




Approved:     
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

**22 MAG 9604**

----- X  
: SEALED COMPLAINT  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
:  
BRANDON BOYLE, :  
: COUNTY OF OFFENSE:  
Defendant. : NEW YORK  
: X  
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SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. From at least in or about August 2020, up to and including at least in or about April 2021, in the Southern District of New York and elsewhere, BRANDON BOYLE, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, BOYLE engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program and to obtain Government-guaranteed loan proceeds from the SBA and a financial institution through the SBA's Paycheck Protection Program ("PPP"), by submitting false and fraudulent loan applications.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

### Overview

4. At all times relevant to this Complaint, BRANDON BOYLE, the defendant, was employed by the New York City Police Department ("NYPD").

5. From in or about August 2020 to in or about April 2021, BRANDON BOYLE, the defendant, engaged in a scheme to defraud the SBA and a certain financial institution ("Financial Institution-1") and enrich himself, by applying for an EIDL loan for a sole proprietorship called HoodEATS and a PPP loan for a sole proprietorship in BOYLE's own name, using applications that contained materially false representations about his purported businesses. The fraudulent EIDL application, which sought \$10,000, was denied. Based on the fraudulent PPP loan application, Financial Institution-1 issued an SBA-guaranteed PPP loan to BOYLE in the amount of \$20,415.

### The SBA's EIDL Program

6. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020, and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

## The SBA's PPP

7. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. As noted above, the SBA, among other things, guarantees loans issued by certain lenders, to qualifying small businesses. Under the SBA loan guarantee programs, the actual loan is issued by a commercial lender, but the lender receives the full faith and credit backing of the United States Government on all or part of the loan. Therefore, if a borrower defaults on an SBA-guaranteed loan, the commercial lender may seek reimbursement from the SBA, up to the percentage of the guarantee. By reducing the risk to commercial lenders, the SBA's loan guarantee programs enable lenders to provide loans to qualifying small businesses to which financing might otherwise be unavailable on reasonable terms through normal lending channels. When a borrower seeks an SBA-guaranteed loan, the borrower must meet both the commercial lender's eligibility requirements for the loan as well as the SBA's eligibility requirements.

b. The CARES Act authorized billions of dollars in forgivable loans to small businesses for job retention and certain other business expenses through the PPP. On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act was signed into law, authorizing additional billions of dollars in PPP funding. The first round of the PPP closed to new applications on August 8, 2020. On December 27, 2020, the Consolidated Appropriations Act of 2021, which included the Economic Aid to Hard-Hit Small Businesses, Nonprofit, and Venues Act (the "Relief Act") was signed into law, providing additional funding for the PPP. Under the Relief Act, certain businesses that had already obtained a PPP loan under the original PPP were eligible for an additional "second draw" PPP loan, provided they met certain requirements. The Relief Act also re-opened the application period for "first draw" PPP loans to businesses that had not been approved for "first draw" PPP loans prior to August 8, 2020, or who may have been eligible to receive more funds during the "first draw" period than they actually received.

c. The PPP allowed qualifying small businesses and other organizations to receive unsecured SBA-guaranteed loans. PPP loan proceeds were required to be used by businesses on payroll costs, mortgage interest, rent, and/or utilities, among other specified expenses. The PPP allowed the interest and principal to be forgiven if businesses spent the proceeds on those expenses

under certain conditions. Pursuant to the CARES Act, the amount of PPP funds a business was eligible to receive was determined by the number of employees employed by the business and their average payroll costs. Businesses applying for a PPP loan had to provide documentation to confirm that they had in the past paid employees the compensation represented in the loan application. The PPP is overseen by the SBA, which has authority over all PPP loans, but individual PPP loans were issued by approved commercial lenders, who would receive and process PPP applications and supporting documentation. Eligibility for PPP loans was limited to businesses in existence before on or about February 15, 2020.

d. Borrowers through the PPP were also eligible to apply for loan forgiveness once all loan proceeds for which forgiveness was requested had been used.

#### **BOYLE's Fraudulent EIDL and PPP Applications**

8. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about August 4, 2020, BRANDON BOYLE, the defendant, submitted an EIDL application to the SBA for a sole proprietorship under the name "HoodEATS" (the "BOYLE EIDL Application").

b. The BOYLE EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The BOYLE EIDL Application claimed that HoodEATS was 100% owned by BOYLE.

d. The BOYLE EIDL Application claimed, among other things, that HoodEATS was established on May 7, 2019, was in the business of "Food & Beverage Stores," had nine employees, earned \$35,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$15,000 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The BOYLE EIDL Application directed that the loan payment be sent to a certain account in BOYLE's name (the "BOYLE Bank Account") at a certain financial institution ("Financial Institution-2").<sup>1</sup>

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<sup>1</sup> Based on my review of publicly available information, I have learned that Financial Institution-2 is a credit union for which only certain categories of individuals are eligible to open

f. The BOYLE EIDL Application listed a certain email address (the "BOYLE Email Address"), which I know, based on my review of subscriber records for the BOYLE Email Address, was subscribed to BOYLE and created in 2011. The BOYLE EIDL Application listed a particular date of birth and social security number for BOYLE, which, based on my review of law enforcement databases, I know belongs to BOYLE.

g. The requested loan amount was \$10,000.

h. On or about August 10, 2020, the SBA requested a copy of BOYLE's "current business" or "business tax returns for proof of business" and a copy of BOYLE's driver's license. The SBA also requested that BOYLE confirm that he applied for the loan. BOYLE did not respond.

i. On or about August 21, 2020, the SBA declined the BOYLE EIDL Application and listed the following reason: "Unverifiable Information."

9. Based on my review of records received from Financial Institution-1, I have learned, among other things, the following:

a. On or about April 8, 2021, BRANDON BOYLE, the defendant, submitted an application for a PPP loan to Financial Institution-1, seeking a PPP loan for a sole proprietorship in BOYLE's name (the "BOYLE PPP Application"). In connection with the BOYLE PPP Application, BOYLE uploaded a copy of his driver's license.

b. The BOYLE PPP Application contained a certification "that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects," and that making false statements to obtain loans guaranteed by the SBA was a federal crime.

c. The BOYLE PPP Application claimed that BOYLE was the 100% owner of a business in his own name that was established in 2019.

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accounts, including but not limited to employees of the City of New York, and Financial Institution-2 requires proof of eligibility in order to open an account.

d. The BOYLE PPP Application claimed, among other things, that BOYLE had earned gross income of \$98,000 in tax year 2020, and that his sole proprietorship had only one employee. As an attachment to the BOYLE PPP Application, BOYLE provided a copy of an IRS Schedule C, Profit or Loss from Business Form listing BOYLE as the proprietor of a "Food Delivery" business (the "Fake 2020 Schedule C"). The Fake 2020 Schedule C claimed that BOYLE's Food Delivery business had \$98,000 in income and \$18,950 in total expenses during tax year 2020.

e. The BOYLE PPP Application listed the BOYLE Email Address and the same date of birth and social security number as the BOYLE EIDL Application.

f. The BOYLE PPP Application directed that the loan payment be sent to the BOYLE Bank Account, *i.e.*, the same bank account provided for the BOYLE EIDL Application.

g. Financial Institution-1 approved the BOYLE PPP Application, and, on or about April 29, 2021, Financial Institution-1 issued a payment to the BOYLE Bank Account in the amount of \$20,415.

10. Based on my review of records from Financial Institution-2, I have learned, among other things, the following:

a. The BOYLE Bank Account regularly received payments labeled "payroll" from the City of New York.

b. On or about April 29, 2021, the BOYLE Bank Account received a payment from Financial Institution-1, labeled "PPPFunding," in the amount of \$20,415. Immediately before receiving this transfer, the balance in the BOYLE Bank Account was approximately \$327.70.

c. Between on or about April 29, 2021 and on or about June 30, 2021, BOYLE, using the BOYLE Bank Account, conducted over 100 transactions with FanDuel (an online sports gambling website), for a total of over \$30,000.

d. Statements for the BOYLE Bank Account reflect that, during 2019, BOYLE received less than \$59,000 in total deposits, and that a majority of the deposits to the BOYLE Bank Account were "payroll" deposits from the City of New York. Statements for the BOYLE Bank Account do not reflect tens of thousands of dollars in 2019 earnings from either HoodEATS or the sole proprietorship in BOYLE's own name.

11. Based on my communications with employees of Financial Institution-2, I have learned, among other things, that Financial Institution-2 is headquartered in Manhattan, New York, and that during the relevant period, when Automated Clearing House ("ACH") transfers were sent to accounts at Financial Institution-2, Financial Institution-2's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of wire communications between Manhattan and servers located in New Jersey.

