined by Title 18, United States Code, Section 20, with deposits insured by the Federal Deposit Insurance Corporation.

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4. MidCoast Community Bank, Inc. ("MidCoast"), headquartered in Wilmington, Delaware, was a financial institution, as defined by Title 18, United States Code, Section 20, with deposits insured by the Federal Deposit Insurance Corporation.

5. BRIAN D. BAILEY ("Bailey" or "defendant") was employed by WTC in various capacities during the relevant time period of December 1999 through May 2010, including as a Relationship Manager, or loan officer; Vice President/Division Manager of the Delaware Commercial Real Estate Division; and Vice President/Division and Delaware Market Manager. Bailey resigned from WTC in May 2010. Thereafter, MidCoast hired defendant as a loan officer, and he was employed in that capacity from in or around August 2010, until on or about May 13, 2013.

6. James A. Ladio ("Ladio") was employed by Artisans as the Chief Lending Officer during the relevant time period of December 1999 through in or around July 2006. Following his resignation from Artisans, Ladio served as a consultant to the organizing group that formed MidCoast. MidCoast incorporated with the State of Delaware on or about January 10, 2007, and it began operations on or about March 15, 2007. Ladio served as MidCoast's President and Chief Executive Officer from the outset of MidCoast's operations until he was terminated by the MidCoast Board of Directors on or about August 24, 2013.

FACTS COMMON TO THE INDICTMENT

Background

7. Over the course of approximately twelve years, beginning in July 2001, and continuing through May 2013, defendant and James Ladio made approximately twenty-three loans and loan modifications to each other through their respective financial institutions. The aggregate amount of all the loan facilities was in excess of \$1.5 million.

8. As set forth in greater detail below, the lending relationship between defendant and Ladio was a scheme and artifice to defraud WTC, Artisans, and MidCoast (the “financial institutions”) because defendant and Ladio: (1) concealed from their respective financial institutions that each had authorized loans to the other on multiple occasions; (2) misrepresented on multiple loan documents the purposes for which loan funds would be utilized, or were willfully blind to the true nature of such requests; (3) failed to conduct basic underwriting functions required by their respective financial institutions and industry standards with respect to these loans; (4) used their personal signature authorities as commercial lenders to originate commercial loans and lines of credit for what they knew to be consumer debt purposes, thus circumventing the financial institutions’ approval processes and permitting them to provide loans on more favorable terms than what would have otherwise been approved; and (5) provided and accepted loan accommodations to each other that were not available to the general public.

9. The Bailey/Ladio lending relationship may be broken down into five different clusters of loan activity:

- Loan Cluster One: July 2001 – December 2002
- Loan Cluster Two: September 2003 – September 2004
- Loan Cluster Three: April 2005 – May 2006
- Loan Cluster Four: March 2007 – March 2010
- Loan Cluster Five: May 2010 – May 2013

Each of these time periods will be addressed in order below.

Loan Cluster One: July 2001 – December 2002

10. The first cluster of loan activity involves an eighteen-month period, during which defendant and Ladio made six loans to each other while employed at WTC and Artisans, respectively. The loans included the following:

A. On July 9, 2001, defendant, through WTC, approved a \$29,000.00 loan for Ladio (WTC Loan No. 9003), which was structured as a six-month, interest-only commercial demand line of credit. The stated purpose of the commercial loan was “to assist with the purchase of a residential investment property.” Ladio did not use the loan for such purpose, but rather used the loan proceeds for personal debt service and other expenses. Defendant knew that Ladio was not going to use the loan for an investment property because defendant did not list or describe the investment property in the loan documents, and he did not place a lien on the investment property itself. Rather, defendant secured the loan with a third mortgage on Ladio’s primary residence, which, given the property’s equity, made the loan essentially unsecured.

B. Between January 2002 and February 2002, Ladio, through Artisans, approved three vehicle loans to defendant for the following vehicles, totaling approximately \$107,000.00:

1. a Ford F-150 Truck, in the amount of \$34,000.00 (January 4, 2002);
2. a Mercedes Benz E-430 Sedan in the amount of \$40,000.00 (January 24, 2002);
3. a Porsche Boxster Sedan, in the amount of \$33,000.00 (February 6, 2002).

