

FILED IN CHAMBERS
U.S.D.C ATLANTA

Date: Sep 09 2020

JAMES N. HATTEN, Clerk

By: s/Angela Smith

Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

TIMOTHY WILLIAMS

Criminal Information

No. 1:20-CR-00339

THE UNITED STATES ATTORNEY CHARGES THAT:

Count One
Conspiracy
18 U.S.C. § 371

1. In or about May 2020, in the Northern District of Georgia and elsewhere, the defendant, TIMOTHY WILLIAMS, did knowingly and willfully combine, conspire, confederate, agree, and have a tacit understanding with Co-Conspirator 1 and Co-Conspirator 3, and others, known and unknown, to commit an offense against the United States, that is, to devise and intend to devise a scheme and artifice to defraud the United States and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by the omission of material facts, and, with the intent to defraud, cause to be transmitted certain wire communications in interstate and foreign commerce for the purposes of executing the scheme, in violation of Title 18, United States Code, Section 1343.

Background

The Paycheck Protection Program

2. 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 Paycheck Protection Program (“PPP”). In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

3. 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 showing their payroll expenses.

4. A PPP loan application must be processed by a participating financial institution (the lender). If a PPP loan application is approved, the participating financial institution funds the PPP loan using its own monies, which are 100% guaranteed by Small Business Administration (“SBA”). Data from the

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

5. 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.

6. The PPP is overseen by the SBA, which is headquartered at 409 3rd Street SW, Washington, D.C. 20416, and has authority over all loans. Individual PPP loans, however, are issued by private approved lenders (most commonly, banks and credit unions), which receive and process PPP applications and supporting documentation, and then make loans using the lenders' own funds.

Relevant Entities

7. Bank 1 is an SBA-approved lender headquartered in Fort Lee, New Jersey.

8. Bank 2 is a federally-insured financial institution headquartered in Vienna, Virginia.

9. Company 1 pairs PPP applicants with lenders by collecting applications, performing underwriting tasks, and submitting approved applications to SBA-approved lenders such as Bank 1 for funding.

The Co-Conspirators

10. WILLIAMS was a citizen of the United States and resident of the Northern District of Georgia.

11. WILLIAMS was an owner and authorized representative of Bamigi Brand, located at 2575 Snapfinger Road, Suite 1, Decatur, GA 30034. Bamigi Brand's Employer Identification Number issued by the U.S. Internal Revenue Service was 84-2356471.

12. Bamigi Brand maintained a business checking account number ending 3560 at Bank 2. WILLIAMS was an authorized signatory on the account.

13. Co-Conspirator 1 (CC-1) aided WILLIAMS in submitting an application for a PPP loan for Bamigi Brand.

14. Co-Conspirator 3 (CC-3) referred WILLIAMS to Co-Conspirator 1 to enable WILLIAMS to get the PPP loan.

15. WILLIAMS referred others to CC-1 which enabled them to get PPP loans.

Object of the Conspiracy

16. The object of the conspiracy was for WILLIAMS and his co-conspirators to fraudulently obtain Paycheck Protection Program loans for themselves, and to conceal the conspiracy.

Manner and Means of the Conspiracy

17. On or about May 4, 2020, a PPP loan application package was submitted to Bank 1, via Company 1, requesting a \$300,000 PPP loan for Bamigi Brand. Included with the loan application were (1) an SBA Form 2483 PPP Borrower Application Form bearing WILLIAMS's digital signature; (2) IRS Form 941s (Employer's Quarterly Federal Tax Returns) purportedly reflecting Bamigi Brand's payroll data for January to March 2019; and (3) a Promissory Note bearing WILLIAMS's digital signature.

18. On the SBA Form 2483, WILLIAMS falsely certified that his business had an average monthly payroll of \$120,000 and 16 employees. Among other things, WILLIAMS further falsely certified that all of the PPP loan funds 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.” WILLIAMS also acknowledged that failure to use the PPP funds in accordance with the requirements of the PPP program, and making false statements in support of the loan application, could result in criminal penalties.

19. The IRS Form 941 that was included with the PPP loan application falsely represented, among other things, that Bamigi Brand had 16 employees, paid wages, tips, and other compensation in the amount of \$358,819.00 in the first quarter of 2019. In fact, Bamigi Brand made no quarterly tax filings in 2019.

20. On or about May 4, 2020, at CC-1’s direction, WILLIAMS digitally signed the SBA Form 2483 and the Promissory Note and electronically transmitted them to Company 1. Company 1 then transmitted the loan package to Bank 1 for approval.

21. On or about May 4, 2020, Bank 1 approved the PPP loan.

22. On or about May 5, 2020, Bank 1 wired approximately \$300,000 to Bamigi Brand’s business checking account at Bank 2.

23. In or about May 2020, at CC-1’s direction, WILLIAMS wrote and signed at least 8 checks from the Bamigi Brand checking account at Bank 2 and supplied them to Co-Conspirator 1 or his designee and at least 5 cashier’s checks to CC-3.

The individuals who cashed the checks were not eligible to receive funds from the PPP loan made to Bamigi Brand.

All in violation of Title 18, United States Code, Section 371.

Count Two
False Statements
18 U.S.C. §§ 1001(a)(1) and 2

24. In or about May 2020, in the Northern District of Georgia and elsewhere, the defendant, TIMOTHY WILLIAMS, did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations in a matter within the jurisdiction of the executive branch of the Government of the United States, namely, the Small Business Administration, those being: on or about May 4, 2020, WILLIAMS signed and initialed an SBA Form 2483 Paycheck Protection Program Borrower Application Form knowing the form contained false information regarding his company's eligibility for a Paycheck Program loan.

All in violation of Title 18 United States Code, Section 1001(a)(1) and Section 2.

FORFEITURE ALLEGATION

25. Upon conviction of the offense alleged in Count One of this Criminal Information, the defendant, TIMOTHY WILLIAMS, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, constituting and derived from proceeds traceable to the scheme to defraud, including but not limited to the following:

(a) MONEY JUDGMENT: A sum of money in United States currency equal to the amount of proceeds the defendant obtained as a result of the offense for which the defendant is convicted.

26. If any of the property described above, 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 has been commingled with other property which cannot be divided without 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 28, United States Code, Section 2461(c).

BYUNG J. PAK
United States Attorney

Diane C. Schulman

DIANE C. SCHULMAN
Special Assistant United States Attorney
Georgia Bar No. 497764

DANIEL S. KAHN
Acting Chief, Fraud Section
Criminal Division
U.S. Department of Justice

NY Bar No. 4196143

Michael P. McCarthy
MICHAEL P. MCCARTHY
Trial Attorney
DC Bar No. 1020231

600 U.S. Courthouse
75 Ted Turner Drive SW
Atlanta, GA 30303
404-581-6000; Fax: 404-581-618