12. Based on my review of tax filings for BRANDON BOYLE, the defendant, I have learned, among other things, the following:

a. In tax year 2019, BOYLE (i) reported adjusted gross income of \$51,754, (ii) reported gambling winnings of \$4,999, and (iii) filed a Schedule C for a "Consultant" business which incurred a net loss of \$3,044.

b. In tax year 2020, BOYLE reported adjusted gross income of \$55,401. BOYLE did not file a Schedule C, thus indicating that the Fake 2020 Schedule C filed in support of the BOYLE PPP Application was fake.

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of BRANDON BOYLE, the defendant, and that he be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA

LaVale Jackson

Special Agent

United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this  
29th day of November, 2022



THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK



Approved:     
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

- - - - - X **22 MAG 9605**  
: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
:  
VASHAWN FOREMAN, :  
: COUNTY OF OFFENSE:  
Defendant. : NEW YORK  
: X  
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SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. From at least in or about June 2020, up to and including at least in or about April 2021, in the Southern District of New York and elsewhere, VASHAWN FOREMAN, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, FOREMAN engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program and to obtain Government-guaranteed loan proceeds from the SBA and a financial institution through the SBA's Paycheck Protection Program ("PPP"), by submitting false and fraudulent loan applications.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

#### Overview

4. At all times relevant to this Complaint, VASHAWN FOREMAN, the defendant, was employed by the City of New York.

5. From in or about June 2020 to in or about April 2021, VASHAWN FOREMAN, the defendant, engaged in a scheme to defraud the SBA and a certain financial institution ("Financial Institution-1") and enrich himself, by applying for an EIDL loan for a sole proprietorship in FOREMAN's own name and a PPP loan for a sole proprietorship called "Quality Mobile Retail," using applications that contained materially false representations about his purported businesses. Based on the fraudulent EIDL application, the SBA issued an EIDL to FOREMAN in the amount of \$104,800. Based on the fraudulent PPP loan application, Financial Institution-1 issued an SBA-guaranteed PPP loan to FOREMAN in the amount of \$20,832.

### The SBA's EIDL Program

6. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020, and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

### The SBA's PPP

7. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. As noted above, the SBA, among other things, guarantees loans issued by certain lenders, to qualifying small businesses. Under the SBA loan guarantee programs, the actual loan is issued by a commercial lender, but the lender receives the full faith and credit backing of the United States Government on all or part of the loan. Therefore, if a borrower defaults on an SBA-guaranteed loan, the commercial lender may seek reimbursement from the SBA, up to the percentage of the guarantee. By reducing the risk to commercial lenders, the SBA's loan guarantee programs enable lenders to provide loans to qualifying small businesses to which financing might otherwise be unavailable on reasonable terms through normal lending channels. When a borrower seeks an SBA-guaranteed loan, the borrower must meet both the commercial lender's eligibility requirements for the loan as well as the SBA's eligibility requirements.

b. The CARES Act authorized billions of dollars in forgivable loans to small businesses for job retention and certain other business expenses through the PPP. On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act was signed into law, authorizing additional billions of dollars in PPP funding. The first round of the PPP closed to new applications on August 8, 2020. On December 27, 2020, the Consolidated Appropriations Act of 2021, which included the Economic Aid to Hard-Hit Small Businesses, Nonprofit, and Venues Act (the "Relief Act") was signed into law, providing additional funding for the PPP. Under the Relief Act, certain businesses that had already obtained a PPP loan under the original PPP were eligible for an additional "second draw" PPP loan, provided they met certain requirements. The Relief Act also re-opened the application period for "first draw" PPP loans to businesses that had not been approved for "first draw" PPP loans prior to August 8, 2020, or who may have been eligible to receive more funds during the "first draw" period than they actually received.

c. The PPP allowed qualifying small businesses and other organizations to receive unsecured SBA-guaranteed loans. PPP loan proceeds were required to be used by businesses on payroll costs, mortgage interest, rent, and/or utilities, among other specified expenses. The PPP allowed the interest and principal to be forgiven if businesses spent the proceeds on those expenses

under certain conditions. Pursuant to the CARES Act, the amount of PPP funds a business was eligible to receive was determined by the number of employees employed by the business and their average payroll costs. Businesses applying for a PPP loan had to provide documentation to confirm that they had in the past paid employees the compensation represented in the loan application. The PPP is overseen by the SBA, which has authority over all PPP loans, but individual PPP loans were issued by approved commercial lenders, who would receive and process PPP applications and supporting documentation. Eligibility for PPP loans was limited to businesses in existence before on or about February 15, 2020.

d. Borrowers through the PPP were also eligible to apply for loan forgiveness once all loan proceeds for which forgiveness was requested had been used.

#### **FOREMAN's Fraudulent EIDL and PPP Applications**

8. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about June 30, 2020, VASHAWN FOREMAN, the defendant, submitted an EIDL application to the SBA for a sole proprietorship in his own name (the "FOREMAN EIDL Application").

b. The FOREMAN EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The FOREMAN EIDL Application claimed that the sole proprietorship was 100% owned by FOREMAN.

d. The FOREMAN EIDL Application claimed, among other things, that his sole proprietorship was established on June 1, 2000, was in the business of "Retail - Clothing & Apparel," had 11 employees, earned \$311,022 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$101,430 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The FOREMAN EIDL Application directed that the loan payment be sent to a certain account in FOREMAN's name (the "FOREMAN Bank Account") at a certain financial institution ("Financial Institution-2").<sup>1</sup>

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<sup>1</sup> Based on my review of publicly available information, I have learned that Financial Institution-2 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of

f. The FOREMAN EIDL Application listed a certain email address (the "FOREMAN Email Address"), which I know, based on my review of subscriber records for the FOREMAN Email Address, was subscribed to FOREMAN and created in 2015.

g. On or about July 2, 2020, the SBA approved an advance on the FOREMAN EIDL Application and issued a payment to the FOREMAN Bank Account in the amount of \$10,000.

h. The SBA approved the FOREMAN EIDL Application, and, on or about July 3, 2020, the SBA issued a payment to the FOREMAN Bank Account in the amount of \$94,800.

9. Based on my review of records received from Financial Institution-1, I have learned, among other things, the following:

a. On or about March 23, 2021, VASHAWN FOREMAN, the defendant, submitted an application for a PPP loan to Financial Institution-1, seeking a PPP loan for a sole proprietorship called "Quality Mobile Retail"<sup>2</sup> (the "FOREMAN PPP Application"). In connection with the FOREMAN PPP Application, FOREMAN uploaded a copy of his driver's license and listed the FOREMAN Email Address.

b. The FOREMAN PPP Application contained a certification "that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects," and that making false statements to obtain loans guaranteed by the SBA was a federal crime.

c. The FOREMAN PPP Application claimed that FOREMAN was the 100% owner of Quality Mobile Retail and that it was established on January 1, 2020.

d. The FOREMAN PPP Application claimed, among other things, that Quality Mobile Retail had earned gross income of \$113,260 in tax year 2019 (even though the same application said that the business started on January 1, 2020) and that Quality

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New York, and Financial Institution-2 requires proof of eligibility in order to open an account.

<sup>2</sup> Based on my review of records from the New York State Department of State, I have learned that, on or about August 29, 2017, VASHAWN FOREMAN, the defendant, filed Articles of Organization for a limited liability company called "Quality Mobile Retail" with the New York State Department of State.

Mobile Retail had only one employee. As an attachment to the FOREMAN PPP Application, FOREMAN provided a copy of an IRS Schedule C, Profit or Loss from Business Form listing FOREMAN as the proprietor of a "Mobile Wash Service" business (the "Fake 2019 Schedule C"). The Fake 2019 Schedule C claimed that FOREMAN's Mobile Wash Service business had \$113,260 in gross income and \$18,116 in total expenses during tax year 2019.

e. The FOREMAN PPP Application directed that the loan payment be sent to the FOREMAN Bank Account, *i.e.*, the same bank account provided for the FOREMAN EIDL Application.

f. Financial Institution-1 approved the FOREMAN PPP Application, and, on or about April 8, 2021, Financial Institution-1 issued a payment to the FOREMAN Bank Account in the amount of \$20,832.

10. Based on my review of records from Financial Institution-2, I have learned, among other things, the following:

a. The FOREMAN Bank Account regularly received payments labeled "payroll" from the City of New York.

b. On or about July 2, 2020, the FOREMAN Bank Account received a payment from the SBA in the amount of \$10,000. Immediately before receiving this transfer, the balance in the FOREMAN Bank Account was approximately \$2,799.40.

c. On or about July 3, 2020, the FOREMAN Bank Account received a payment from the SBA in the amount of \$94,700.<sup>3</sup>

d. On or about April 8, 2021, the FOREMAN Bank Account received a payment from Financial Institution-1, labeled "PPP Loan," in the amount of \$20,832.

