

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 20-MJ- 123

Larry D. Jordan II and
Sutukh El, a/k/a Curtis Jordan, a/k/a Hugo Hurt, a/k/a
Hugo Hurtington

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

From in or about April 2020 through the present, in the Western District of New York, and elsewhere, the defendants, LARRY D. JORDAN II and SUTUKH EL, a/k/a Curtis Jordan, a/k/a Hugo Hurt, a/k/a Hugo Hurtington, did knowingly, willfully, and unlawfully combine, conspire, and agree with each other to devise a scheme and artifice to defraud Bank 1, and for obtaining money and property from Bank 1 by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice, to transmit, and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

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

This Criminal Complaint is based on these facts:

Continued on the attached sheet.



Complainant's signature

KATHLEEN A. GARVER
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

Printed name and title

Sworn to before me and signed telephonically.

Date: September 8, 2020



Judge's signature

City and State: Buffalo, New York

HONORABLE H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF ERIE)
CITY OF BUFFALO) SS:

I, Kathleen Garver, being duly sworn, depose and say:

1. I am a Special Agent of the Federal Bureau of Investigation (“FBI”) and have been so employed since 2015. The FBI is an agency within the United States Department of Justice, which is a department within the executive branch of the United States Government. I am currently assigned to the Buffalo Field Office and to the White-Collar Crime Squad within that office. My duties include the investigation of such offenses as bank fraud, investment fraud, money laundering, corporate fraud, mail fraud, wire fraud, public corruption, bankruptcy fraud and other white-collar crimes.

2. As a Special Agent with the FBI, I have received training related to the enforcement of various statutes of the United States Code, specifically, but not limited to, Title 18, United States Code, Section 1349 (Wire Fraud Conspiracy). I have become knowledgeable about criminal activity in connection with the Small Business Association’s (“SBA”) Paycheck Protection Program (“PPP”) and particularly violations of laws prohibiting offenses such as conspiracy, wire fraud, loan fraud, and money laundering. I also received extensive training on laws regarding searches and seizures of electronic devices such as mobile phones and computers.

3. The facts set forth below are based upon my personal observations, my training and experience, and information obtained during the course of the investigation from other members of law enforcement, involving the review of records, interviews of witnesses, and information and reports provided. This affidavit is intended to show that there is probable cause to support a

Criminal Complaint against LARRY D. JORDAN II (“LARRY JORDAN”) and SUTUKH NAYYA EL a/k/a CURTIS JORDAN (“SUTUKH EL”)¹ and does not purport to set forth all of my knowledge of the investigation into this matter.

OVERVIEW OF THE PAYCHECK PROTECTION PROGRAM

4. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the PPP. In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

5. In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business (through its authorized representative) must state, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation in support of their payroll expenses.

6. A PPP loan application must be processed by a participating lender. If a PPP loan application is approved, the participating lender funds the PPP loan using its own monies, which

¹ In or around 2006, SUTUKH EL changed his name from Curtis Jordan to SUTUKH EL.

are 100% guaranteed by the SBA. Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, is transmitted by the lender to the SBA in the course of processing the loan.

7. PPP loan proceeds must be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

OVERVIEW OF THE SCHEME AND IDENTIFICATION OF RELEVANT PARTIES

Overview of the Scheme

8. The scheme involves LARRY JORDAN's and SUTUKH EL's use of email, lenders' online PPP loan application processes, and financial institution funds-wiring processes, in order to fraudulently obtain PPP loan funds. Specifically, LARRY JORDAN and SUTUKH EL conspired to and did submit at least eight materially misleading PPP loan applications and supporting documentation to SBA approved lenders. Reliance on this false information caused at least one financial institution to send, through interstate wires, significant funds to LARRY JORDAN and SUTUKH EL.

Background on LARRY JORDAN and SUTUKH EL

9. LARRY JORDAN is a resident of Lancaster, New York. Property records and surveillance conducted by law enforcement agents place LARRY JORDAN at 19 Crabapple Lane, Lancaster, New York (the "Crabapple Address"). According to records obtained from Tennessee's Department of Labor and Workforce Development ("TDL"), LARRY JORDAN's last reported

wages from 5 Stems Inc² were in the second quarter of 2019 and he has received unemployment benefits from on or about October 25, 2019, until at least on or about May 6, 2020.

10. SUTUKH EL is a resident of Buffalo, New York. Property records and surveillance conducted by law enforcement place SUTUKH EL at 310 Adams Street, Buffalo, New York (the “Adams Street Address”).³ SUTUKH EL uses the aliases “Hugo Hurt,” and “Hugo Hurtington.” According to records obtained from TDL, SUTUKH EL’s last reported wages from 5 Stems Inc were in the second quarter of 2019 and he has received unemployment benefits from on or about November 13, 2019, until on or about April 22, 2020.

