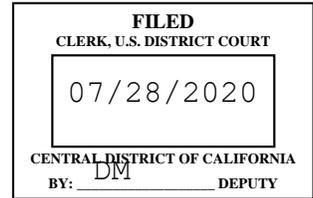


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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

January 2020 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDREW MARNELL,
aka "Andrew Maxwell,"
"Andrew Merrill," and
"Tyler Lerman,"

Defendant.

CR No. 2:20-cr-00319-RGK

I N D I C T M E N T

[18 U.S.C. § 1344(2): Bank Fraud;
18 U.S.C. § 982: Criminal
Forfeiture]

The Grand Jury charges:

COUNTS ONE THROUGH THREE

[18 U.S.C. §§ 1344(2), 2(b)]

A. INTRODUCTORY ALLEGATIONS

At times relevant to this Indictment:

Defendant MARNELL and the MARNELL-Controlled Entities

1. Defendant ANDREW MARNELL, also known as "Andrew Maxwell,"
"Andrew Merrill," and "Tyler Lerman," was a resident of Los Angeles,
California, within the Central District of California.

1 2. Defendant MARNELL owned and controlled corporate entities
2 registered in various states under various names, including Shale
3 Creek LLC ("Shale Creek"), Slatestone LLC ("Slatestone"), and
4 Quicksilver LLC ("Quicksilver") (the "MARNELL-controlled entities").

5 The Paycheck Protection Program

6 3. The Coronavirus Aid, Relief, and Economic Security
7 ("CARES") Act was a federal law enacted in or around March 2020 and
8 designed to provide emergency financial assistance to the millions of
9 Americans who were suffering the economic effects caused by the
10 COVID-19 pandemic. One source of relief provided by the CARES Act
11 was the authorization of up to \$349 billion in forgivable loans to
12 small businesses for job retention and certain other expenses,
13 through a program referred to as the Paycheck Protection Program
14 ("PPP"). In or around April 2020, Congress authorized over \$300
15 billion in additional PPP funding.

16 4. In order to obtain a PPP loan, a qualifying business was
17 required to submit a PPP loan application signed by an authorized
18 representative of the business. The PPP loan application required
19 the business (through its authorized representative) to acknowledge
20 the program rules and make certain affirmative certifications in
21 order to be eligible to obtain the PPP loan. In the PPP loan
22 application, the applicant (through its authorized representative)
23 was required to state, among other things, its: (a) average monthly
24 payroll expenses; and (b) number of employees. These figures were
25 used to calculate the amount of money the small business was eligible
26 to receive under the PPP. In addition, the applicant was required to
27 provide documentation showing its payroll expenses.

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1 5. A business's PPP loan application was received and
2 processed, in the first instance, by a participating lender. If a
3 PPP loan application was approved, the participating lender funded
4 the PPP loan using its own monies. Data from the application,
5 including information about the borrower, the total amount of the
6 loan, and the listed number of employees, was transmitted by the
7 lender to the Small Business Administration ("SBA") in the course of
8 processing the loan.

9 6. PPP loan proceeds were required to be used by the business
10 on certain permissible expenses: payroll costs, interest on
11 mortgages, rent, and utilities. The PPP allowed the interest and
12 principal on the PPP loan to be entirely forgiven if the business
13 spent the loan proceeds on these expense items within a designated
14 period of time after receiving the proceeds and used a certain amount
15 of the PPP loan proceeds on payroll expenses.

16 SBA-Approved Lender

17 7. "Lender A" was a financial institution based in Texas whose
18 deposits were insured by the Federal Deposit Insurance Corporation.
19 Lender A was an approved SBA lender of PPP loans.

20 B. THE SCHEME TO DEFRAUD

21 8. Beginning in or about March 2020, and continuing until on
22 or about July 16, 2020, in Los Angeles County, within the Central
23 District of California, and elsewhere, defendant MARNELL, together
24 with others known and unknown to the Grand Jury, knowingly and with
25 intent to defraud, devised, participated in, executed, and attempted
26 to execute a scheme to obtain moneys, funds, credits, assets, and
27 other property owned by and in the custody and control of Lender A by
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1 means of materially false and fraudulent pretenses, representations,
2 and promises, and the concealment of material facts.