11. Based on my communications with employees of Financial Institution-2, I have learned, among other things, that Financial Institution-2 is headquartered in Manhattan, New York, and that during the relevant period, when Automated Clearing House ("ACH") transfers were sent to accounts at Financial Institution-2, Financial Institution-2's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts

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<sup>3</sup> Based on my review of information from the SBA's website about the EIDL program, I know that for EIDLs greater than \$25,000, the SBA charged a one-time \$100 fee in order to file a lien on the borrower's business assets.

involved the transmission of wire communications between Manhattan and servers located in New Jersey.

12. Based on my review of tax filings for VASHAWN FOREMAN, the defendant, I have learned, among other things, the following:

a. In tax year 2019, FOREMAN (i) reported adjusted gross income of \$18,691, and (ii) filed a Schedule C for a "Quality Mobile Retail Limited Liability Comp.," which earned zero gross income and incurred total expenses of \$21,200. The Schedule C that FOREMAN submitted to the IRS for tax year 2019 therefore differed from the fake Schedule C he submitted with the FOREMAN PPP Application in that the real Schedule C listed no gross revenues. FOREMAN did not file the Fake 2019 Schedule C with his tax filings.

b. In tax year 2020, FOREMAN reported adjusted gross income of \$45,081. FOREMAN filed a Schedule C for a "Mobile Detail" business, which earned gross income of \$11,060 and incurred total expenses of \$5,703.

13. Based on my review of records from the New York State Department of Labor ("NYS DOL"), I have learned that the NYS DOL does not have records that VASHAWN FOREMAN, the defendant, had any employees or paid any wages to employees during 2019 or 2020, contrary to FOREMAN's claim in the FOREMAN EIDL Application that his business employed 11 people.



WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of VASHAWN FOREMAN, the defendant, and that he be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA

LaVale Jackson

Special Agent

United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this  
29th day of November, 2022



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

**22 MAG 9606**

- - - - - X  
: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
: TREVOR GORDON, :  
: COUNTY OF OFFENSE:  
Defendant. : NEW YORK  
: - - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. From at least in or about March 2021, up to and including at least in or about June 2021, in the Southern District of New York and elsewhere, TREVOR GORDON, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, GORDON engaged in a scheme to obtain Government-guaranteed loan proceeds from the United States Small Business Administration ("SBA") and two financial institutions through the SBA's Paycheck Protection Program ("PPP"), by submitting false and fraudulent loan applications.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG") have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

#### **Overview**

4. At all times relevant to this Complaint prior to in or about 2020, TREVOR GORDON, the defendant, was employed by the New York City Department of Corrections ("NYC DOC"). In or about 2020, TREVOR GORDON, the defendant, retired from his job with the NYC DOC and began collecting a pension from the City of New York.

5. Between in or about March 2021 and in or about June 2021, TREVOR GORDON, the defendant, engaged in a scheme to defraud the SBA and certain financial institutions, and enrich himself, by applying for two PPP loans on behalf of a sole proprietorship in his own name, using applications that contained materially false representations about GORDON's purported business. Based on those fraudulent applications, two financial institutions ("Financial Institution-1" and "Financial Institution-2") issued SBA-guaranteed PPP loans to GORDON in the total amount of \$41,799.

### The SBA's PPP

6. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. Under the SBA loan guarantee programs, the actual loan is issued by a commercial lender, but the lender receives the full faith and credit backing of the United States Government on all or part of the loan. Therefore, if a borrower defaults on an SBA-guaranteed loan, the commercial lender may seek reimbursement from the SBA, up to the percentage of the guarantee. By reducing the risk to commercial lenders, the SBA's loan guarantee programs enable lenders to provide loans to qualifying small businesses to which financing might otherwise be unavailable on reasonable terms through normal lending channels. When a borrower seeks an SBA-guaranteed loan, the borrower must meet both the commercial lender's eligibility requirements for the loan as well as the SBA's eligibility requirements.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act authorized billions of dollars in forgivable loans to small businesses for job retention and certain other business expenses through the PPP. On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act was signed into law, authorizing additional billions of dollars in PPP funding. The first round of the PPP closed to new applications on August 8, 2020. On December 27, 2020, the Consolidated Appropriations Act of 2021, which included the Economic Aid to Hard-Hit Small Businesses, Nonprofit, and Venues Act (the "Relief Act") was signed into law, providing additional funding for the PPP. Under the Relief Act, certain businesses that had already obtained a PPP loan under the original PPP were eligible for an additional "second draw" PPP loan, provided they met certain requirements. The Relief Act also re-opened the application period for "first draw" PPP loans to businesses that had not been approved for "first draw" PPP loans prior to August 8, 2020, or who may have been eligible to receive more funds during the "first draw" period than they actually received.

c. The PPP allowed qualifying small businesses and other organizations to receive unsecured SBA-guaranteed loans. PPP loan proceeds were required to be used by businesses on payroll costs, mortgage interest, rent, and/or utilities, among other specified expenses. The PPP allowed the interest and principal to be forgiven if businesses spent the proceeds on those expenses under certain conditions. Pursuant to the CARES Act, the amount of PPP funds a business was eligible to receive was determined by the number of employees employed by the business and their average payroll costs. Businesses applying for a PPP loan had to provide documentation to confirm that they had in the past paid employees the compensation represented in the loan application. The PPP is overseen by the SBA, which has authority over all PPP loans, but individual PPP loans were issued by approved commercial lenders, who would receive and process PPP applications and supporting documentation. Eligibility for PPP loans was limited to businesses in existence before on or about February 15, 2020.

d. Borrowers through the PPP were also eligible to apply for loan forgiveness once all loan proceeds for which forgiveness was requested had been used.

#### **GORDON's Fraudulent PPP Applications**

7. Based on my review of records received from Financial Institution-1, I have learned, among other things, the following:

a. On or about March 2, 2021, TREVOR GORDON, the defendant, submitted an application for a "first draw" PPP loan to Financial Institution-1, seeking a PPP loan for a sole proprietorship in GORDON's name ("GORDON PPP Application-1").

b. In connection with GORDON PPP Application-1, GORDON certified, among other things, "that the information provided in this application and . . . in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from the SBA is punishable under the law . . . ."

c. GORDON PPP Application-1 claimed that GORDON was the 100% owner of a business in his own name that was started in December 2018.

d. As an attachment to GORDON PPP Application-1, GORDON provided a copy of a 2019 Internal Revenue Service ("IRS") Schedule C, Profit or Loss from Business Form, listing GORDON as the proprietor of a "BARBER" business (the "Fake 2019 Schedule

C"). The Fake 2019 Schedule C claimed that GORDON's BARBER business had \$118,832 in gross receipts and gross income, and \$18,188 in total expenses, during tax year 2019.

e. GORDON PPP Application-1 directed that the loan payment be sent to a certain account in GORDON'S name (the "GORDON Bank Account") at a certain financial institution ("Financial Institution-3").<sup>1</sup>

f. On or about March 11, 2021, Financial Institution-1 approved GORDON PPP Application-1 and issued a payment to the GORDON Bank Account in the amount of \$20,967.

8. Based on my review of records received from Financial Institution-2, I have learned, among other things, the following:

a. On or about May 21, 2021, TREVOR GORDON, the defendant, submitted an application for a "second draw" PPP loan to Financial Institution-2, seeking a PPP loan for a sole proprietorship in GORDON's name ("GORDON PPP Application-2").

b. In connection with GORDON PPP Application-2, GORDON certified, among other things, "that the information provided in this application and . . . in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from the SBA is punishable under the law . . . ."

c. GORDON PPP Application-2 claimed that GORDON was the 100% owner of a business in his own name that was started in December 2018.

d. GORDON PPP Application-2 claimed that GORDON's sole proprietorship had gross income of \$99,996 and gross receipts of \$118,332, in tax year 2019. GORDON attached a copy of the Fake 2019 Schedule C to GORDON PPP Application-2; as noted above, the Fake 2019 Schedule C claimed that GORDON's BARBER business had \$118,832 in gross receipts and gross income, and \$18,188 in total expenses, during tax year 2019.

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<sup>1</sup> Based on my review of publicly available information, I have learned that Financial Institution-3 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-3 requires proof of eligibility in order to open an account.

e. GORDON PPP Application-2 directed that the loan payment be sent to the GORDON Bank Account at Financial Institution-3.

f. Financial Institution-2 approved GORDON PPP Application-2, and on or about June 8, 2021, Financial Institution-2 issued a payment to the GORDON Bank Account in the amount of \$20,832.

