

~~SEALED BY ORDER~~

~~OF COURT~~
United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN JOSE

FILED

Jul 01 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

UNITED STATES OF AMERICA,
V.

LEBNITZ TRAN, a/k/a VIET TRAN,

CR 21 00269
CR 21-0269 LHK

LHK

NC

DEFENDANT(S).

INDICTMENT

18 U.S.C. § 1343 – Wire Fraud
18 U.S.C. § 1344(2) – Bank Fraud
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) –
Forfeiture Allegation

A true bill.

/s/ Foreperson of the Grand Jury

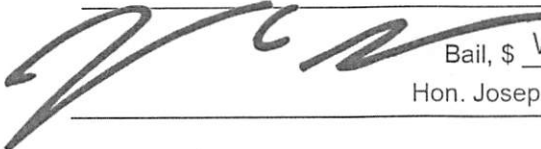
Foreman

Filed in open court this 1st day of

July, 2021

Stephen Ybarra

Clerk


Bail, \$ _____ Warrant
Hon. Joseph C. Spero

1 STEPHANIE M. HINDS (CABN 154284)
Acting United States Attorney

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4 ~~SEALED BY ORDER~~
5 ~~OF COURT~~
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Jul 01 2021
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,) CASE NO. CR 21-00269 LHK)

12 Plaintiff,

) VIOLATIONS:

13 v.

) 18 U.S.C. § 1343 – Wire Fraud;

14 LEBNITZ TRAN, a/k/a VIET TRAN,

) 18 U.S.C. § 1344(2) – Bank Fraud;

15 Defendant.

) 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c) –
) Forfeiture Allegation

) SAN JOSE VENUE

) UNDER SEAL
)
)
)

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19
20 INDICTMENT

21 The Grand Jury charges:

22 Introductory Allegations

23 At all times relevant to this Indictment:

24 Defendant TRAN and Relevant Individuals

25 1. LEBNITZ TRAN, a/k/a VIET TRAN, was a resident of San Jose, California. TRAN
26 owned or controlled multiple business entities organized in California.

27 2. Person 1 was a resident of Marin County, California and an associate of TRAN.

28 3. Person 2 was a resident of Sacramento, California and a relative of TRAN.

INDICTMENT

1 4. Person 3 was a person residing in the same household with TRAN in San Jose,
2 California.

3 Business Entities Controlled by TRAN

4 5. 88 Cloud Computing LLC was a California limited liability company that was first
5 registered on or about June 2, 2020. TRAN was listed as the sole member of 88 Cloud Computing LLC.

6 6. 88 Engineering Group LLC was a California limited liability company that was first
7 registered on or about June 22, 2020. TRAN was listed as the sole member of 88 Engineering Group
8 LLC.

9 7. 88 Enterprise Services LLC was a California limited liability company that was first
10 registered on or about June 11, 2020. TRAN was listed as the sole member of 88 Enterprise Services
11 LLC.

12 8. 88 Investment Empire LLC was a California limited liability company that was first
13 registered on or about June 4, 2020. TRAN was listed as the sole member of 88 Investment Empire
14 LLC.

15 9. 88 Venture Capital LLC was a California limited liability company that was first
16 registered on or about June 1, 2020. TRAN was listed as the sole member of 88 Venture Capital LLC.

17 10. 88 Water LLC was a California limited liability company that was first registered on or
18 about May 22, 2019. TRAN was listed as the organizer and registered agent of 88 Water LLC.

19 11. Active Energy Water Corporation was a California corporation that was first registered
20 on or about December 12, 2013. TRAN was listed as the “CEO/Founder” of Active Energy Water
21 Corporation.

22 12. The registered business address for all of the above-listed entities was 1440 Saffle Court
23 in Campbell, California, which was a residential home owned by relatives of TRAN.