The Mercedes and Porsche vehicle loans were underwritten out of Artisans’ Commercial Real Estate Section and not out of Artisans’ Consumer Loan Section. Moreover, defendant received favorable terms on the vehicle loans that would not have been available to members of the general public. These favorable terms included an interest rate that was approximately 150 to 250 basis points lower than the industry standard at the time, and an extension of the loan

amortization to ten years, instead of the typical maximum amortization term of five years for used vehicles.

C. During the same period that defendant received the three vehicle loans from Ladio at Artisans, defendant approved an additional loan to Ladio through WTC. On January 30, 2002, defendant, through WTC, approved a \$22,000.00 loan for Ladio (WTC Loan No. 9004), which was structured as a six-month, interest-only, unsecured commercial demand loan. The stated purpose for the loan was to fund “timing differences in a real estate exchange,” the details of which were not set forth in any of the loan documents. In actuality, the loan proceeds were used by Ladio for debt service and other personal purposes.

D. On July 3, 2002, defendant, through WTC, approved a \$27,000.00 loan for Ladio (WTC Loan No. 9005), which was structured as a six-month, interest-only, unsecured commercial loan. The lending facility extended the January 30, 2002 loan made to Ladio, which was set to expire. The stated purpose for the loan was to fund “renovations to an existing property,” a description of which was omitted.

E. On December 23, 2002, defendant, through WTC, approved an agreement with Ladio to extend the July 3, 2002 unsecured commercial loan (WTC Loan No. 9005) by a period of six months. In an intra-company memorandum, defendant wrote that the purpose of the initial loan had been “to assist with an investment property acquisition” – a purpose that differed from the initial purpose for the loan set forth in his January 2002 (“timing differences in a real estate exchange”) and July 2002 (“renovations to an existing property”) memoranda, respectively.

Loan Cluster Two: September 2003 – September 2004

11. The second cluster of loan activity involves a one-year period between September 2003 and September 2004, during which defendant and Ladio made five loans to each other while employed at WTC and Artisans, respectively. The loans included the following:

A. On September 30, 2003, a WTC relationship manager authored a memo requesting that WTC provide a \$69,138.46 loan (WTC Loan No. 9006) to Ladio, which would be structured as a five-year term loan secured by a second mortgage on a residential investment property owned by Ladio. The stated purpose of the loan was to pay-off two existing WTC loans (WTC Loan Nos. 9003 and 9005, in the amounts of \$29,000.00 and \$27,000.00, respectively) “and to provide new money for investment purposes.” Despite the fact that Ladio was a banker with no outside business interests or accounts receivable, the loan request was set up as a commercial lending facility that set aside the remaining \$13,138.46 in loan proceeds as working capital. On or about November 18, 2003, defendant, through WTC, approved the loan request.

B. On October 8, 2003, and during the same time period in which he was waiting for defendant to approve Loan No. 9006, *supra*, Ladio, through Artisans, approved a \$15,000.00 unsecured consumer loan for defendant.

C. On June 30, 2004, Ladio, through Artisans, approved a \$20,000 loan for defendant, which was structured as a two-year, interest-only, unsecured line of credit.

D. On August 13, 2004, defendant, through WTC, approved a \$9,000.00 loan for Ladio (WTC Loan Nos. 1001/1099), which was structured as an unsecured, interest-only, commercial demand loan. The stated purpose of the loan was for “working capital.”

E. About one month later, on or about September 29, 2004, defendant, through WTC, approved a \$20,000.00 loan for Ladio (WTC Loan Nos. 1101/1199), which was structured as an interest-only, commercial working capital line of credit. The Business Loan Agreement for this loan indicated that Ladio was a commercial client, stating, in relevant part,

that Ladio “maintain[ed] an office” at the address of his primary residence; maintained his “books and records in accordance with generally accepted accounting principles, or GAAP”; would use “all loan proceeds solely for Borrower’s business operations”; maintained “fire and other risk, insurance, public liability insurance, and such other insurance” as required by WTC; and would maintain “executive and management personnel with substantially the same qualifications and experience as the present executive and management personnel.” A loan boarding data sheet further indicated that the loan type was for a “small business” with revenue “less than or equal to \$1 million,” which was located at Ladio’s primary residence. In fact, Ladio did not use the loan proceeds for business-related purposes, but rather to service his personal debt obligations.