9. Based on my review of records from Financial Institution-3, I have learned, among other things, the following:

a. The GORDON Bank Account regularly received payments labeled "payroll" from the City of New York up until in or about 2020, and in or about 2020, the GORDON Bank Account began regularly receiving payments from the New York City Employee Retirement System.

b. On or about March 12, 2021, the GORDON Bank Account received an Automated Clearing House ("ACH") transfer from Financial Institution-1, labeled "SBA Loan," in the amount of \$20,967. Immediately before receiving this transfer, the balance in the GORDON Bank Account was \$0.76. During the remainder of March 2021, approximately \$17,000 in cash was withdrawn from the GORDON Bank Account, and approximately \$2,500 from the GORDON Bank Account was spent at a casino.

c. On or about June 11, 2021, the GORDON Bank Account received an ACH transfer from Financial Institution-2, in the amount of \$20,832. Immediately before receiving this transfer, the balance in the GORDON Bank Account was \$322.00. During the remainder of June 2021, approximately \$13,500 in cash was withdrawn from the GORDON Bank Account, and approximately \$2,000 from the GORDON Bank Account was spent at a casino. Most of the remainder of the loan proceeds were withdrawn in cash in July 2021, during which, at one point, the balance in the GORDON Bank Account was down to \$143.19.

d. Statements for the GORDON Bank Account reflect that during 2019, a majority of the deposits to the GORDON Bank Account were "payroll" deposits from the City of New York. Statements for the GORDON Bank Account do not reflect tens of thousands of dollars in 2019 earnings from GORDON's purported sole proprietorship.

10. Based on my communications with employees of Financial Institution-3, I have learned, among other things, that Financial Institution-3 is headquartered in Manhattan, New York, and that during the relevant period, when ACH transfers were sent to

accounts at Financial Institution-3, Financial Institution-3's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of wire communications between Manhattan and servers located in New Jersey.

11. Based on my review of tax filings for TREVOR GORDON, the defendant, I know, among other things, that the Fake 2019 Schedule C was not actually submitted to the IRS with GORDON's tax return, and that GORDON did not report any income – let alone \$118,832 in income – from work as a barber. I also know that for tax year 2020 – unlike tax year 2019 – GORDON did submit an actual IRS Schedule C for work as a barber, in which he claimed \$2,443 in gross receipts and gross income, and \$16,775 in total expenses, resulting in a \$14,332 loss that reduced GORDON's taxable income in that year.

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of TREVOR GORDON, the defendant, and that he be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA

LaVale Jackson

Special Agent

United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this  
29th day of November 2022.



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK



Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

- - - - - X  
: **22 MAG 9607**  
: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
: DIONE HALL, :  
: COUNTY OF OFFENSE:  
Defendant. : NEW YORK  
: X

SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. In or about July 2020, in the Southern District of New York and elsewhere, DIONE HALL, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, HALL engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program, by submitting a false and fraudulent loan application.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

### **Overview**

4. At all times relevant to this Complaint, DIONE HALL, the defendant, was either employed by the New York City Police Department ("NYPD") or was collecting unemployment insurance during the COVID-19 pandemic.

5. In or about July 2020, DIONE HALL, the defendant, engaged in a scheme to defraud the SBA and enrich herself, by applying for an EIDL on behalf of a sole proprietorship in the name "Thift'd [sic] N Gift'd" that was purportedly in the "Antiques/Collectibles" business. HALL's EIDL application contained materially false representations about her purported sole proprietorship. Based on that fraudulent application, the SBA issued an EIDL to HALL in the amount of \$136,500.

### **The SBA's EIDL Program**

6. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020, and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

#### **HALL's Fraudulent EIDL Application**

7. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about July 7, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a sole proprietorship under the name "Thift'd N Gift'd" (the "HALL EIDL Application").

b. The HALL EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The HALL EIDL Application claimed that the "Thift'd N Gift'd" sole proprietorship was 100% owned by DIONE HALL, the defendant.

d. The HALL EIDL Application claimed, among other things, that the "Thift'd N Gift'd" sole proprietorship was established on January 1, 2020, operated in Queens, New York, was an "Antiques/Collectibles" business, had one employee, earned \$300,000.00 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$25,000.00 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The HALL EIDL Application directed that the loan payment be sent to a certain account in HALL's name (the "HALL Checking Account") at a certain financial institution ("Financial Institution-1").<sup>1</sup>

f. On or about July 21, 2020, the SBA approved the HALL EIDL Application and a loan in the amount of \$136,500.

8. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. In or about May 2015, DIONE HALL, the defendant, opened the HALL Checking Account and a connected savings account (the "HALL Savings Account," and collectively the "HALL Financial Institution-1 Accounts").

b. The HALL Checking Account regularly received payments labeled "payroll" from the City of New York.

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<sup>1</sup> Based on my review of publicly available information, I have learned that Financial Institution-1 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-1 requires proof of eligibility in order to open an account.

c. On or about July 23, 2020, the HALL Checking Account received an Automated Clearing House ("ACH") transfer from the SBA in the amount of \$136,400.00.<sup>2</sup>

d. On or about July 23, 2020, \$136,000 was transferred from the HALL Checking Account to the HALL Savings Account, which Financial Institution-1's records indicate was a "Mobile Transfer." On or about October 7, 2020, \$107,000 in EIDL proceeds were transferred back from the HALL Savings Account to the HALL Checking Account, which Financial Institution-1's records indicate was a "Mobile Transfer." On or about October 8, 2020, \$7,400 in cash was withdrawn from the HALL Checking Account, and \$100,000 was withdrawn from the account with the notation "Check Cleared." Financial Institution-1's records contain a receipt indicating that HALL showed her driver's license when conducting the cash withdrawal on or about October 8, 2020. Financial Institution-1's records also contain an image of the \$100,000 check that cleared on or about October 8, 2020, and it was dated October 7, 2020, written to "Thrift It N Gift It Inc." and signed by HALL.

e. Statements for the HALL Financial Institution-1 Accounts reflect that HALL's principal source of earnings during the 12-month period ending January 31, 2020 was her job with the NYPD. Statements for the HALL Financial Institution-1 Accounts do not reflect any other significant deposits during the 12-month period ending January 31, 2020, and are therefore not consistent with the operation of a sole proprietorship that purportedly earned approximately \$300,000 in revenue during that period.

9. Based on my communications with employees of Financial Institution-1, I have learned, among other things, that Financial Institution-1 is headquartered in Manhattan, New York, and that during the relevant period, when ACH transfers were sent to accounts at Financial Institution-1, Financial Institution-1's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of wire communications between Manhattan and servers located in New Jersey.

10. Based on my review of tax filings for DIONE HALL, the defendant, I know, among other things, that the only income she reported to the Internal Revenue Service ("IRS") for tax year 2019 was her salary from the NYPD, that the only income she reported to

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<sup>2</sup> Based on my review of information from the SBA's website about the EIDL program, I know that for EIDLs greater than \$25,000, the SBA charged a one-time \$100 fee in order to file a lien on the borrower's business assets.

the IRS for tax year 2020 was her salary from the NYPD and unemployment compensation, and that in both tax years, HALL did not report any income from, or file a Schedule C, Profit or Loss from Business Form, for any sole proprietorship in the name "Thift'd N Gift'd."

11. Based on my training and experience and my review of information published by the New York City and New York State governments, I know that under the New York General Business Law, a sole proprietorship operating in a name other than the name of the sole proprietor him or herself must file a Certificate of Assumed Name with the County Clerk in the county where the sole proprietorship is based. Based on my review of records from the Queens County Clerk, I know that no Certificate of Assumed Name was filed in Queens County for "Thift'd N Gift'd" between in or about 1993 and in or about April 2022.

12. Based on my review of records from the New York Department of State, I have learned that an entity called "Thrift It N Gift It Inc." was incorporated in or about September 2020.

13. Based on my review of records from a certain financial institution ("Financial Institution-2"), I have learned, among other things, that on or about October 7, 2020, DIONE HALL, the defendant, opened an account in the name of Thrift It N Gift It Inc. at Financial Institution-2, and deposited a check from the HALL Checking Account in the amount of \$100,000 into that account. The money remained in the account untouched for more than a year, and then HALL began spending it at camera supply stores, ultimately spending a total of more than \$30,000 at such stores between in or about November 2021 and in or about January 2022.

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of DIONE HALL, the defendant, and that she be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA  
LaVale Jackson  
Special Agent  
United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this

29th day of November 2022.