3 9. The fraudulent scheme operated and was carried out, in
4 substance, as follows:

5 a. Defendant MARNELL submitted, and caused to be
6 submitted, false and fraudulent applications to Lender A for PPP
7 loans purportedly on behalf of the MARNELL-controlled entities
8 (collectively, the "PPP Applications"). Specifically:

9 i. On or about April 14, 2020, defendant MARNELL
10 submitted, and caused to be submitted, an application for a PPP loan
11 in the amount of \$439,000 for borrower Shale Creek, which was
12 represented to be a Montana-headquartered firm, owned and controlled
13 by "Tyler Lerman," having 26 employees and average monthly payroll
14 expenses of \$175,600;

15 ii. On or about April 29, 2020, defendant MARNELL
16 submitted, and caused to be submitted, an application for a PPP loan
17 in the amount of \$1,341,700 for borrower Slatestone, which was
18 represented to be a Wyoming-headquartered firm, owned and controlled
19 by "Andrew Merrill," having 75 employees and average monthly payroll
20 expenses of \$536,680; and

21 iii. On or about May 11, 2020, defendant MARNELL
22 submitted, and caused to be submitted, an application for a PPP loan
23 in the amount of \$1,818,000 for borrower Quicksilver, which was
24 represented to be a Montana-headquartered firm, owned and controlled
25 by "Andrew Maxwell," having 129 employees and average monthly payroll
26 expenses of \$727,200.

27 b. Defendant MARNELL submitted, and caused to be
28 submitted, false documents and information to Lender A to obtain and

1 to try to obtain PPP loans in the names of the MARNELL-controlled
2 entities, including the following:

3 i. A false identification document concerning the
4 ownership and control of Quicksilver, namely, a photograph of a fake
5 United States passport in the name of "Andrew Maxwell," with
6 defendant MARNELL's picture;

7 ii. False Internal Revenue Service ("IRS") Form 940
8 tax forms for Shale Creek, Slatestone, and Quicksilver, purporting to
9 be Employer's Annual Federal Unemployment Tax Act Returns filed with
10 the IRS for those entities; and

11 iii. False payroll data and documentation for Shale
12 Creek, Slatestone, and Quicksilver, including documents purporting to
13 be payroll registers for 2019 and 2020, purporting to show wages paid
14 to employees of those entities.

15 c. Defendant MARNELL made, and caused to be made, false
16 statements in the PPP Applications, which defendant MARNELL knew were
17 false when he made them and caused them to be made. For example:

18 i. Defendant MARNELL falsely represented that the
19 funds sought through the PPP Applications would be used to pay
20 payroll and other business expenses of the MARNELL-controlled
21 entities, when, in fact, defendant MARNELL intended to use and did
22 use the PPP loan proceeds to fund options and futures trading
23 activities, to engage in gambling and entertainment activities, and
24 to pay other personal expenses;

25 ii. Defendant MARNELL falsely represented that "the
26 Applicant has not and will not receive another loan under the
27 Paycheck Protection Program," and that the applicant did not own any
28 other business or have common management with any other business,

1 when, in fact, defendant MARNELL intended to and did obtain other
2 loans under the Paycheck Protection Program for the MARNELL-
3 controlled entities and all the MARNELL-controlled entities had
4 common management; and

5 iii. Defendant MARNELL falsely represented that "Tyler
6 Lerman," "Andrew Merrill," and "Andrew Maxwell" were the owners of
7 the MARNELL-controlled entities, when, in fact, as defendant MARNELL
8 then knew, he owned and controlled those entities.