Loan Cluster Three: April 2005 – May 2006

12. The third cluster of loan activity involves a thirteen-month period between April 2005 and May 2006, during which defendant and Ladio made three loans to each other while employed at WTC and Artisans, respectively. The loans included the following:

A. WTC Loan No. 1201/1299

i. On or about March 31, 2005, Ladio faxed a letter to defendant requesting an interest-only demand loan in the amount of \$160,000.00, which would cover \$150,000.00 in principal, as well as closing costs for the loan. Defendant assigned a WTC junior lender, R.W., and instructed R.W. to prepare a memorandum to justify Ladio’s loan request, but only for \$150,000.00. The memorandum stated that the purpose of the line of credit was “for the purpose of real estate investment opportunities.” Internal WTC documents further indicate that the loan was supposed to be secured by a fourth position lien on Ladio’s primary residence, but that the lien was never recorded.

ii. On or about April 4, 2005, defendant, through WTC, approved the \$150,000.00 loan (WTC Loan No. 1201/1299). The loan was structured as an interest-only, commercial demand line of credit. The Business Loan Agreement indicated that Ladio was a commercial client, in the same manner as set forth in paragraph 11.E, incorporated fully herein. Ladio did not use the loan proceeds for business-related purposes, but rather to service his personal debt obligations. Defendant knew that the loan proceeds would not be used by Ladio for commercial investment purposes.

B. Artisans Loan No. 3821

i. On May 3, 2006, Ladio, through Artisans, approved a loan to defendant in the amount of \$175,000.00 (Artisans Loan No. 3821), which was structured as a two-year, interest-only, commercial line of credit. A Loan Approval Memorandum dated May 1, 2003, stated that the purpose of the loan was for defendant to “purchase an investment property.”

ii. In fact, defendant did not use the commercial loan proceeds for an investment property. Rather, he used the proceeds for home renovations at his personal residence. On or about June 6, 2006, defendant applied to New Castle County Department of Land Use for a building permit for a residential addition to his residence. The description of the proposed construction was to “Square off kitchen area – Renovate existing kitchen.” Defendant also applied for plumbing and HVAC permits from New Castle County during the same time period.

iii. Defendant made approximately sixteen periodic draws from the line, in varying amounts, between May 24, 2006, and July 17, 2007. The draws were deposited into defendant’s personal checking account at Artisans. During the period that draws were issued into the account, there were multiple checks issued from defendant’s account to a kitchen design company, building supply companies, various contractors and cash.

C. WTC Loan No. 5001

i. On May 3, 2006 – two days after Ladio, through Artisans, approved the \$175,000.00 line of credit to defendant — defendant, through WTC, approved a \$165,000.00 loan (WTC Loan No. 5001) to Ladio. This loan was structured as an interest-only, commercial demand line of credit. Although the line of credit was made on demand, it contemplated a three-year expiration rate. The line of credit was secured by a third position lien on Ladio's newly-constructed personal residence which, given the other two priority position liens, made the loan essentially unsecured.

ii. Defendant assigned a junior lender, G.S., to write the justification memorandum for Ladio's line of credit request. The memorandum submitted with the loan request, dated May 1, 2006, stated that the purpose of the loan was "for investment purposes." In fact, Ladio did not use the loan proceeds for investment purposes, but rather for personal debt obligations. Defendant knew that the loan proceeds would not be used by Ladio for investment purposes.

Loan Cluster Four: March 2007 – March 2010

13. The fourth cluster of loan activity involves the three-year time-period between March 2007 and March 2010, during which defendant and Ladio made nine loans and loan modifications to each other while employed at WTC and MidCoast, respectively. The loans included the following:

A. WTC Loan No. 5101

i. On or about March 14, 2007, defendant, through WTC, approved a \$225,000.00 line of credit for Ladio (WTC Loan No. 5101), which was structured as an interest-only, unsecured, commercial line of credit. The Business Loan Agreement indicated that Ladio was a commercial client, in the same manner as set forth in

paragraph 11.E, incorporated fully herein. The stated purpose of the line of credit was for “investment purposes,” and a related loan sheet stated that the loan type was a “working capital line of credit.”

ii. In fact, Ladio did not use the loan proceeds for “investment purposes,” but rather for personal debt obligations. Defendant knew that the loan proceeds would not be used by Ladio for investment purposes.