11. LARRY JORDAN and SUTUKH EL are brothers.

Relevant Entities

12. 5 Stems L.L.C. is a limited liability company that was incorporated in Indiana on or about June 18, 2013. According to records obtained from Indiana’s Secretary of State, LARRY JORDAN is the registered agent. The address for the company’s principal office and registered agent is 9780 Crosspoint Boulevard, Fisher, Indiana (the “Indiana Address”).⁴

13. 5 Stems Inc is a cell tower installation and network maintenance corporation that was incorporated in Wyoming on or about February 21, 2019. According to records obtained from Wyoming’s Secretary of State, LARRY JORDAN is the registered agent and president/director.

² In its filings with Wyoming’s Secretary of State, 5 Stems Inc does not include a period after the Inc.

³ With some PPP loan applications, a copy of SUTUKH EL’s North Carolina driver’s license with the address 9815 Sam Furr Road, Huntersville, North Carolina (the “North Carolina Address”) was provided.

⁴ According to publicly available information, the Indiana Address appears to be the address for the hotel Staybridge Suites Indianapolis-Fishers.

In certain loan applications and bank account opening records, SUTUKH EL is listed as the chief financial officer.

14. Initially, 5 Stems Inc's principal office and mailing address was 5406 Broadway Street, Suite 62, Lancaster, New York (the "Broadway Address"). On or about April 29, 2019, LARRY JORDAN submitted an update form to change the principal and mailing address to 1331 Union Avenue, Suite 1000, Memphis, Tennessee (the "Tennessee Address"). The current address for the corporation's registered agent is 5109 Frontier Mall Drive, Cheyenne, Wyoming (the "Wyoming Address").⁵

15. 5 Stems of Kentucky, L.L.C. is a corporation that was incorporated in Kentucky on or about March 14, 2014. According to records obtained from Kentucky's Secretary of State, LARRY JORDAN is the registered agent. The corporation dissolved on or about September 12, 2015 and was reinstated on or about May 12, 2020. The application for reinstatement was signed by LARRY JORDAN on or about April 24, 2020.⁶ The corporation's principal address is 11711 Gateworth Way, Louisville, Kentucky (the "Louisville Address").⁷

16. FLE LLC is a music and entertainment limited liability company that was incorporated in New York on or about April 3, 2014. According to records obtained from New

⁵ According to publicly available information, the Wyoming Address appears to be the address for the hotel Staybridge Suites Cheyenne. The Broadway Address appears to be the address for a U.S. post office.

⁶ Two days after submitting the application for reinstatement, on or about April 26, 2020, a PPP loan application on behalf of 5 Stems Kentucky, L.L.C. was submitted to an SBA approved lender. That loan application is discussed in more detail below.

⁷ According to publicly available information, the Louisville Address appears to be the address for the hotel Staybridge Suites Louisville-East.

York's Department of State, SUTUKH EL is the registered agent. The company's address is 1200 William Street, Suite 622, Buffalo, New York (the "William Street Address").⁸

17. HHDonDeck is a corporation that was incorporated in Wyoming on or about December 2, 2019. Per records obtained from Wyoming's Secretary of State, SUTUKH EL is the incorporator. The corporation's principal address is the Wyoming Address, which, as stated above, appears to be the address of the hotel Staybridge Suites Cheyenne. The corporation's mailing address is the William Street Address, which, as stated above, appears to be the address of a U.S. post office. On or about April 1, 2020, HHDonDeck was administratively dissolved because it did not have a registered agent.⁹

18. Standard Ascension Towers Group Corp. ("Standard Ascension") is a corporation that was incorporated in New York on or about December 8, 2015. According to records obtained from New York's Department of State, the registered agent is "Sir Larry Jordan". The address for the corporation's principal office and registered agent is the Broadway Address, which, as stated above, appears to be the address for a U.S. post office.

Other Relevant Entities

19. Bank 1 is a federally insured financial institution with headquarters in Memphis, Tennessee.¹⁰ Bank 1 is an approved SBA lender and received at least two PPP loan applications on behalf of the entities identified above.

⁸ According to publicly available information, the William Street Address appears to be the address of a U.S. post office.

⁹ HHDonDeck has a social media presence, which includes music videos featuring what appears to be SUTUKH EL rapping under the alias "Hugo Hurt."

¹⁰ Bank 1's servers are located in Texas, Missouri, and Tennessee.

20. Lender 1 is a financial technology company with headquarters in Lehi, Utah.¹¹ Lender 1 participates in the PPP by receiving PPP loan applications and matching those PPP loan applications with potential SBA approved lenders. Lender 1 received at least five PPP loan applications on behalf of the entities identified above.