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

**22 MAG 9608**

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: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
: TONI MCCULLOUGH, :  
a/k/a "Toni Singleton," :  
: Defendant. : COUNTY OF OFFENSE:  
: NEW YORK  
: :  
----- X

SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. From at least in or about April 2020, up to and including at least in or about May 2021, in the Southern District of New York and elsewhere, TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, MCCULLOUGH engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program, and from multiple financial institutions through the SBA's Paycheck Protection Program ("PPP"), by submitting false and fraudulent loan applications.



(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

#### **Overview**

4. At all times relevant to this Complaint, TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, was employed by the New York City Department of Education ("NYC DOE").

5. From at least in or about April 2020 to at least in or about May 2021, TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, engaged in a scheme to defraud the SBA and multiple financial institutions, and to enrich herself, by submitting fraudulent EIDL and PPP applications on behalf of two entities, AM-PM LLC ("AM-PM") and U&I Holdings LLC ("U&I"). MCCULLOUGH's applications on behalf of these entities contained materially false representations about their respective purported businesses. MCCULLOUGH submitted more than ten separate EIDL applications to the SBA, and submitted more than five separate PPP applications to multiple financial institutions. Based on those fraudulent

applications, MCCULLOUGH obtained more than \$400,000 in loans from, or guaranteed by, the SBA.

6. Based on my review of records from the New York Department of State ("NYDOS"), I have learned, among other things, that:

a. On or about March 8, 2019, Articles of Organization were filed with the NYDOS for U&I, located in Brooklyn, New York.

b. On or about September 7, 2015, Articles of Organization were filed with the NYDOS for AM-PM, located in Brooklyn, New York.<sup>1</sup>

7. Based on my review of EIDL and PPP applications and bank and tax records discussed in greater detail below, I know that TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, sometimes uses the middle name "Nicole" or the middle initial "N," and alternates between using her maiden name, "Singleton," and her married name, "McCullough." For instance, MCCULLOUGH files tax returns with the Internal Revenue Service ("IRS") using the last name "McCullough," but has a New York State identification using the last name "Singleton." Despite the variation in the use of middle and last names, MCCULLOUGH consistently uses the same social security number and date of birth in records discussed in this Complaint. For ease of reference, the applications and records discussed in this complaint are referred to as having been in the name of TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, regardless of which variant of her name she used.

#### **The SBA's EIDL Program**

8. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this

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<sup>1</sup> Based on my review of records from the New York State Department of Taxation and Finance, I know that AM-PM has been issued Certificates of Authority to collect sales and use taxes in New York State, and that the certificates were addressed to MCCULLOUGH.

assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020, and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

#### **The SBA's PPP**

9. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. As noted above, the SBA, among other things, guarantees loans issued by certain lenders, to qualifying small businesses. Under the SBA loan guarantee programs, the actual loan is issued by a commercial lender, but the lender receives the full

faith and credit backing of the United States Government on all or part of the loan. Therefore, if a borrower defaults on an SBA-guaranteed loan, the commercial lender may seek reimbursement from the SBA, up to the percentage of the guarantee. By reducing the risk to commercial lenders, the SBA's loan guarantee programs enable lenders to provide loans to qualifying small businesses to which financing might otherwise be unavailable on reasonable terms through normal lending channels. When a borrower seeks an SBA-guaranteed loan, the borrower must meet both the commercial lender's eligibility requirements for the loan as well as the SBA's eligibility requirements.

b. The CARES Act authorized billions of dollars in forgivable loans to small businesses for job retention and certain other business expenses through the PPP. On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act was signed into law, authorizing additional billions of dollars in PPP funding. The first round of the PPP closed to new applications on August 8, 2020. On December 27, 2020, the Consolidated Appropriations Act of 2021, which included the Economic Aid to Hard-Hit Small Businesses, Nonprofit, and Venues Act (the "Relief Act") was signed into law, providing additional funding for the PPP. Under the Relief Act, certain businesses that had already obtained a PPP loan under the original PPP were eligible for an additional "second draw" PPP loan, provided they met certain requirements. The Relief Act also re-opened the application period for "first draw" PPP loans to businesses that had not been approved for "first draw" PPP loans prior to August 8, 2020, or who may have been eligible to receive more funds during the "first draw" period than they actually received.

c. The PPP allowed qualifying small businesses and other organizations to receive unsecured SBA-guaranteed loans. PPP loan proceeds were required to be used by businesses on payroll costs, mortgage interest, rent, and/or utilities, among other specified expenses. The PPP allowed the interest and principal to be forgiven if businesses spent the proceeds on those expenses under certain conditions. Pursuant to the CARES Act, the amount of PPP funds a business was eligible to receive was determined by the number of employees employed by the business and their average payroll costs. Businesses applying for a PPP loan had to provide documentation to confirm that they had in the past paid employees the compensation represented in the loan application. The PPP is overseen by the SBA, which has authority over all PPP loans, but individual PPP loans were issued by approved commercial lenders, who would receive and process PPP applications and supporting

documentation. Eligibility for PPP loans was limited to businesses in existence before on or about February 15, 2020.

d. Borrowers through the PPP were also eligible to apply for loan forgiveness once all loan proceeds for which forgiveness was requested had been used.

### **The Fraudulent U&I Loan Applications**

10. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about May 21, 2020, TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, submitted an EIDL application to the SBA on behalf of U&I (the "U&I EIDL Application").

b. The U&I EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The U&I EIDL Application claimed that U&I was 100% owned by MCCULLOUGH.

d. The U&I EIDL Application claimed, among other things, that U&I was in the "Entertainment Services" business, that it had five employees as of January 31, 2020, and that it earned \$537,600.00 in gross revenues during the 12-month period ending January 31, 2020, with \$0 in cost of goods sold during that same period.

e. The U&I EIDL Application directed that the loan payment be sent to a certain account (the "Husband Bank Account"), in the name of a person other than MCCULLOUGH (the "Husband"), at a certain financial institution ("Financial Institution-1").<sup>2</sup> Based on my review of records from Financial Institution-1 relating to the Husband Bank Account, I know that MCCULLOUGH was identified as the "spouse" of the account holder.

f. On or about June 17, 2020, the SBA approved the U&I EIDL Application, for a loan in the amount of \$150,000.

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<sup>2</sup> Based on my review of publicly available information, I have learned that Financial Institution-1 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-1 requires proof of eligibility in order to open an account.

11. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. On or about June 19, 2020, the Husband Bank Account received an Automated Clearing House ("ACH") transfer from the SBA in the amount of \$149,900.00.<sup>3</sup> Immediately before receiving this transfer, the balance in the Husband Bank Account was \$224.85.

b. Between in or about July 2020 and in or about October 2020, those loan proceeds were removed from the Husband Bank Account, principally via check and cash withdrawal.

12. Based on my communications with employees of Financial Institution-1, I have learned, among other things, that Financial Institution-1 is headquartered in Manhattan, New York, and that during the relevant period, when ACH transfers were sent to accounts at Financial Institution-1, Financial Institution-1's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of wire communications between Manhattan and servers located in New Jersey.

13. Based on my review of records from a certain financial institution ("Financial Institution-2"), I have learned, among other things, the following:

a. On or about June 2, 2020, TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, submitted a PPP application to Financial Institution-2 on behalf of U&I (the "U&I PPP Application").

b. The U&I PPP Application contained a certification that "the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from the SBA is punishable under the law . . . ."

c. The U&I PPP Application claimed that U&I was 100% owned by MCCULLOUGH.

d. The U&I PPP Application claimed, among other things, that U&I was in the "Arts, Entertainment, and Recreation"

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<sup>3</sup> Based on my review of information from the SBA's website about the EIDL program, I know that for EIDLs greater than \$25,000, the SBA charged a one-time \$100 fee in order to file a lien on the borrower's business assets.

business, that it had ten employees, and that it had average monthly payroll expenses of \$57,600.

e. MCCULLOUGH submitted to Financial Institution-2 a copy of a 2019 IRS Schedule C, Profit or Loss from Business Form, listing MCCULLOUGH as the proprietor of U&I (the "Fake U&I Schedule C"). The Fake U&I Schedule C claimed that U&I had \$691,200 in gross receipts and gross income, \$324,278 in total expenses, and \$366,922 in tentative profit, for tax year 2019.

f. The U&I PPP Application directed that the loan payment be sent to a certain account in U&I's name (the "U&I Bank Account") at a certain financial institution ("Financial Institution-3").

g. On or about June 4, 2020, Financial Institution-2 approved the U&I PPP Application and issued a payment in the amount of \$76,442 to the U&I Bank Account.