24 Other Relevant Entity

25 13. Divine Feminine Masterpiece LLC was a Nevada limited liability company that was first
26 registered on or about October 22, 2018. The registered business address for Divine Feminine
27 Masterpiece LLC was 500 N. Rainbow Road, Suite 300A in Las Vegas, Nevada. Person 1 was listed as
28 the Managing Member of Divine Feminine Masterpiece LLC.

1 The Small Business Administration

2 14. The United States Small Business Administration (“SBA”) was an executive-branch
3 agency of the United States government that provided support to entrepreneurs and small businesses.
4 The mission of the SBA was to maintain and strengthen the nation’s economy by enabling the
5 establishment and viability of small businesses and by assisting in the economic recovery of
6 communities after disasters.

7 The Paycheck Protection Program

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

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

24 17. Among the types of businesses eligible for a PPP loan were individuals who operated
25 under a “sole proprietorship” business structure. In order to be eligible to receive such a PPP loan,
26 individuals had to report and document their income and expenses from the sole proprietorship, as
27 typically reported to the Internal Revenue Service (“IRS”) on Form 1040, Schedule C, for a given tax
28

1 year. The lending institution or loan processor used this information and documents to calculate the
2 amount of money the individual was entitled to receive under the PPP.

3 18. A PPP loan application was required to be processed by a participating lender. If a PPP
4 loan application was approved, the participating lender funded the PPP loan using its own monies,
5 which were 100% guaranteed by the SBA. Data from the application, including information about the
6 borrower, the total amount of the loan, and the listed number of employees, was transmitted by the
7 lender to the SBA in the course of processing the loan.

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

13 The Economic Injury Disaster Loan Program

14 20. The Economic Injury Disaster Loan (“EIDL”) program was a SBA program that provided
15 low-interest financing to small businesses, renters, and homeowners in regions affected by declared
16 disasters.

17 21. The CARES Act also authorized the SBA to provide EIDL loans of up to \$2 million to
18 eligible small businesses experiencing substantial financial disruption due to the COVID-19 pandemic.
19 In addition, the CARES Act authorized the SBA to issue advances of up to \$10,000 to small businesses
20 within three days of applying for an EIDL loan. The amount of the advance was determined by the
21 number of employees the applicant certified having. The advances did not have to be repaid.

22 22. In order to obtain an EIDL loan and/or advance, a qualifying business was required to
23 submit an application to the SBA and provide information about its operations, such as the number of
24 employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the
25 12-month period preceding the disaster. In the case of EIDL loans for COVID-19 relief, the 12-month
26 period was that preceding January 31, 2020. The applicant was also required to certify that all of the
27 information in the application was true and correct to the best of the applicant’s knowledge.

1 23. EIDL applications were submitted directly to the SBA. The amount of the loan, if the
2 application was approved, was determined based, in part, on the information provided by the applicant
3 about employment, revenue, and cost of goods, as described above. Any funds issued under an EIDL
4 loan or advance were issued directly by the SBA. EIDL funds could be used for payroll expenses, sick
5 leave, production costs, and business obligations, such as debts, rent, and mortgage payments. If the
6 applicant also obtained a loan under the PPP, the EIDL funds amount needed to be declared by the
7 applicant and deducted from the total loan eligibility.

8 Relevant PPP Lenders and Affiliated Companies

9 24. Lender 1 was a federally insured financial institution based in Utah. Lender 1 was an
10 SBA Preferred Lender and participated as an SBA-approved PPP lender to small businesses.

11 25. Lender 2 was a non-bank lender based in New York. Lender 2 was an SBA Preferred
12 Lender and participated as an SBA-approved PPP lender to small businesses.

13 26. Lender 3 was a federally insured financial institution based in Maine. Lender 3 was an
14 SBA Preferred Lender and participated as an SBA-approved PPP lender to small businesses.

15 27. Lender 4 was a non-bank lender based in California. Lender 4 was an SBA Preferred
16 Lender and participated as an SBA-approved PPP lender to small businesses.

17 28. Lender 5 was a non-bank lender based in California. Lender 5 participated as an SBA-
18 approved PPP lender to small businesses.