21. Bank 2 is a bank holding company with headquarters in Birmingham, Alabama.¹² Bank 2 is a federally insured financial institution with branches throughout the South, Midwest, and Texas.

22. Bank 3 is a federally insured financial institution with branches throughout the United States.

23. Brokerage Firm 1 is a brokerage firm that offers an electronic trading platform for the trade of financial assets. Brokerage Firm 1 is headquartered in Omaha, Nebraska.

PROBABLE CAUSE

24. As described in detail below, there is probable cause to believe that LARRY JORDAN and SUTUKH EL conspired to and did transmit several materially fraudulent PPP loan applications to SBA approved lenders and thereafter used the PPP loan funds to make impermissible purchases.

The First 5 Stems Inc PPP Loan Application to Bank 1

25. According to information and records obtained from Bank 1, in or around April 2020, a PPP loan application on behalf of 5 Stems Inc seeking approximately \$605,333.33 in PPP loan funds was submitted to Bank 1.

¹¹ Lender 1's servers are located in Virginia and Ohio.

¹² Bank 1's servers are located in Alabama.

26. On or about April 2, 2020, Bank 1 received a PPP loan application on behalf of 5 Stems Inc via email from the email address larry.jordan@5stems.com (“Application 1”).¹³

27. On Application 1, LARRY JORDAN is listed as the primary contact and CEO and 100 percent owner of 5 Stems Inc.

28. The listed business address is the Tennessee Address and the listed business phone number is 866-602-0006.

29. The Crabapple Address is listed as LARRY JORDAN’s personal address and the email address larry.jordan@5stems.com is listed as the personal email address.

30. Application 1 represented that 5 Stems Inc had 39 employees with an average monthly payroll of \$242,133.33. The applicant certified that the United States was *not* the principal place of residence for those employees.¹⁴

31. Application 1 was signed in the name of LARRY JORDAN and dated April 2, 2020.

32. LARRY JORDAN certified that the information provided in Application 1 as well as the information provided in all supporting documents and forms was true and accurate in all material aspects.

¹³ The phone number 716-715-0211 is listed in the signature block of the email transmitting Application 1. According to phone records and recordings of phone calls to and from that phone number, LARRY JORDAN uses the telephone number 716-715-0211.

¹⁴ All PPP applicants must complete the “Paycheck Protection Program Borrower Application Form,” which requires the applicant to provide basic information about the business and its payroll. All applicants must answer a series of questions in order to confirm that they qualify for a PPP loan. Question Seven asks, “Is the United States the principal place of residence for all employees of the Applicant included in the Applicant’s payroll calculation above?” To qualify for a PPP loan, the United States must be the principal place of residence for all employees of the Applicant included in the Applicant’s payroll calculation.

33. LARRY JORDAN also certified that any funds disbursed to 5 Stems Inc would “be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments as specified under the Paycheck Protection Program Rule.” LARRY JORDAN further certified his understanding that “if the funds are knowingly used for unauthorized purposes, the federal government may hold me legally liable, such as for charges of fraud.”

34. On or about April 16, 2020, a Bank 1 employee sent an email requesting that 5 Stems Inc provide an IRS Form 940¹⁵ for 2019 and an IRS Form 941¹⁶ for Q1 2020 to complete the loan file. On or about the same day, an email from the email address accounting@5stems.com sent an email to Bank 1 with an IRS Form 940 for 2019 and an IRS Form 941 for the first quarter 2020 attached. The email was signed by “Tina Pham.”¹⁷

35. The submitted IRS Form 940 purported to show 5 Stems Inc’s total payments to employees for 2019. According to the IRS Form 940, 5 Stems Inc made \$3,360,666 in payments to employees in 2019 and did not have employees in any other state except Tennessee. The IRS

¹⁵ IRS Form 940 is an official document that an employer files with the Internal Revenue Service (“IRS”) to report its annual Federal Unemployment Tax Act (“FUTA”) tax. Together with state unemployment tax systems, the FUTA tax provides funds for paying unemployment compensation. Most employers pay both federal and state unemployment tax.

¹⁶ IRS Form 941 is an official document that an employer files with the IRS every quarter in order to report income taxes, Social Security taxes and Medicare taxes withheld from employees’ paychecks.

¹⁷ On or about August 19, 2020, a law enforcement agent posing as an employee with Bank 1 spoke with LARRY JORDAN. On the call, LARRY JORDAN represented that Tina Pham works for 5 Stems Inc as an administrator and uses the email address accounting@5stems.com. A review of the payroll register submitted with the 5 Stems Inc loan applications as well as records from TDL was conducted and Tina Pham was not listed as an employee. Further, law enforcement did obtain records from New York State. Those records show two individuals in the Buffalo area named Tina Pham. Neither Tina Pham received wages from 5 Stems Inc.