14. Based on my review of records from Financial Institution-3, I have learned, among other things, the following:

a. TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, opened the U&I Bank Account as "Account Owner" on or about May 21, 2020.

b. On or about June 4, 2020, the U&I Bank Account received a wire transfer in the amount of \$76,442. Immediately before receiving this transfer, the balance in the U&I Bank Account was \$50.00.

c. In or about June and July 2020, the loan proceeds received based on the U&I PPP Application were spent as follows, among other ways: (i) \$10,000 was wired from the U&I Bank Account to an account in the name of the Husband; (ii) \$11,000 was withdrawn in cash; and (iii) \$50,000 was transferred to bank accounts in the name of AM-PM.

15. Based on my review of tax filings for TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, I know, among other things, that the principal source of income she reported to the IRS for tax year 2019 was her salary from the NYC DOE, and that MCCULLOUGH did not report any income from, or file a Schedule C for, U&I. The Fake U&I Schedule C that was submitted in connection with the U&I PPP Application was not attached to MCCULLOUGH's actual 2019 tax return.

16. Based on my review of records from the New York State Department of Labor ("NYS DOL"), I have learned that the NYS DOL does not have records that U&I had any employees or paid any wages to employees during 2019 or 2020, contrary to MCCULLOUGH's claims in the U&I EIDL Application and the U&I PPP Application that U&I had five and ten employees, respectively.

### **The Fraudulent AM-PM Loan Applications**

17. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about June 17, 2020, TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, submitted an EIDL application to the SBA on behalf of AM-PM (the "AM-PM EIDL Application").

b. The AM-PM EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The AM-PM EIDL Application claimed that AM-PM was 100% owned by MCCULLOUGH.

d. The AM-PM EIDL Application claimed, among other things, that AM-PM was in the "Food & Beverage Stores," "Food - Convenience & Variety" business, that it had nine employees as of January 31, 2020, that it earned \$517,440.00 in gross revenues during the 12-month period ending January 31, 2020, and that it had \$40,000 in cost of goods sold during that same period.

e. The AM-PM EIDL Application directed that the loan payment be sent to a certain account (the "AM-PM Bank Account") in the name of AM-PM, at Financial Institution-3.

f. On or about June 17, 2020, the SBA approved an advance in connection with the AM-PM EIDL Application, and issued a payment to the AM-PM Bank Account in the amount of \$9,000.

g. On or about June 20, 2020, the SBA approved the AM-PM EIDL Application, for a loan in the amount of \$150,000.

18. Based on my review of records from Financial Institution-3 relating to the proceeds from the AM-PM EIDL Application, I have learned, among other things, the following:



a. TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, opened the AM-PM Bank Account as "Sole Member" on or about December 26, 2019.

b. On or about June 22, 2020, the AM-PM Bank Account received a payment from the SBA in the amount of \$9,000.

c. On or about June 23, 2020, the AM-PM Bank Account received a payment from the SBA in the amount of \$149,900.

d. Statements for the AM-PM Bank Account indicate that the SBA EIDL proceeds were spent on, among other things, numerous purchases at a certain electronics store and a certain online furniture store, and significant transfers to bank accounts or mobile payment application accounts in the names of MCCULLOUGH and the Husband.

19. Based on my review of records from Financial Institution-3 relating to PPP applications submitted on behalf of AM-PM, I have learned, among other things, the following:

a. On or about April 28, 2020, TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, submitted a "first draw" PPP application to Financial Institution-3 on behalf of AM-PM ("AM-PM PPP Application-1").

b. AM-PM PPP Application-1 contained a certification that "the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from the SBA is punishable under the law . . . ."

c. AM-PM PPP Application-1 claimed that AM-PM was 100% owned by MCCULLOUGH.

d. AM-PM PPP Application-1 claimed, among other things, that AM-PM had two employees and that it had average monthly payroll expenses of \$5,040.

e. MCCULLOUGH submitted to Financial Institution-3 a copy of a 2019 IRS Schedule C listing MCCULLOUGH as the proprietor of AM-PM (the "Fake AM-PM Schedule C"). The Fake AM-PM Schedule C claimed that AM-PM had \$517,440 in gross receipts and gross income, \$143,190 in total expenses, and \$374,250 in tentative profit, for tax year 2019.

f. On or about May 19, 2020, Financial Institution-3 approved AM-PM PPP Application-1, and issued a loan to AM-PM in the amount of \$13,062.

g. On or about February 2, 2021, TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, submitted a "second draw" PPP application to Financial Institution-3 on behalf of AM-PM ("AM-PM PPP Application-2").

h. AM-PM PPP Application-2 contained a certification that "the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects. I understand that knowingly making a false statement to obtain a guaranteed loan from the SBA is punishable under the law . . . ."

i. AM-PM PPP Application-2 claimed that AM-PM was 100% owned by "TONI NICOLE SINGLETON," and provided the social security number and date of birth for TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant.

j. AM-PM PPP Application-2 made reference to the SBA Loan Number associated with AM-PM PPP Application-1.

k. AM-PM PPP Application-2 claimed, among other things, that AM-PM had eight employees, and that it had average monthly payroll expenses of \$5,225, that it had annual business revenue of \$100,000, and that it had annual business profit before tax of \$67,000. AM-PM PPP Application-2 did not identify the year for which these figures were reported.

l. Financial Institution-3 approved AM-PM PPP Application-2, and on or about February 4, 2021, issued a loan to AM-PM in the amount of \$18,287.

20. Based on my review of tax filings for TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, I know, among other things, that in tax years 2019, 2020, and 2021, MCCULLOUGH filed Schedule C forms for AM-PM with the IRS. In none of those years did MCCULLOUGH file a tax form similar to the Fake AM-PM Schedule C. Instead, MCCULLOUGH's filed Schedule Cs for AM-PM reported the following:

a. For tax year 2019, MCCULLOUGH's Schedule C reported that AM-PM had gross receipts of \$751 and total expenses of \$1,211, for a tentative loss of \$460.

b. For tax year 2020, MCCULLOUGH's Schedule C reported that AM-PM had gross receipts of \$317 and total expenses of \$23,667, for a tentative loss of \$23,350.

c. For tax year 2021, MCCULLOUGH's Schedule C reported that AM-PM had gross receipts of \$537 and total expenses of \$5,935, for a tentative loss of \$5,398.

21. Based on my review of records from the NYS DOL, I have learned that the NYS DOL does not have records that AM-PM had any employees or paid any wages to employees during 2019 or 2020, contrary to MCCULLOUGH's claims in the AM-PM EIDL Application, AM-PM PPP Application-1, and AM-PM PPP Application-2, that AM-PM had nine, two, and eight employees, respectively.


WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of TONI MCCULLOUGH, a/k/a "Toni Singleton," the defendant, and that she be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA  
LaVale Jackson  
Special Agent  
United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this  
29th day of November 2022.



\_\_\_\_\_  
THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

**22 MAG 9609**

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: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
:   
RONETTE SHORT, :  
: COUNTY OF OFFENSE:  
Defendant. : NEW YORK  
:   
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SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. From in or about June 2020 up to and including in or about September 2020, in the Southern District of New York and elsewhere, RONETTE SHORT, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, SHORT engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program, by submitting false and fraudulent loan applications.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

### Overview

4. At all times relevant to this Complaint, RONETTE SHORT, the defendant, was employed by the New York City Administration for Children's Services ("NYC ACS").

5. From in or about June 2020 to in or about September 2020, RONETTE SHORT, the defendant, engaged in a scheme to defraud the SBA and enrich herself by submitting two fraudulent EIDL applications. First, in or about June 2020, SHORT submitted an EIDL application on behalf of a sole proprietorship in her own name that contained materially false representations. Based on this fraudulent application, the SBA issued an EIDL advance and EIDL to SHORT totaling \$49,000. Later, in or about September 2020, SHORT submitted an EIDL application on behalf of a C-Corporation named "Neat Streaks Inc" that also contained materially false representations. Although the SBA ultimately denied the second application, SHORT stood to earn approximately \$24,500 if the loan application had been approved.