19 29. Lender 6 was a non-bank lender based in Florida. Lender 6 was an SBA Preferred
20 Lender and participated as an SBA-approved PPP lender to small businesses.

21 30. Lender 7 was a federally insured financial institution based in Utah. Lender 7
22 participated as an SBA-approved PPP lender to small businesses.

23 31. Lender 8 was a financial services company based in California. Lender 8 participated as
24 an SBA-approved PPP lender to small businesses.

25 The Scheme and Artifice to Defraud

26 32. Beginning at least as early as April 2020, and continuing through in or around July 2020,
27 in the Northern District of California and elsewhere, TRAN, together with others known and unknown
28 to the Grand Jury, knowingly and with intent to defraud, devised, participated in, and executed a scheme

1 to defraud the SBA and SBA-approved lenders as to material matters, and to obtain moneys, funds,
2 assets, and other property owned by and under the custody and control of lenders and the SBA by means
3 of material false and fraudulent pretenses, representations, and promises, and the concealment of
4 material facts.

5 33. TRAN identified pre-existing business entities, and created and caused to be created
6 additional business entities, for the purpose of submitting false and fraudulent applications for PPP and
7 EIDL loans.

8 34. TRAN made, and caused to be made, false and fraudulent statements to the SBA and
9 lenders, including Lender 1, Lender 2, Lender 3, Lender 4, Lender 5, Lender 6, Lender 7, and Lender 8,
10 in connection with applications for PPP and EIDL loans, including false and fraudulent representations
11 regarding the dates of operation of the loan applicant (e.g., falsely asserting that the loan applicant had
12 been in business longer than it actually had); falsely overstating the number of persons employed by the
13 loan applicant; and falsely overstating the loan applicant's monthly payroll expenses.

14 35. TRAN also electronically submitted, and caused to be submitted, false and fictitious
15 documents to the SBA and lenders, including Lender 1, Lender 2, Lender 3, Lender 4, Lender 5, Lender
16 6, Lender 7, and Lender 8, in support of the fraudulent PPP and EIDL loan applications, including false
17 and fictitious tax documents.

18 36. TRAN submitted and caused to be submitted at least 27 PPP loan applications and at
19 least seven EIDL loan applications, submitted in TRAN's name as well as in the name of others. In
20 total, TRAN sought approximately \$8.5 million in PPP and EIDL loan proceeds through these
21 applications and received over \$3.6 million from the SBA and SBA-approved lenders. TRAN netted in
22 excess of \$2 million from the scheme.

23 37. TRAN directed that PPP and EIDL loan proceeds be electronically deposited into bank
24 accounts that TRAN controlled, including, but not limited to, accounts at Wells Fargo ending in -0718,
25 -0825, -3949, -3956, and -8480, and at Bank of America ending in -6420.

26 38. After receiving PPP and EIDL loan proceeds, TRAN used the fraudulently obtained
27 funds to enrich himself, including to pay rent, utilities, credit cards, and personal loans, make purchases
28 at various retail stores, and make deposits into personal investment accounts. TRAN also transferred

1 hundreds of thousands of dollars to other individuals, including Person 1, Person 3, and others. Those
2 individuals then used the funds for various purposes, including to make purchases at restaurants and
3 retail stores, make deposits into personal investment accounts, buy cryptocurrency, and to purchase a
4 \$100,000 Tesla at a luxury car dealership in Livermore, California.

5 39. Some of the loan applications submitted as part of the scheme and artifice to defraud are
6 described below.

7 Person 2 Application to Lender 1

8 40. On or about May 28, 2020, Lender 1 received a PPP application in the name of Person 2
9 (as a Sole Proprietor) seeking a PPP loan in the amount \$174,582.

10 41. The PPP application falsely stated that Person 2's average monthly payroll was \$69,833
11 and that Person 2 had eight employees. The PPP application included a false and fraudulent Employer's
12 Federal Tax Return (IRS Form 1040 Schedule C) for year 2019, which claimed that Person 2 had paid
13 \$888,000 in wages, tips, and other compensation, and listed Person 2's business address as the same
14 address used for the business entities controlled by TRAN identified at paragraphs 5 through 11 above.