Form 940 had LARRY JORDAN's signature and the title of CEO. The date and the phone number of the signatory were left blank on the IRS Form 940.

36. The submitted IRS Form 941 purported to show 5 Stems Inc's wages and federal payroll tax information for the first quarter of 2020. According to the IRS Form 941, 5 Stems Inc had 194 employees and paid \$870,280.89 in wages, tips, and other compensation in that period. The IRS Form 940 had LARRY JORDAN's signature and the title of CEO. The date and the phone number of the signatory were left blank on the IRS Form 941.

37. As part of the investigation, information was obtained from the IRS, which stated that 5 Stems Inc did not file an IRS Form 940 for 2019 or an IRS Form 941 for Q1 2020.¹⁸

38. According to records from TDL, in the first quarter of 2019, 5 Stems Inc reported wages for only four employees, including LARRY JORDAN and SUTUKH EL. In the second quarter of 2019, 5 Stems Inc reported wages for only nine employees, including LARRY JORDAN and SUTUKH EL. TDL had no records for 5 Stems Inc for the third and fourth quarters of 2019 or any quarters of 2020.¹⁹

39. On or about April 17, 2020, a Bank 1 employee sent another email to the email address accounting@5stems.com requesting payroll documentation for 2019. The bank employee also asked for clarification as to why the number of employees listed on Application 1, which was

¹⁸ According to the IRS, 5 Stems Inc did file IRS Form 941s for the first, second, and third quarters of 2019. Records obtained from Bank 3 reveal that on or about May 26, 2020, 5 Stems Inc received two checks in the amount of \$3,983.82 and \$15,684.93, respectively from the United States Treasury. The checks appear to be refunds for taxes paid by 5 Stems Inc in the first and second quarter of 2019. The checks were deposited into a bank account in the name of 5 Stems Inc at bank 3 that was opened on or about June 3, 2020. LARRY JORDAN and SUTUKH EL are signatories on this account.

¹⁹ TDL requires every employer in Tennessee to report its employees' wages for purposes of calculating unemployment taxes

39, was different from the number of employees listed on the IRS Form 941, which was 194, and to confirm whether the United States was *not* the principal place of residence for those employees.

40. That same day, in an email from the email address accounting@5stems.com, an individual wrote the following: “that was in error . . . ALL employees are US based 39 was the current number of employees per COVID 19. we have 194 total will send updated form”. The email was signed by “Tina Pham.”

41. Application 1 was not funded.

The Second 5 Stems Inc PPP Loan Application to Bank 1

42. On or about April 17, 2020, a new PPP loan application on behalf of 5 Stems Inc seeking approximately \$605,333.33 in PPP loan funds was emailed to Bank 1 from the email address accounting@5stems.com. The email was signed by “Tina Pham” (“Application 2”).

43. On Application 2, LARRY JORDAN is still listed as the primary contact, CEO, and 100 percent owner of 5 Stems Inc.

44. The listed business address is the Tennessee Address and the business phone number as 866-602-0006.

45. Lancaster, New York is listed as the personal address and the email address larry.jordan@5stems.com is listed as the personal email address.

46. Application 2 represented that 5 Stems Inc had 194 employees with an average monthly payroll of \$242,133.33. (As stated above, Application 1 represented that 5 Stems Inc had 39 employees.) Application 2 also certified that the principal place of residence for the entity’s employees was the United States. (As stated above, Application 1 represented that the United States was not the principal place of business for employees of 5 Stems Inc.)

47. Application 2 was signed in the name of LARRY JORDAN and dated April 1, 2020. (Application 2 was submitted on or about April 17, 2020.)

48. LARRY JORDAN also certified that the information provided in Application 2 as well as the information provided in all supporting documents and forms was true and accurate in all material aspects.

49. In support of Application 2, an email was sent to Bank 1 from the email address accounting@5stems.com, which included seven Excel spreadsheets purporting to be 5 Stems Inc's payroll register for 2019.

50. The payroll register listed a total of 204 employees. The employees were identified by first name only, a street address with no city, state or zip code, and a social security number.²⁰ All of the employees had the same start date of January 1, 2019.

51. The spreadsheets revealed 13 instances where a purported employee had the same social security number as a different purported employee. For example, an employee identified as "Virgil," a "CM" earning \$21,000, had the same social security number as an employee identified as "David," a "climber" earning \$16,000.

52. In addition, although the purported IRS Form 940 for 5 Stems Inc stated all employees worked inside Tennessee, none of the street names associated with each 5 Stems Inc employee listed on the payroll register were located in Tennessee.

53. Application 2 was approved, and Bank 1 funded the loan in the amount of \$605,200.

²⁰ On the submitted payroll register, a redline went through a portion of each social security number. By clicking edit text in Adobe PDF, law enforcement was able to remove the redline and view the entire social security number.