### The SBA's EIDL Program

6. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020, and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

### **SHORT's Fraudulent EIDL Applications**

7. Based on my review of records received from the SBA and an email provider, I have learned, among other things, the following:

a. On or about June 30, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a sole proprietorship under the name "Ronette Short" (the "Ronette Short EIDL Application").

b. The Ronette Short EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The Ronette Short EIDL Application claimed that the "Ronette Short" sole proprietorship was 100% owned by RONETTE SHORT, the defendant.

d. The Ronette Short EIDL Application claimed, among other things, that the "Ronette Short" sole proprietorship was established on May 16, 2018, was an "entertainment services" and "event planning" business, had 8 employees, earned \$154,000 in gross revenues during the 12-month period ending January 31, 2020, incurred \$56,000 in cost of goods sold during the 12-month period ending January 31, 2020, and had \$11,500 in lost rents due to the coronavirus pandemic.

e. The Ronette Short EIDL Application directed that the loan payment be sent to a certain account in SHORT's name ("SHORT Checking Account-1") at a certain financial institution ("Financial Institution-1").<sup>1</sup>

f. The Ronette Short EIDL Application listed a certain email address (the "SHORT Email Address"). Email provider records show that the SHORT Email Address was created in or about 2011 and is subscribed to in the name of "Ronette Short."

g. On or about June 30, 2020, the SBA approved an EIDL advance for \$8,000, and the next day it disbursed that amount to SHORT Checking Account-1. On or about July 9, 2020, the SBA

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<sup>1</sup> Based on my review of publicly available information, I have learned that Financial Institution-1 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-1 required proof of eligibility in order to open an account.

approved the Ronette Short EIDL Application, and issued a payment to SHORT Checking Account-1 in the amount of \$41,000.

h. On or about September 15, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a C-Corporation named "Neat Streaks Inc" (the "Neat Streaks EIDL Application").

i. The Neat Streaks EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

j. The Neat Streaks EIDL Application claimed that the "Neat Streaks" business was 100% owned by SHORT.

k. The Neat Streaks EIDL Application claimed, among other things, that the "Neat Streaks" business was established on January 26, 2019, was a "personal services" and "drycleaners" business, had 2 employees, earned \$74,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$25,000 in cost of goods sold during the 12-month period ending January 31, 2020.

l. The Neat Streaks EIDL Application directed that the loan payment be sent to a certain account in the name "Neat Streaks Inc." with "Ronette Short" as the sole owner of the bank account ("SHORT Checking Account-2") at a certain financial institution ("Financial Institution-2").

m. The Neat Streaks EIDL Application listed a certain email address (the "Neat Streaks Email Address"). Email provider records show that the Neat Streaks Email Address was created on or about July 23, 2020, and is subscribed to in the name of "Ronette Short."

n. On or about September 22, 2020, the SBA declined the Neat Streaks EIDL Application, noting that the application "[d]oes not meet eligibility criteria" and noting "[s]uspicious online behavior."

o. On or about November 6, 2020, SHORT requested reconsideration of the SBA's denial of her Neat Streaks EIDL Application. On or about the same date, an SBA employee sent SHORT an email stating, in sum and substance, that, in order to process her reconsideration request, the SBA would need a completed 2018 or 2019 tax return; a completed IRS Form 4506T (request for tax transcript); an SBA Schedule-of-Liabilities form; a valid form of identification; and a voided check matching the bank account she



provided. SHORT never responded to the SBA's request for additional information.

8. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. On or about March 10, 2014, RONETTE SHORT, the defendant, opened SHORT Checking Account-1. Financial Institution-1's files for SHORT Checking Account-1 include a copy of SHORT's New York State driver's license.

b. SHORT Checking Account-1 regularly received payments labeled "payroll" from the City of New York.

c. On or about July 2, 2020, SHORT Checking Account-1 received an Automated Clearing House ("ACH") transfer from the SBA in the amount of \$8,000, *i.e.*, the EIDL advance. Immediately before receiving this transfer, the balance in SHORT Checking Account-1 was \$2,314.06.

d. On or about July 13, 2020, SHORT Checking Account-1 received an ACH transfer from the SBA in the amount of \$40,900, *i.e.*, the EIDL.<sup>2</sup> Immediately before receiving this transfer, the balance in SHORT Checking Account-1 was \$4,521.15.

e. Statements for SHORT Checking Account-1 reflect that SHORT's principal source of earnings during the 12-month period ending January 31, 2020 was her job with the NYC ACS. Statements for SHORT Checking Account-1 do not reflect regular, significant deposits during the 12-month period ending January 31, 2020, and are therefore not consistent with the operation of a sole proprietorship that purportedly earned approximately \$154,000 in revenue during that period.

9. Based on my communications with employees of Financial Institution-1, I have learned, among other things, that Financial Institution-1 is headquartered in Manhattan, New York, and that during the relevant period, when ACH transfers were sent to accounts at Financial Institution-1, Financial Institution-1's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of

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<sup>2</sup> Based on my review of information from the SBA's website about the EIDL program, I know that for EIDLs greater than \$25,000, the SBA charged a one-time \$100 fee in order to file a lien on the borrower's business assets.

wire communications between Manhattan and servers located in New Jersey.

10. Based on my review of tax filings for RONETTE SHORT, the defendant, I know, among other things, that the only income she reported to the Internal Revenue Service ("IRS") for tax years 2019, 2020, or 2021 was her salary from the City of New York; for tax year 2020, approximately \$693 in income from the U.S. Department of Commerce; and for tax year 2021, approximately \$10,790 in retirement fund distributions. For tax years 2019, 2020, and 2021, SHORT did not report any income from, or file a Schedule C, Profit or Loss from Business, for, a sole proprietorship in her name, in the name of "Neat Streaks," or in any other name. Nor did SHORT file a Schedule E, Supplemental Income or Loss, which, based on my communications with other law enforcement officers, would have been required if SHORT elected to be treated as a Subchapter S Corporation.

11. Based on my review of New York Department of State records and publicly available records from Instagram, I have learned, among other things, the following:

a. On or about September 4, 2020, RONETTE SHORT, the defendant, filed a certificate of incorporation for "Neat Streaks Inc," in which she is listed as the "incorporated" and the person filing the certificate of incorporation.

b. Publicly available records show an Instagram page with the username "\_neat\_streaks\_." The name field on the page states "Ronette S. | Founder." The biography area of the page states "Pick Up / Drop Off Wash & Fold Service Est. 2020" and lists the Neat Streaks Email Address. A publicly visible post on the page, dated September 3, 2020, has a caption that says "Coming Soon ♥."

c. Based on my training and experience and my involvement in this investigation, I believe Neat Streak's date of incorporation, September 4, 2020; the statements on the Neat Streaks Instagram that the business was established in 2020 ("Est. 2020") and "Coming Soon" as of September 3, 2020; and the absence of tax filings reflecting any income in 2019 or 2020 contradict SHORT's claim on the Neat Streaks EIDL Application that the business was established January 26, 2019, and earned a substantial sum, \$74,000, in gross revenues during the 12-month period ending January 31, 2020.

12. Based on my review of records from the New York State Department of Labor ("NYS DOL"), I have learned that the NYS DOL

does not have records that RONETTE SHORT, the defendant, any sole proprietorship using her name in New York State, or the name "Neat Streaks" in New York State, had any employees or paid any wages to employees during 2019 or 2020, contrary to SHORT's claim in the SHORT EIDL Application that her business employed 8 people and her claim in the Neat Streaks EIDL Application that her business employed 2 people.

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of RONETTE SHORT, the defendant, and that she be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA

LaVale Jackson

Special Agent

United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this  
29th day of November 2022.



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

**22 MAG 9610**

- - - - - X  
: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
:   
WALTER SUSSWELL, :  
: COUNTY OF OFFENSE:  
Defendant. : NEW YORK  
:   
- - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. From at least in or about April 2021, up to and including at least in or about May 2021, in the Southern District of New York and elsewhere, WALTER SUSSWELL, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, SUSSWELL engaged in a scheme to obtain Government-guaranteed loan proceeds from the United States Small Business Administration ("SBA") and a financial institution through the SBA's Paycheck Protection Program ("PPP"), by submitting a false and fraudulent loan application.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG") have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

#### **Overview**

4. At all times relevant to this Complaint, WALTER SUSSWELL, the defendant, was employed by the New York City Police Department ("NYPD").

5. In or about April and May 2021, WALTER SUSSWELL, the defendant, engaged in a scheme to defraud the SBA and enrich himself, by applying for a PPP loan as a self-employed individual, using an application that contained materially false representations about his purported self-employment business. Based on that fraudulent application, a financial institution ("Financial Institution-1") issued an SBA-guaranteed PPP loan to SUSSWELL in the amount of \$20,833.