B. MidCoast Loan No. 1003

i. As set forth in paragraph 6 above, Ladio resigned from Artisans in July 2006, in order to act as a consultant to the organizing group forming MidCoast. On or about March 15, 2007, MidCoast received its certificate from the FDIC and began operations.

ii. On or about December 4, 2007, Ladio, through MidCoast, approved a \$200,000.00 loan for defendant (MidCoast Loan No. 1003), which was structured as a five-year commercial loan, with a 300-month amortization. In fact, Ladio and defendant entered into the loan agreement in order to pay-off defendant’s existing loan at Artisans (Loan No. 3821), so that they could house their respective loans at WTC and MidCoast.

iii. The stated purpose of the MidCoast loan was to “refinance 2nd mortgage and cash out for home improvements.” The loan was funded on or about December 10, 2007, and defendant deposited the loan proceeds into a personal checking account at WTC. On or about December 12, 2007, defendant issued a check to pay-off, in full, the existing balance on Artisans’ Loan No. 3821.

iv. On or about May 8, 2008 –less than six months after the inception of the December 2007 loan— Ladio, on behalf of MidCoast, agreed to modify the loan. The modification agreement decreased the interest rate from a fixed rate of 7.25%, to a floating rate, which began at 5%. Defendant received a benefit as a result of the reduced

interest rate, which continued to decrease to a rate of 3.25% in December 2008: (1) his monthly payment decreased from approximately \$1,450.00 per month to \$1,166.00 per month; and (2) as interest rates continued to decrease, defendant paid the same monthly payment, but was able to allocate more of the loan payments toward his principal payment. The 3.25% interest rate was well below the interest rate floor reserved for MidCoast's best clients during the relevant time period.

v. In connection with the initial loan approval, and the subsequent rate modification, defendant and Ladio concealed the nature of their lending relationship, as well as the actual purpose of making the loan.

C. MidCoast Loan No. 1011

i. On or about May 30, 2008, just a few weeks after the modification of MidCoast Loan No. 1003, Ladio, through MidCoast, approved a \$33,000.00 loan to defendant for the stated purpose of refinancing an auto loan for a 2007 Mercedes Benz E-Class Sedan. The loan was for a term of six years, at a floating interest rate that began at 5%, and later dropped to 3.25%.

ii. The length of the loan, as well as the interest rate, was an accommodation given the market at the time for used automobiles. In addition, the ending rate was approximately 5.5% lower than MidCoast's internal interest rate for a used vehicle loan with a five-year term.

D. Modification to WTC Loan No. 5101

i. In or around June 2008, Ladio requested via email that defendant modify WTC Loan No. 5101 to provide him with \$60,000.00 in additional funds. Defendant agreed to the request, responding, "Done. Same borrower name, address, etc." Defendant then forwarded the email and, in his position as WTC's Division Manager, directed that a WTC relationship manager be assigned to the loan modification.

ii. WTC Relationship Manager D.K. was directed to draft an approval memorandum for the modification, although, per the email exchange between Ladio and defendant, approval of the loan was a foregone conclusion. The memorandum indicated that the purpose of the modification was “to accommodate an additional investment in the borrower’s portfolio,” a vague term that was purposefully used by D.K. because he was not provided with justification for the loan modification request. The “additional investment” was not listed in the loan documents.

iii. On or about June 17, 2008, defendant, through WTC, approved the modification request, and increased WTC Loan No. 5101 from \$225,000.00 to \$285,000.00.

iv. In fact, Ladio did not use the loan proceeds for an “additional investment,” but rather to satisfy personal debt obligations. Defendant knew that the loan proceeds would not be used by Ladio for the stated purposes.

v. On or about September 9, 2008, defendant, through WTC, agreed to extend WTC Loan No. 5101 by an additional 90 days. The memorandum associated with the request stated that WTC was “recommending an extension for 90 days to accommodate the refinance by an investment group.”