54. On or about, April 22, 2020, the loan agreement documents for Application 2 were signed in the name of LARRY JORDAN.

55. According to records obtained from Bank 1, the documents were signed using a mobile device from the Internet Protocol (“IP”) address of 172.58.229.13, which belongs to T-Mobile.

Recorded Phone Calls Confirm LARRY JORDAN Submitted Application 2

56. On or about August 17, 2020, a member of the law enforcement team made a recorded telephone call to phone number 716-715-0211 and spoke with LARRY JORDAN about Application 2. The law enforcement agent pretended to be a customer service representative with Bank 1.

57. On the recording, LARRY JORDAN answered the phone and identified himself as “Dr. Jordan”. LARRY JORDAN confirmed that his email address is larry.jordan@5stems.com and his phone number is 716-715-0211.

58. When asked about the PPP loan process, LARRY JORDAN stated: “[I]t’s just the government sucks, and, you know, just the past 8 weeks and 12 weeks, they’ve been changing shit to the point where we was so skittish about spending any freaking money.”

59. LARRY JORDAN continued: “[W]e’re still coming back slowly . . . We probably won’t be fully ramped up until, like, late November. So, we’ve been pretty particular, like, what we’re spending, how we’re spending. ‘Cause it’s just been so confusing.”

60. LARRY JORDAN said that his accountant “Anthony” wanted to know whether the company could use the money for new hires and still have the loan be forgiven.

61. When pressed for Anthony’s contact information and last name, LARRY JORDAN

told the law enforcement agent he could not remember Anthony's last name.²¹

62. When asked how many employees the company has, LARRY JORDAN stated: “[W]e got two companies. We got 5 Stems Incorporated and 5 Stems L.L.C. So, we have about 74 employees. And then the other company, it has like 125 employees . . . [W]e do cell phone towers.”

63. The number of employees provided by LARRY JORDAN, 74 and 125, respectively, was inconsistent with the number of employees provided in Application 1, which was 39 employees, and in Application 2, which was 194 employees.

64. When asked whether 5 Stems Inc was able to pay its employees, LARRY JORDAN said: “Yes, we paid . . . we started paying some of them.”

65. LARRY JORDAN continued: “[I]t’s pretty much our back office. That’s it.” When asked how many people work in the back office, LARRY JORDAN stated: “Um, I’d say about ten percent.”

Bank 1 Confirms LARRY JORDAN Spoke with Bank 1 Employees about Loan Forgiveness

66. Law enforcement spoke with employees from Bank 1 and obtained correspondence between LARRY JORDAN and a Bank 1 employee.

67. On or about August 14, 2020, a Bank 1 employee sent an email asking whether the PPP loan funds had been spent, when the borrower might anticipate submitting a forgiveness

²¹ As noted above, LARRY JORDAN referred to his accountant as “Anthony” and not “Tina Pham” as suggested in the email correspondence sent to Bank 1 from the email address accounting@5stems.com. In a subsequent recorded call, LARRY JORDAN was asked whether “Tina Pham” was his accountant. LARRY JORDAN responded: “Yeah, yeah, yeah. That’s, um, that’s, she works for us. She’s our . . . like our, um, yeah, yeah, yeah, um, she’s one of our administrators. So, yes.” LARRY JORDAN further stated: “. . . that's the one that I think that she [i.e., Tina Pham] was su...yeah, submitting.” Finally, LARRY JORDAN stated: “She's... She does all the...she does all the, um, payroll and all the other stuff that we do day to day, so.”

application, and to ask how things were going.

68. That same day, LARRY JORDAN responded to the email from the Bank 1 employee from the email address larry.jordan@5stems.com. In the email, LARRY JORDAN responded, “Yes some have been spent but we can call u when?”

69. The Bank 1 employee told law enforcement that on or about August 17, 2020, the employee spoke with LARRY JORDAN. The Bank 1 employee contacted LARRY JORDAN at the telephone number 716-715-0211.

70. According to notes taken by the Bank 1 employee, LARRY JORDAN told the employee that he had used some of the funds, but that he is looking to hire employees back and start using the money. LARRY JORDAN also indicated that he planned to apply to have the PPP loan forgiven.

LARRY JORDAN Wires the PPP Loan Funds from Application 2 to SUTUKH EL

71. On or about April 22, 2020, LARRY JORDAN authorized the wire transfer of approximately \$605,200 in PPP loan funds from Application 2 to a bank account with the account number ending in 8971 in the name of 5 Stems Inc at Bank 2 (the “5 Stems Inc Account”).²²

72. According to records obtained from Bank 2, SUTUKH EL is the sole signatory for the 5 Stems Inc Account. The phone number associated with the account is 716-331-4350.²³

²² Prior to this deposit, the balance of the 5 Stems Inc Account was approximately \$21,500. After April 22, 2020, the 5 Stems Inc Account had no other deposits.