15 42. Based on the false information provided to Lender 1 in the Person 2 PPP application,
16 Lender 1 approved and funded the PPP loan. On or about May 28, 2020, \$174,582 was transferred to a
17 personal checking account ending in -8480 held in the name of TRAN at Wells Fargo bank.

18 88 Water LLC Application to Lender 2

19 43. On or about April 30, 2020, Lender 2 received a PPP application in the name of 88 Water
20 LLC seeking a PPP loan in the amount \$75,000. The application was submitted in the name of TRAN
21 who represented himself to be the CEO of 88 Water LLC.

22 44. The PPP application falsely stated that 88 Water LLC's average monthly payroll was
23 \$30,000, and that the company had five employees. The PPP application included false and fraudulent
24 Employer's Quarterly Federal Tax Return forms (IRS Form 941) for the third and fourth quarters of
25 2019, which claimed that 88 Water LLC had paid \$192,128 in wages, tips, and other compensation for
26 those two quarters in 2019.

27 45. Based on the false information provided to Lender 2 in the 88 Water LLC PPP
28 application, Lender 2 approved and funded the PPP loan. On or about May 1, 2020, \$75,000 was

1 transferred to a personal checking account ending in -6420 held in the name of TRAN at Bank of
2 America.

3 Active Energy Water Corporation Application to Lender 3

4 46. On or about May 6, 2020, Lender 3 received a PPP application in the name of Active
5 Energy Water Corporation seeking a PPP loan in the amount \$120,000. The application was submitted
6 in the name of TRAN, who represented himself to be the sole managing member of Active Energy
7 Water Corporation.

8 47. The PPP application falsely stated that Active Energy Water Corporation's average
9 monthly payroll was \$48,000, and that the company had nine employees. The PPP application included
10 false and fraudulent IRS Form 941s for all four quarters of 2019, which claimed that Active Energy
11 Water Corporation had paid \$589,782 in wages, tips, and other compensation in 2019.

12 48. Based on the false information provided to Lender 3 in the Active Energy Water
13 Corporation PPP application, Lender 3 approved and funded the PPP loan. On or about May 14, 2020,
14 \$120,000 was transferred to a personal checking account ending in -8480 held in the name of TRAN at
15 Wells Fargo bank.

16 88 Enterprise Services LLC Application to Lender 4

17 49. On or about May 30, 2020, Lender 4 received a PPP application in the name of 88
18 Enterprise Services LLC seeking a PPP loan in the amount \$458,332. The application was submitted in
19 the name of TRAN, who represented himself to be the CEO and owner of 88 Enterprise Services LLC.

20 50. The PPP application falsely stated that 88 Enterprise Services LLC's average monthly
21 payroll was \$183,333, and that the company had 24 employees. The PPP application included a false
22 and fraudulent IRS Form 941, which claimed that 88 Enterprise Services LLC had paid \$549,999.87 in
23 wages, tips, and other compensation for the first quarter of 2020.

24 51. Based on the false information provided to Lender 4 in the 88 Enterprise Services LLC
25 PPP application, Lender 4 approved and funded the PPP loan. On or about June 5, 2020, \$458,332 was
26 transferred to a personal checking account ending in -8480 held in the name of TRAN at Wells Fargo
27 bank.

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1 88 Investment Empire LLC Application to Lender 5

2 52. On or about June 2, 2020, Lender 5 received a PPP application in the name of 88
3 Investment Empire LLC seeking a PPP loan in the amount \$458,000. The application was submitted in
4 the name of TRAN, who represented himself to be the CEO of 88 Investment Empire LLC.

5 53. The PPP application falsely stated that 88 Investment Empire LLC's average monthly
6 payroll was \$183,333 and that the company had 24 employees. The PPP application included a false
7 and fraudulent IRS Form 941, which claimed that 88 Investment Empire LLC had paid \$549,999.87 in
8 wages, tips, and other compensation for the first quarter of 2020.