E. MidCoast Loan No. 1016

i. On or about November 10, 2008 – approximately two months after Ladio received the additional extension of WTC Loan No. 5101 from WTC – defendant, through MidCoast, approved a \$37,000.00 loan to defendant. The loan was structured as an interest-only, eighteen-month, unsecured term loan, with a balloon payment due on the maturity date.

ii. The stated purpose of the loan was to provide defendant with funds to purchase a boat.

F. MidCoast Loan No. 1000

i. On or about August 7, 2009, Ladio, through MidCoast, approved a \$70,000.00 loan to defendant (MidCoast Loan No. 1000), which was structured as a three-year, interest only, unsecured consumer line of credit. The stated justification for the loan, set forth in an email from defendant to D.W., a loan officer at MidCoast, was to pay-off the \$37,000.00 boat loan (MidCoast Loan No. 1016), as well as to pay off two outstanding personal credit card debts.

ii. On or about August 10, 2009, MidCoast paid-off the consumer boat loan in the amount of \$36,902.80, and issued a check to defendant for the remaining funds in the amount of \$33,097.20.

iii. On or about August 11, 2009, defendant deposited the check into his WTC personal banking account. On or about August 12, 2009, defendant made online payments out of his WTC account toward three credit card accounts, including: (1) a Citibank credit card in the amount of \$23,330.00; (2) a Bank of America credit card, in the amount of \$5,350.00; and (3) a MasterCard, in the amount of \$3,320.00.

iv. Approximately eight months later, on or about March 31, 2010, Ladio, through MidCoast, agreed to modify the existing unsecured line of credit by adding \$30,000.00 to the line, for a total commitment of \$100,000.00.

v. On or about April 9, 2010, defendant issued a check to Bank of America in the amount of \$15,540.50 to make a payment on a personal credit card.

Loan Cluster Five: May 2010 – May 2013

14. The fifth and final cluster of loan activity involves the three-year time-period between May 2010 and May 2013, during which defendant resigned from WTC and became employed by MidCoast; Ladio entered into a Forbearance Agreement with WTC after WTC

called Ladio's outstanding demand loans that had been approved by defendant; and MidCoast made one final loan to defendant. The lending activity during this period included the following:

A. In or around April 2010, WTC employees discovered some irregularities in Ladio's lending relationship with WTC, namely the types of loans that had been approved by defendant; as well as the fact that WTC had failed to record its mortgage of a residential investment property purchased in 1988 that Ladio sold without informing WTC, leaving a collateral shortfall and an unsecured position.

B. On or about May 6, 2010, defendant was asked to resign from WTC following an internal investigation into certain lending practices in the Delaware Commercial Real Estate Division.

C. In May 2010, as part of preparing the Forbearance Agreement, WTC obtained Ladio's credit report and obtained updated financial statements from him – the first time that WTC had made such a request in several years. As a result of finally obtaining and reviewing Ladio's financial information, WTC determined that he had a negative monthly cash flow and downgraded the relationship based on "deteriorating financial condition."

D. On or about May 12, 2010, WTC employees recommended converting Ladio's existing demand loans to term loans. WTC then began the process of negotiating a Forbearance Agreement with Ladio

E. On or about July 12, 2010, WTC entered into a twelve-month Forbearance Agreement with Ladio, whereby he agreed to make principal and interest payments totaling \$7,072.38 per month, on the following outstanding loans:

- i. the \$20,000.00 interest-only, unsecured working capital line of credit issued in September 2004 (WTC Loan Nos. 1101/1199);
- ii. the \$150,000.00 interest-only, unsecured revolving line of credit, issued in April 2005 (WTC Loan Nos. 1201/1299);

- iii. the \$165,000.00 interest-only demand line of credit, issued in May 2006 and secured by a junior lien on Ladio's primary residence (WTC Loan No. 5001); and
- iv. the \$285,000.00 unsecured, interest-only working capital line, that had been approved initially in March 2007 and modified and increased in June 2008 (WTC Loan No. 5101)

F. The total amount of principal outstanding on the four loans was approximately \$615,162.13. Under the Agreement, full principal repayment was due to WTC on or before July 1, 2011.