²³ Bank 2 also provided law enforcement with a number of recorded phone calls between the bank and the telephone number 716-331-4350. In most of these recorded calls, the individual calling the bank identified himself as SUTUKH EL. In one of the recorded calls, SUTUKH EL told the bank employee that SUTUKH EL is the CFO of 5 Stems Inc and that his brother is the CEO. In another call, SUTUKH EL speculated that he may have listed LARRY JORDAN on one of the business accounts for 5 Stems Inc.

73. Records from Bank 2 also showed when a user logged into the bank's online system to access the 5 Stems Inc Account.

74. Law enforcement examined the logins into the 5 Stems Inc Account from on or about April 22, 2020 (the day of the PPP wire transfer). Those records show numerous login attempts, including some from an iPhone with the IP address 174.224.136.30. Records obtained in the investigation reveal that this IP address is owned by Verizon and associated with the telephone number 716-331-4350 (the number used by SUTUKH EL to call Bank 2).²⁴

75. Records from Bank 2 also show separate logins into the 5 Stems Inc Account on or about April 22, 2020 from the IP address 98.4.51.196. Records obtained in the investigation reveal that this IP address is registered to the Crabapple Address, which is LARRY JORDAN's residence.

76. Records from Bank 2 also show separate logins into the 5 Stems Inc Account on or about April 22, 2020 from the IP address 67.241.169.41.²⁵ Records obtained reveal that this IP address is registered to a residence in Lancaster, which is owned by LARRY JORDAN's and SUTUKH EL's father.

77. Law enforcement also examined telephone records to identify telephone calls between telephone numbers 716-331-4350 (used by SUTUKH EL) and 716-715-0211 (used by LARRY JORDAN).

78. Telephone records show that on or about April 22, 2020 (*i.e.*, the day the PPP loan was funded), these two telephone numbers communicated at least five times. The same records

²⁴ Records obtained reveal that this IP address is registered to an individual in Buffalo, New York.

²⁵ According to the bank records, some of these logins were done from an iPhone and others were done from a computer using Windows Operating System.

showed that between on or about April 1, 2020, through on or about July 23, 2020, these telephone numbers called each other at least 440 times.

LARRY JORDAN and SUTUKH EL Spend Approximately \$300,000 in PPP Loan Proceeds for Expenses Unrelated to 5 Stems Inc²⁶

79. Bank records for the 5 Stems Inc Account reveal that both LARRY JORDAN and SUTUKH EL received proceeds from Bank 1 and used those funds for primarily non-business-related expenditures and not for the permitted uses under the PPP.

80. Of the approximately \$605,000 in loan proceeds, approximately \$84,800 was used to acquire securities through Brokerage Firm 1. An additional \$42,665 of the loan proceeds was withdrawn in cash, approximately \$23,446 was spent on home improvements such as landscaping, and approximately \$14,348 was used to acquire a vehicle.

Wires to FLE LLC and Brokerage Firm 1

81. One day after receiving the PPP loan funds pursuant to Application 2, on or about April 23, 2020, approximately \$100,000 was wired from the 5 Stems Inc Account to a bank account with account number ending in 1512 at Bank 3 in the name of FLE LLC with the memo “investment” (the “FLE Account”)

82. The FLE Account is the name of a company owned by SUTUKH EL. According to bank records from Bank 3, SUTUHK EL is the sole signatory on the FLE Account and the address associated with the account is the Adams Street Address.

83. On or about April 24, 2020, and on or about May 1, 2020, \$4,800 and \$80,000, respectively, were wired from FLE Account to a bank account with account number ending in 3054 at Brokerage Firm 1 in the name of SUTUKH EL (the “Brokerage Firm 1 Account”).

²⁶ As of September 4, 2020, approximately \$286,087 in PPP loan funds from Application 2 remained in the 5 Stems Inc Account.

Purchase of Vehicle

84. On or about April 29, 2020, approximately \$14,348 was wired from the 5 Stems Inc Account to Parkview Auto Sales.

85. Records obtained from Parkview Auto Sales show that on or about April 27, 2020, a 2011 Chevrolet Silverado was purchased and registered to a relative of LARRY JORDAN and SUTUKH EL.

86. On or about August 20, 2020, while conducting surveillance, law enforcement observed the 2011 Chevrolet Silverado in the vicinity of the Crabapple Address.

Wires to HHDonDeck Corp.