9 54. Based on the false information provided to Lender 5 in the 88 Investment Empire LLC
10 PPP application, Lender 5 approved and funded the PPP loan. On or about June 10, 2020, \$469,696 was
11 transferred to a business account at Wells Fargo bank ending in -3956 held in the name of 88 Investment
12 Empire LLC, with the sole signer and account holder of the account being TRAN.

13 Divine Feminine Masterpiece LLC Application to Lender 6

14 55. According to bank records, on or about May 24, 2020, Lender 6 received a PPP
15 application in the name of Divine Feminine Masterpiece LLC seeking a PPP loan in the amount
16 \$592,500. The application was submitted in the name of Person 1, who was represented to be the owner
17 of Divine Feminine Masterpiece LLC.

18 56. The PPP application submitted to Lender 6 stated that Divine Feminine Masterpiece
19 LLC's average monthly payroll was \$237,000, and that the company had 33 employees. The PPP
20 application included false and fraudulent IRS Form 941s for the first quarter of 2020 and for all four
21 quarters of 2019, which claimed that Divine Feminine Masterpiece LLC had paid \$2,877,294 in wages,
22 tips, and other compensation in 2019 and \$789,210 in wages, tips, and other compensation in the first
23 quarter of 2020.

24 57. Based on the false information provided to Lender 6 in the Divine Feminine Masterpiece
25 LLC PPP application, Lender 6 approved and funded the PPP loan. On or about June 11, 2020,
26 \$592,500 was transferred to a business bank account at Wells Fargo ending in -3949 held in the name of
27 88 Enterprise Services LLC, with the sole signer and account holder being TRAN.

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1 Person 1 Application to Lender 7

2 58. On or about May 25, 2020, Lender 7 received a PPP application in the name of Person 1
3 (Sole Proprietor) seeking a PPP loan in the amount \$162,500.

4 59. The PPP application falsely stated that Person 1's average monthly payroll was \$65,000
5 and that Person 1 had eight employees. The PPP application included a false and fraudulent IRS Form
6 1040 Schedule C for 2019, which claimed that Person 1 had paid \$940,000 in wages, tips, and other
7 compensation in 2019.

8 60. Based on the false information provided to Lender 7 in the Person 1 PPP application,
9 Lender 7 approved and funded the PPP loan. On or about June 12, 2020, \$162,500 was transferred to a
10 business account at Wells Fargo bank ending in -0825 held in the name of 88 Water LLC, with the sole
11 signer and account holder being TRAN.

12 88 Engineering Group LLC Application to Lender 8

13 61. On or about June 13, 2020, Lender 8 received a PPP application in the name of 88
14 Engineering Group LLC seeking a PPP loan in the amount \$458,000. The application was submitted in
15 the name of TRAN, who represented himself to be the CEO of 88 Engineering Group LLC.

16 62. The PPP application falsely stated that 88 Engineering Group LLC's average monthly
17 payroll was \$183,000, and that the company had 24 employees. The PPP application included a false
18 and fraudulent IRS Form 941, which claimed that 88 Engineering Group LLC had paid \$549,999.87 in
19 wages, tips, and other compensation for the first quarter of 2020.

20 63. Based on the false information provided to Lender 8 in the 88 Engineering Group LLC
21 PPP application, Lender 8 approved and funded the PPP loan. On or about June 26, 2020, \$114,582.50
22 was transferred to a personal checking account ending in -6420 held in the name of TRAN at Bank of
23 America.

24 88 Cloud Computing LLC Application to SBA

25 64. On or about June 16, 2020, TRAN submitted and caused to be submitted to the SBA an
26 EIDL loan application in the name of 88 Cloud Computing LLC. On the application, TRAN represented
27 himself to be the Owner of 88 Cloud Computing LLC. The application also requested an advance on the
28 loan.

1 65. The EIDL application falsely stated that 88 Cloud Computing LLC had 10 employees,
 2 and that the business opened on January 3, 2020.