G. In or around August 2010, defendant joined Ladio at MidCoast as a commercial lender. Ladio hired Bailey, in part, because of their past lending relationship and out of a shared desire to conceal that relationship going forward.

H. In or around October 2010, Ladio arranged for a MidCoast Bank Customer ("MidCoast Customer A") to apply for a commercial loan in the amount of \$700,000.00. MidCoast approved the request, and MidCoast Customer A drew \$650,000.00 from the line of credit. The loan proceeds were not used for MidCoast Customer A's business purposes, but rather for MidCoast Customer A to make a separate loan to Ladio. Ladio used the loan funds to service existing personal debt, including to make payment obligations under the WTC Forbearance Agreement.

I. In or around June 2011, with the repayment date of the Forbearance Agreement approaching, Ladio arranged for another MidCoast Bank Customer ("MidCoast Customer B") to apply for a commercial loan in the amount of \$700,000.00. MidCoast approved the request, and MidCoast Customer B drew \$650,000.00 from the line of credit. Defendant acted as the loan officer on the transaction and was aware generally that Ladio had been seeking loans from third parties to repay his obligations under the WTC Forbearance Agreement. The

loan proceeds were not used by MidCoast Customer B's business purposes, but rather for MidCoast Customer B to make a separate loan to Ladio. On or about July 14, 2011, MidCoast Customer B wired \$639,000.00 into Ladio's checking account at WTC. On that same date, Ladio authorized WTC to debit his checking account to satisfy his remaining obligations under the WTC Forbearance Agreement.

J. On or about March 28, 2013, MidCoast announced that it had entered into a definitive Agreement and Plan of Merger to be acquired by Bryn Mawr Bank Corporation (hereinafter "Bryn Mawr").

K. On or about May 13, 2013, Bailey resigned from MidCoast after being asked to do so when former WTC colleague Joseph Terranova pleaded guilty to a one-count Information charging him with conspiracy to commit bank fraud. .

L. On or about May 23, 2013, Ladio, through MidCoast, approved a \$90,000.00 home equity line of credit to defendant (MidCoast Loan No. 1017) in order to satisfy defendant's outstanding unsecured loan with MidCoast (MidCoast Loan No. 1000), and to avoid unwarranted scrutiny of that line of credit during Bryn Mawr's due diligence process. The loan was structured as a three-year, interest-only, home equity line of credit, and was secured through a second position lien on Bailey's primary residence. On or about May 29, 2013, Bailey used the loan proceeds to pay-off the remaining \$90,170.07 outstanding on MidCoast Loan No. 1000.

COUNT ONE

(Conspiracy to Commit Bank Fraud)

15. The allegations set forth in paragraphs 1-14 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

16. From in or around March 2005, through on or about May 29, 2013, in the District of Delaware, defendant BRIAN D. BAILEY knowingly and intentionally combined, conspired, confederated and agreed with James A. Ladio and others known and unknown to the Grand Jury to commit an offense against the United States, to wit: bank fraud, that is, to knowingly execute a scheme and artifice to defraud multiple financial institutions, to wit, WTC, Artisans, and MidCoast, and to obtain any of the moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, a financial institution, to wit, WTC, Artisans, and MidCoast, by means of materially false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Sections 1344, and 2.

Objectives of the Conspiracy

17. An objective of the conspiracy was for the defendant and Ladio to provide multiple loans to each other on favorable terms, and to use such loan proceeds for personal purposes that were contrary to those disclosed to WTC, Artisans, and MidCoast. It was further an objective of the conspiracy for defendant and Ladio to conceal the true nature of their lending relationship from WTC, Artisans, MidCoast and Bryn Mawr.

The Ways, Manner, Means and Conduct in Furtherance of the Conspiracy

18. The ways, manner and means by which the defendant and his co-conspirator sought to accomplish the conspiracy, included, but was not limited to, the following: failing to disclose the nature of their lending relationship to WTC, Artisans, and MidCoast; falsifying the basis for loan requests, or being willfully blind to the true nature of such requests; failing to conduct basic underwriting functions required by their respective financial institutions and

industry standards; booking personal/consumer loans in the commercial real estate departments at their respective financial institutions to maintain control over the approval process; and agreeing for Bailey to be employed at MidCoast, where his outstanding loans were maintained.