87. On or about May 26, 2020 and on or about June 15, 2020, approximately \$40,000 was wired from the 5 Stems Inc Account to a bank account with account number ending in 1713 at Bank 3 in the name of HHDonDeck (the "HHDonDeck Account"). The memo for both transfers was "5 Stems Inc Payroll."

88. According to bank records, SUTUKH EL is the sole signatory on the HHDonDeck Account and the address associated with the account is the Adams Street Address.

89. Records for the HHDonDeck Account did not reveal any expenditures that would suggest the funds were used for payroll purposes.

Transfers to LARRY JORDAN's Personal Bank Account

90. Between on or about May 26, 2020 and on or about June 5, 2020, approximately \$15,000 was wired from the 5 Stems Inc Account to a bank account with account number ending in 6993 at Bank 3 in the name of LARRY JORDAN (the "LARRY JORDAN Account").

91. According to bank records, LARRY JORDAN is the sole signatory on this account and the address associated with the account is the Crabapple Address.

92. On or about June 16, 2020, approximately \$20,000 was transferred from the HHDonDeck Account to the LARRY JORDAN Account via teller transaction.

93. Law enforcement obtained photographs from the bank documenting this teller transaction. Based on several images obtained of LARRY JORDAN and SUTUKH EL during the course of the investigation, the individuals in the bank photographs appear to be LARRY JORDAN and SUTUKH EL.

94. Records for the LARRY JORDAN Account were reviewed and there do not appear to be any expenditures that would suggest the \$20,000 in PPP loan funds were used for payroll purposes.

Cash Withdrawals by SUTUKH EL

95. On or about May 14, 2020, and on or about May 27, 2020, there were two teller cash withdrawals in the amounts of \$4,000 and \$7,500 from the FLE Account.

96. Law enforcement obtained photographs from the bank documenting these two withdrawals. The individual in both photographs appears to be SUTUKH EL.

97. The investigation identified recent videos posted on YouTube that include SUTUKH EL. One video, called “Hugo Hurt – Official BlackRock Freestyle Video,” was posted or about June 14, 2020. Throughout the video, SUTUKH EL is holding large amounts of what appear to be crisp \$100 bills. This video was posted on or about June 14, 2020, which is one month after SUTUKH EL withdrew \$4,000 in cash from the FLE LLC account ending in 1512 and just over two weeks after SUTUKH EL withdrew \$7,500 in cash from the FLE LLC account ending in 1512.

98. In the video, SUTUKH EL is holding a large amount of what appear to be clean and crisp \$100 bills. The money is spread out in a fan in SUTUKH EL’s hand.

99. SUTUKH EL is wearing a red shirt that says HHD, which is the logo for HHDOnDeck. A similar logo can be seen on clothing worn by SUTUKH EL in surveillance footage from the ATM withdrawals described above. A similar logo is also visible on surveillance footage from on or about June 16, 2020, when \$20,000 was transferred from the HHDOnDeck Account to the Jordan Account.

100. In another section of the video, SUTUKH EL is sitting on a blue leather sofa holding a large amount of what appear to be clean and crisp \$100 bills. In front of SUTUKH EL appears to be a Pitbull dog. On or about August 20, 2020, law enforcement conducted surveillance on the Adams Street Address and observed SUTUKH EL walking what appeared to be a Pitbull dog on Adams Street.

LARRY JORDAN and SUTUKH EL Submitted Additional Fraudulent PPP Loan Applications

101. Between on or about April 14, 2020 and on or about April 26, 2020, LARRY JORDAN and SUTUKH EL conspired to and did submit at least six other fraudulent PPP loan applications on behalf of five different entities. The following chart summarizes these loans:

Application Number	Name of Business	Approx. Amount Sought	Lender	Approx. Date	Status
3	5 Stems of Kentucky, L.L.C.	\$4,978,700	Lender 1	April 26, 2020	Unfunded
4	5 Stems L.L.C.	\$425,416	Bank 1	April 14, 2020	Unfunded
5	5 Stems L.L.C.	\$425,400	Lender 1	April 15, 2020	Unfunded
6	FLE LLC	\$185,000	Lender 1	April 25, 2020	Unfunded
7	HHDOnDeck	\$81,900	Lender 1	April 25, 2020	Unfunded
8	Standard Ascension	\$287,100	Lender 1	April 25, 2020	Unfunded

102. Each of these loans listed either LARRY JORDAN or SUTUKH EL as the primary contact. Likewise, certain identifying and contact information within these six applications matches the information provided in Application 1 and Application 2 (submitted in the name of 5 Stems Inc) or was the same as another application submitted in the name of another business. The chart below summarizes some of the information provided in these applications:

Loan Number	Primary Contact	Number of Employees	Avg. Monthly Payroll	Business Address	Telephone Number	Applicant's Primary Address	IP Address Used to Submit Application
3	LARRY JORDAN	330	\$1,991,500	Tennessee Address	716-715-0211	Crabapple Address	Crabapple IP
4	SUTUKH EL	59	\$170,166	Indiana Address	866-602-0006	North Carolina Address	136.143.188.12 ²⁷
5	SUTUKH EL	59	\$170,166	Indiana Address	866-602-0006	North Carolina Address	Crabapple IP
6	LARRY JORDAN	24	\$74,220	Williams Street Address	716-603-6000	North Carolina Address	Crabapple IP
7	SUTUKH EL	11	\$32,794	Williams Street Address	716-603-6000	North Carolina Address	Crabapple IP
8	LARRY JORDAN	19	\$114,855	Depew, New York	716-715-0211	Crabapple Address	Crabapple IP

103. A number of emails were sent between the lenders and applicants concerning these applications. For example, the email address accounting@5stems.com was used to provide IRS

²⁷ Records obtained reveal that this IP address is owned by ZoHo Corporation. ZoHo Corporation is the host for the email addresses larry.jordan@5stems.com and accounting@5stems.com.

forms in support of Application 1. The email was signed by “Tina Pham”. The same email address was used to submit Application 2 and the payroll register in support of Application 2. That email address was also listed as personal email address for the primary contact (SUTUKH EL) on Application 4.²⁸

104. Further indicia of fraud were identified.

105. For example, as supporting documentation for the reported payroll, purported IRS Forms 940 and IRS Forms 941 were submitted along with all of the applications except for Application 4 and Application 5 (5 Stems L.L.C.).²⁹ Information obtained from the IRS confirms that it has no records of the IRS Forms 940 and IRS Forms 941 submitted in support of those six applications.³⁰

106. Similarly, in support of each application, the applicants submitted Excel spreadsheets purporting to be each entity’s payroll register for 2019. The payroll registers had the exact same format: the employees were identified by first name only, a street address with no city, state or zip code and a social security number. A redline went through a portion of each social security number. All of the employees had the same start date of January 1, 2019.

107. A comparison of these payroll registers revealed that 142 employees listed on the payroll register submitted with Application 1 and Application 2 (5 Stems Inc) are also listed on

²⁸ Application 4 originally answered “No” in response to the question whether all of the applicant’s employees reside in the United States. This same answer was provided on Application 1 before being corrected on Application 2.

²⁹ In support of Application 4 and Application 5, an IRS Form W-3 for 2019 was submitted. The IRS Form W-3 was not signed or dated. At this stage in the investigation, law enforcement has not obtained information from the IRS as to whether 5 Stems L.L.C. filed an IRS Form W-3 for 2019. The investigation is ongoing.

³⁰ Information from the IRS also confirms that 5 Stems L.L.C. did not file an IRS Form 940 or IRS Form 941 in 2019 or 2020.

the payroll register submitted with Application 3 (5 Stems of Kentucky, L.L.C.). Similarly, 58 of the employees listed on the payroll registers submitted with Application 4 and Application 5 (5 Stems L.L.C.) are also listed on the payroll register submitted with Application 3. Likewise, all of the employees listed on the payroll registers submitted with Application 6, Application 7, and Application 8 are also listed on the payroll register submitted with Application 3.

CONCLUSION

108. As illustrated in this affidavit, there is probable cause to believe that, beginning in or around April 2020, and continuing until in or around August 2020, LARRY JORDAN and SUTUKH EL conspired to, and did in fact, submit at least eight fraudulent PPP loan applications and conspired to, and did in fact, use proceeds from one of the fraudulent PPP loan applications for personal, non-business related expenditures.

109. LARRY JORDAN and SUTUKH EL provided materially misleading applications and supporting documents to lenders and financial institutions. Reliance on this false information caused at least one financial institution to send, through interstate wires, significant funds to LARRY JORDAN and SUTUKH EL.

110. Based upon the above information, I believe that probable cause exists to believe there has been a violation of Title 18, United States Code, Section 1349 (Wire Fraud Conspiracy), and respectfully request the issuance of a Criminal Complaint charging LARRY JORDAN with a violation of Title 18, United States Code, Section 1349 and a Criminal Complaint charging SUTUKH EL with a violation of Title 18, United States Code, Section 1349. I further request that the Court issue arrest warrants for both LARRY JORDAN and SUTUKH EL. Finally, to allow agents to execute the arrest warrants, I request that the Court seal the criminal complaint, this affidavit, and the arrest warrants until further order of the Court.

Kathleen A. Garver

KATHLEEN A. GARVER

Special Agent

Federal Bureau of Investigations

Sworn and subscribed to before me, telephonically, this 8th day of September, 2020.

H. Kenneth Schroeder, Jr.

HONORABLE H. KENNETH SCHROEDER, JR.

United States Magistrate Judge