3 66. Based on the false information provided to the SBA in the 88 Cloud Computing LLC
 4 application, on or about July 14, 2020 the SBA extended to TRAN a loan advance of \$10,000.¹

5 COUNTS ONE THROUGH SIX: (18 U.S.C. § 1343 – Wire Fraud)

6 67. Paragraphs 1 through 66 of this Indictment are re-alleged and incorporated as if fully set
 7 forth here.

8 68. Beginning at least as early as April 2020, and continuing through in or around July 2020,
 9 in the Northern District of California and elsewhere, the defendant,

10 LEBNITZ TRAN, a/k/a VIET TRAN,

11 with others known and unknown to the Grand Jury, knowingly and with the intent to defraud,
 12 participated in, devised, and intended to devise a scheme and artifice to defraud as to a material matter,
 13 and to obtain money and property by means of materially false and fraudulent pretenses, representations,
 14 and promises, and by means of omission and concealment of material facts.

15 69. On or about the dates set forth below, in the Northern District of California and
 16 elsewhere, for the purpose of executing the aforementioned scheme and artifice to defraud and
 17 attempting to do so, the defendant,

18 LEBNITZ TRAN, a/k/a VIET TRAN,

19 did knowingly transmit and cause to be transmitted in interstate and foreign commerce, by means of a
 20 wire communication, certain writings, signs, signals, pictures, and sounds, specifically identified below:

| Count | Approx. Date | Description of Wire |
|-------|---------------|--|
| 1 | May 1, 2020 | Interstate wire transfer of \$75,000 from Lender 2 to TRAN's Bank of America personal checking account ending in -6420 in California, to fund a PPP loan to 88 Water LLC. |
| 2 | June 5, 2020 | Interstate wire transfer of \$458,332 from Lender 4 to TRAN's Wells Fargo personal checking account ending in -8480 in California, to fund a PPP loan to 88 Enterprise Services LLC |
| 3 | June 10, 2020 | Interstate wire transfer of \$469,696 from Lender 5 to a Wells Fargo business account ending in -3956 in California controlled by TRAN, to fund a PPP loan to 88 Investment Empire LLC |

28 ¹ Although the SBA ultimately rejected this and other of TRAN's EIDL loan applications, the SBA has not recouped the advances that were extended.

| Count | Approx. Date | Description of Wire |
|-------|---------------|---|
| 4 | June 11, 2020 | Interstate wire transfer of \$592,500 from Lender 6 to a Wells Fargo business account ending in -3949 in California controlled by TRAN, to fund a PPP loan to Divine Feminine Masterpiece LLC |
| 5 | June 26, 2020 | Interstate wire transfer of \$114,582.50 from Lender 8 to TRAN's Bank of America personal checking account ending in -6420 in California, to fund a PPP loan to 88 Engineering Group LLC |
| 6 | July 14, 2020 | Interstate wire transfer of \$10,000 sent by the SBA to a Wells Fargo business account ending in -0718 in California controlled by TRAN, representing an EIDL loan advance for 88 Cloud Computing LLC |

All in violation of Title 18, United States Code, Section 1343.

COUNTS SEVEN THROUGH NINE: (18 U.S.C. § 1344(2) – Bank Fraud)

70. Paragraphs 1 through 66 of this Indictment are re-alleged and incorporated as if fully set forth here.

71. Beginning at least as early as April 2020, and continuing through in or around July 2020, in the Northern District of California and elsewhere, the defendant,

LEBNITZ TRAN, a/k/a VIET TRAN,

with others known and unknown to the Grand Jury, knowingly and with the intent to defraud, devised, participated in, executed, and attempted to execute a scheme to obtain moneys, funds, credits, assets, and other property owned by and under the custody and control of federally insured financial institutions by means of material false and fraudulent pretenses, representations, and promises, and the concealment of material facts.