9 d. In reliance on defendant MARNELL's materially false
10 statements and his concealment of material facts, Lender A approved
11 and funded the PPP loans sought by defendant MARNELL in the names of
12 the MARNELL-controlled entities. Specifically, on or about the
13 following dates, Lender A sent the following funding wires:

14 i. On or about April 16, 2020, Lender A wired, via
15 ACH transfer, approximately \$439,000 to an account ending 2842 at
16 Interactive Brokers LLC, maintained in defendant MARNELL's name;

17 ii. On or about May 11, 2020, Lender A wired, via ACH
18 transfer, approximately \$1,341,700 to an account ending 2627 at
19 Charles Schwab Inc., maintained in defendant MARNELL's name; and

20 iii. On or about May 12, 2020, Lender A wired, via ACH
21 transfer, approximately \$1,818,000 to an account ending 6279 at Live
22 Oak Banking Company, which was a business account in Quicksilver's
23 name on which defendant MARNELL was the sole signer.

24 e. From on or about April 16, 2020, through on or about
25 July 16, 2020, in contravention of defendant MARNELL's
26 representations to Lender A and PPP rules, defendant MARNELL used PPP
27 loan proceeds from Lender A to, among other things, fund options and
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1 futures trading activities, to engage in gambling and entertainment
2 activities, and to pay other personal expenses.

3 C. EXECUTIONS OF THE SCHEME

4 10. On or about the following dates, in Los Angeles County,
5 within the Central District of California, and elsewhere, defendant
6 MARNELL committed and willfully caused others to commit the following
7 acts, each of which constituted an execution of the fraudulent
8 scheme:

COUNT	DATE	ACT
ONE	4/14/2020	Submission of application to Lender A for PPP loan in the name of Shale Creek.
TWO	4/29/2020	Submission of application to Lender A for PPP loan in the name of Slatestone.
THREE	5/11/2020	Submission of application to Lender A for PPP loan in the name of Quicksilver.

1 FORFEITURE ALLEGATION

2 [18 U.S.C. § 982]

3 11. Pursuant to Rule 32.2(a) of the Federal Rules of Criminal
4 Procedure, notice is hereby given that the United States of America
5 will seek forfeiture as part of any sentence, pursuant to Title 18,
6 United States Code, Section 982(a)(2), and Title 28, United States
7 Code, Section 2461(c), in the event of the conviction of defendant
8 ANDREW MARNELL, also known as "Andrew Maxwell," "Andrew Merrill," and
9 "Tyler Lerman," of the offenses set forth in any of Counts One
10 through Three of this Indictment.

11 12. Defendant MARNELL, if so convicted, shall forfeit to the
12 United States of America the following:

13 (a) All right, title and interest in any and all property,
14 real or personal, constituting, or derived from, any proceeds
15 obtained, directly or indirectly, as a result of the offense; and

16 (b) To the extent such property is not available for
17 forfeiture, a sum of money equal to the total value of the property
18 described in subparagraph (a).

19 13. Pursuant to Title 21, United States Code, Section 853(p),
20 as incorporated by Title 18, United States Code, Section 982(b),
21 defendant MARNELL, if so convicted, shall forfeit substitute
22 property, up to the total value of the property described in the
23 preceding paragraph if, as the result of any act or omission of
24 defendant MARNELL, the property described in the preceding paragraph,
25 or any portion thereof: (a) cannot be located upon the exercise of
26 due diligence; (b) has been transferred, sold to or deposited with a
27 third party; (c) has been placed beyond the jurisdiction of the
28 court; (d) has been substantially diminished in value; or (e) has

1 been commingled with other property that cannot be divided without
2 difficulty.

3 A TRUE BILL

4
5 /s/
6 Foreperson

7 NICOLA T. HANNA
8 United States Attorney

9 

10 BRANDON D. FOX
11 Assistant United States Attorney
12 Chief, Criminal Division

13 RANEE A. KATZENSTEIN
14 Assistant United States Attorney
15 Chief, Major Frauds Section

16 ROBERT ZINK
17 Chief, Fraud Section
18 United States Department of Justice

19 MONICA E. TAIT
20 Assistant United States Attorney
21 Deputy Chief, Major Frauds Section

22 KERRY L. QUINN
23 Assistant United States Attorney
24 Major Frauds Section

25 SCOTT ARMSTRONG
26 Trial Attorney, Fraud Section
27 United States Department of Justice
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