19. The specific conduct in furtherance of the conspiracy included, but was not limited to, the conduct set forth in paragraphs 7-14, incorporated fully herein.

All in violation of Title 18, United States Code, Section 1349.

COUNT TWO

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Artisans, in that Bailey sought and received a personal loan from Ladio at Artisans during the same time period, on or about May 1, 2006, in the amount of \$175,000.00.

All in violation of Title 18, United States Code, Sections 215(a)(1) and 2.

COUNT 14

(Money Laundering)

31. The allegations set forth in paragraphs 1-14 of this Indictment are realleged and incorporated by reference as if fully set forth herein.

32. On or about April 9, 2010, in the District of Delaware, defendant BRIAN D. BAILEY did knowingly engage and attempt to engage in a monetary transaction by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000.00, that is, the payment of a check from defendant's bank account to Bank of America, in the amount of \$15,540.50, such property having been derived from a specified unlawful activity, that is, bank fraud, as charged in Count 10 of the Indictment.

All in violation of Title 18, United States Code, Sections 1957 and 2.

NOTICE OF FORFEITURE

Notice of Forfeiture for Counts 1-2 (Conspiracy to Commit Bank Fraud and Conspiracy to Commit Bank Bribery)

Upon conviction of the offenses in violation of Title 18, United States Code, Sections 1349 and 371, alleged in Counts 1-2 of this Indictment, defendant Brian D. Bailey shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(1)(c) and Title 28, United States Code, Section 2461(c), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violations. Such property shall include, but not be limited to, a 2007 Mercedes Benz E-350 Sedan, VIN WDBUF87XX7B180053.

If any of the forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided with difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

Notice of Forfeiture for Counts 3-13
(Bank Fraud, Corruptly Receiving a Gift for Procuring a Loan, and Corruptly Providing a Gift with Intent to Influence a Bank Employee)

Upon conviction of the offenses in violation of Title 18, United States Code, Sections 215(a)(1) and (2), 1344, and 2, alleged in Counts 3-13 of this Indictment, defendant Brian D. Bailey shall forfeit to the United States of America, pursuant to Title 18, United States Code,

Section 982(a)(2), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violations. Such property shall include, but not be limited to, a 2007 Mercedes Benz E-350 Sedan, VIN WDBUF87XX7B180053.

If any of the forfeitable property, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided with difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

Notice of Forfeiture for Count 14 (Money Laundering)

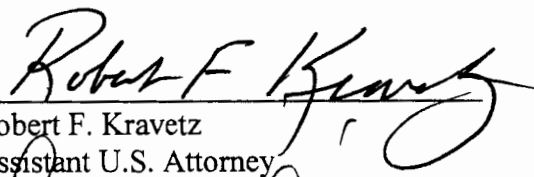
Upon conviction of the offense in violation of Title 18, United States Code, Sections 1957 and 2, alleged in Count 14 of this Indictment, defendant Brian D. Bailey shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in such offense, and any property traceable to such property.

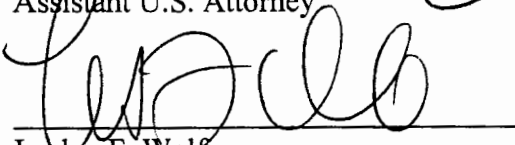
If any of the forfeitable property, as a result of any act or omission of the defendant:

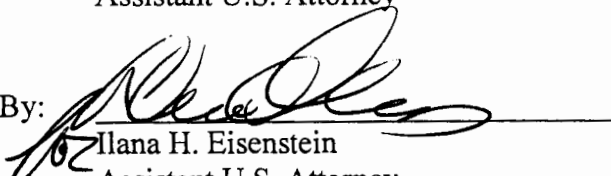
- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided with difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

CHARLES M. OBERLY, III
United States Attorney

By: 
Robert F. Kravetz
Assistant U.S. Attorney

By: 
Lesley F. Wolf
Assistant U.S. Attorney

By: 
Ilana H. Eisenstein
Assistant U.S. Attorney

Dated: February 4, 2014

FOREPERSON