72. On or about the dates set forth below, in the Northern District of California and elsewhere, for the purpose of executing the aforementioned scheme and attempting to do so, the defendant,

LEBNITZ TRAN, a/k/a VIET TRAN,

with others known and unknown to the Grand Jury, aiding and abetting each other, committed and willfully caused others to commit the following acts, each of which constituted an execution of the fraudulent scheme:

| Count | Approx. Date | Description of Act |
|-------|---------------|--|
| 7 | May 14, 2020 | Lender 3 transferred \$120,000 to TRAN's Wells Fargo personal checking account ending in -8480 to fund a PPP loan to Active Energy Water Corporation |
| 8 | May 28, 2020 | Lender 1 transferred \$174,582 to TRAN's Wells Fargo personal checking account ending in -8480 to fund a PPP loan to Person 2 |
| 9 | June 12, 2020 | Lender 7 transferred \$162,500 to a Wells Fargo business account ending in -0825 controlled by TRAN to fund a PPP loan to 88 Water LLC |

All in violation of Title 18, United States Code, Section 1344(2).

FORFEITURE ALLEGATION: (18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

The allegations contained in this Indictment are re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

Upon conviction for any of the offenses set forth in this Indictment, the defendant,

LEBNITZ TRAN, a/k/a VIET TRAN,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all property, real or personal, constituting, or derived from proceeds the defendant obtained directly and indirectly, as the result of those violations, including but not limited to the following:

1. A 2020 Tesla Model X (VIN#5YJXCBE49LF236777) purchased on or about June 15, 2020 from a luxury car dealership in Livermore, California; and
2. A forfeiture money judgment in the amount of \$2,006,514.79, representing the total value of proceeds obtained directly or indirectly by the defendant from the commission of the offense of conviction.

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

- a. cannot be located upon 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 without

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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).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c), and Federal Rule of Criminal Procedure 32.2.

DATED: July 1, 2021

A TRUE BILL.

/s/

FOREPERSON

STEPHANIE M. HINDS
Acting United States Attorney

/s/ Sarah E. Griswold

SARAH E. GRISWOLD
Assistant United States Attorney

JOSEPH S. BEEMSTERBOER
Acting Chief, Fraud Section, Criminal Division

/s/ Christopher D. Jackson

CHRISTOPHER D. JACKSON
Trial Attorney, Fraud Section, Criminal Division

**SEAL BY ORDER
OF COURT**

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location

NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

OFFENSE CHARGED

Counts 1-6: Wire Fraud in violation of 18 U.S.C. § 1343; Petty
Counts 7-9: Bank Fraud in violation of 18 U.S.C. § 1344(2) Minor
 Misdemeanor
 Felony

PENALTY: Counts 1-6: 20 years imprisonment, 3 years supervised release, \$250,000 fine, \$100 special assessment per count; Counts 7-9: 30 years imprisonment, 5 years supervised release, \$1,000,000 fine, \$100 special assessment per count; forfeiture

DEFENDANT - U.S.

LEBNITZ TRAN, a/k/a VIET TRAN

DISTRICT COURT NUMBER

CR 21-0269 LHK

FILED

Jul 01 2021

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

CR 21 00269 LHK NC

DEFENDANT

IS NOT IN CUSTODY

Has not been arrested, pending outcome this proceeding.

- 1) If not detained give date any prior summons was served on above charges N/A
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction } Federal State
- 6) Awaiting trial on other charges
If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes } If "Yes" give date filed No

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY Month/Day/Year

This report amends AO 257 previously submitted

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

FBI Special Agent Kathryn Taylor

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a re prosecution of charges previously dismissed which were dismissed on motion of:

U.S. ATTORNEY DEFENSE } **SHOW DOCKET NO.**

this prosecution relates to a pending case involving this same defendant } **MAGISTRATE CASE NO.**

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under }

Name and Office of Person Furnishing Information on this form Stephanie Hinds, Acting USA

U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) S. Griswold, C. Jackson

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Defendant Address: _____

Date/Time: _____ Before Judge: _____

Comments: _____