#### **The SBA's PPP**

6. Based on my training and experience, my review of information from the SBA's website, my review of information

received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. Under the SBA loan guarantee programs, the actual loan is issued by a commercial lender, but the lender receives the full faith and credit backing of the United States Government on all or part of the loan. Therefore, if a borrower defaults on an SBA-guaranteed loan, the commercial lender may seek reimbursement from the SBA, up to the percentage of the guarantee. By reducing the risk to commercial lenders, the SBA's loan guarantee programs enable lenders to provide loans to qualifying small businesses to which financing might otherwise be unavailable on reasonable terms through normal lending channels. When a borrower seeks an SBA-guaranteed loan, the borrower must meet both the commercial lender's eligibility requirements for the loan as well as the SBA's eligibility requirements.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act authorized billions of dollars in forgivable loans to small businesses for job retention and certain other business expenses through the PPP. On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act was signed into law, authorizing additional billions of dollars in PPP funding. The first round of the PPP closed to new applications on August 8, 2020. On December 27, 2020, the Consolidated Appropriations Act of 2021, which included the Economic Aid to Hard-Hit Small Businesses, Nonprofit, and Venues Act (the "Relief Act") was signed into law, providing additional funding for the PPP. Under the Relief Act, certain businesses that had already obtained a PPP loan under the original PPP were eligible for an additional "second draw" PPP loan, provided they met certain requirements. The Relief Act also re-opened the application period for "first draw" PPP loans to businesses that had not been approved for "first draw" PPP loans prior to August 8, 2020, or who may have been eligible to receive more funds during the "first draw" period than they actually received.

c. The PPP allowed qualifying small businesses and other organizations to receive unsecured SBA-guaranteed loans. PPP loan proceeds were required to be used by businesses on payroll costs, mortgage interest, rent, and/or utilities, among other

specified expenses. The PPP allowed the interest and principal to be forgiven if businesses spent the proceeds on those expenses under certain conditions. Pursuant to the CARES Act, the amount of PPP funds a business was eligible to receive was determined by the number of employees employed by the business and their average payroll costs. Businesses applying for a PPP loan had to provide documentation to confirm that they had in the past paid employees the compensation represented in the loan application. The PPP is overseen by the SBA, which has authority over all PPP loans, but individual PPP loans were issued by approved commercial lenders, who would receive and process PPP applications and supporting documentation. Eligibility for PPP loans was limited to businesses in existence before on or about February 15, 2020.

d. Borrowers through the PPP were also eligible to apply for loan forgiveness once all loan proceeds for which forgiveness was requested had been used.

#### **SUSSWELL's Fraudulent PPP Application**

7. Based on my review of records received from Financial Institution-1, I have learned, among other things, the following:

a. On or about April 13, 2021, an application for a "first draw" PPP loan was submitted to Financial Institution-1, seeking a PPP loan for WALTER SUSSWELL, the defendant, as a self-employed individual (the "SUSSWELL PPP Application").<sup>1</sup>

b. The SUSSWELL PPP Application contained a certification "that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects," and that making false statements to obtain loans guaranteed by the SBA was a federal crime.

c. The SUSSWELL PPP Application claimed that SUSSWELL was the 100% owner of a business in his own name that was established in 2017.

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<sup>1</sup>The SUSSWELL PPP Application listed a certain email address, and was submitted from an Internet Protocol ("IP") Address, both of which, based on my involvement in this investigation, I do not believe are connected to WALTER SUSSWELL, the defendant. However, I believe that SUSSWELL was involved in submitting the SUSSWELL PPP Application, because Financial Institution-1 required SUSSWELL to verify his identity as the applicant by providing both a photograph of his driver's license and a series of "selfies" showing himself from multiple angles.

d. The SUSSWELL PPP Application claimed, among other things, that SUSSWELL had earned gross income of \$180,650 in tax year 2019, and that his self-employment business had only one employee. As an attachment to the SUSSWELL PPP Application, SUSSWELL provided a copy of an IRS Schedule C, Profit or Loss from Business Form, listing SUSSWELL as the proprietor of a "REPAIR & MAINTENANCE" business (the "Fake 2019 Schedule C"). The Fake 2019 Schedule C claimed that SUSSWELL's REPAIR & MAINTENANCE business had \$180,650 in gross receipts and gross income, and \$93,150 in total expenses, during tax year 2019.

e. The SUSSWELL PPP Application directed that the loan payment be sent to a certain account in SUSSWELL's name (the "SUSSWELL Bank Account") at a certain financial institution ("Financial Institution-2").<sup>2</sup>

f. On or about May 6, 2021, Financial Institution-1 approved the SUSSWELL PPP Application and issued a payment to the SUSSWELL Bank Account in the amount of \$20,833.

8. Based on my review of records from Financial Institution-2, I have learned, among other things, the following:

a. In or about 2002, the SUSSWELL Bank Account was opened as a custodial account, in the name of another person as custodian for WALTER SUSSWELL, the defendant, who was a minor at the time. In or about March 2019, SUSSWELL – who was no longer a minor at the time – signed an "Account Signature Card" with a checkbox indicating that it "Amends Existing Information." SUSSWELL's 2019 Account Signature Card indicates that he presented a New York State Driver's License in his own name, and Financial Institution-2's files for the SUSSWELL Bank Account include a photocopy of SUSSWELL's New York State driver's license.

b. The SUSSWELL Bank Account regularly received payments labeled "payroll" from the City of New York.

c. On or about May 7, 2021, the SUSSWELL Bank Account received an Automated Clearing House ("ACH") transfer from Financial Institution-1, labeled "PPP LOAN," in the amount of

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<sup>2</sup> Based on my review of publicly available information, I have learned that Financial Institution-2 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-2 requires proof of eligibility in order to open an account.



\$20,833. Immediately before receiving this transfer, the balance in the SUSSWELL Bank Account was \$81.48.

d. That same day, after the PPP loan proceeds were deposited, a cash withdrawal was made from the SUSSWELL Bank Account, at a Financial Institution-2 branch in Queens, New York, in the amount of \$20,000. A receipt from that cash withdrawal indicates that WALTER SUSSWELL, the defendant, showed his New York State Driver's License when making the withdrawal, and surveillance footage from the Financial Institution-2 branch at the time of the cash withdrawal shows a person consistent in appearance with SUSSWELL walking up to a teller to withdraw the money.

e. Statements for the SUSSWELL Bank Account reflect that during 2019, SUSSWELL received less than \$10,000 in total deposits, and that a majority of the deposits to the SUSSWELL Bank Account were "payroll" deposits from the City of New York. Statements for the SUSSWELL Bank Account do not reflect tens of thousands of dollars in 2019 earnings from SUSSWELL's self-employment business.

9. Based on my communications with employees of Financial Institution-2, I have learned, among other things, that Financial Institution-2 is headquartered in Manhattan, New York, and that during the relevant period, when ACH transfers were sent to accounts at Financial Institution-2, Financial Institution-2's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of wire communications between Manhattan and servers located in New Jersey.

10. Based on my review of tax filings for WALTER SUSSWELL, the defendant, I know, among other things, that the Fake 2019 Schedule C was not actually submitted to the Internal Revenue Service ("IRS") with SUSSWELL's tax return, and that SUSSWELL did not report any income - let alone \$180,650 in income - from work as a self-employed "repair and maintenance" worker.

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of WALTER SUSSWELL, the defendant, and that he be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA

LaVale Jackson  
Special Agent  
United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this

29th day of November 2022.



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

**22 MAG 9611**

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: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
:  
DELILAH CUMMINGS, :  
: COUNTY OF OFFENSE:  
Defendant. : NEW YORK  
: X  
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SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. In or about July 2020, in the Southern District of New York and elsewhere, DELILAH CUMMINGS, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, CUMMINGS engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program, by submitting a false and fraudulent loan application.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

#### **Overview**

4. At all times relevant to this Complaint, DELILAH CUMMINGS, the defendant, was employed by the New York City Department of Education ("NYC DOE").

5. In or about July 2020, DELILAH CUMMINGS, the defendant, engaged in a scheme to defraud the SBA and enrich herself, by applying for an EIDL on behalf of a sole proprietorship in her own name that purportedly provided hair and nail salon services. CUMMINGS's EIDL application contained materially false representations about her purported sole proprietorship. Based on that fraudulent application, the SBA issued an EIDL to CUMMINGS in the amount of \$150,000.

#### **The SBA's EIDL Program**

6. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020, and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

#### **CUMMINGS's Fraudulent EIDL Application**

7. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about July 16, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a sole proprietorship

under the name "Delilah Cummings" (the "CUMMINGS EIDL Application").

b. The CUMMINGS EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The CUMMINGS EIDL Application claimed that the "Delilah Cummings" sole proprietorship was 100% owned by DELILAH CUMMINGS, the defendant.<sup>1</sup>

d. The CUMMINGS EIDL Application claimed, among other things, that the "Delilah Cummings" sole proprietorship was established on March 1, 2016, was a "Hair & Nail Salon,"<sup>2</sup> had 45 employees, earned \$498,800.00 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$97,000.00 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The CUMMINGS EIDL Application directed that the loan payment be sent to a certain account in CUMMINGS's name (the "CUMMINGS Checking Account") at a certain financial institution ("Financial Institution-1").<sup>3</sup>

f. The CUMMINGS EIDL Application listed a certain email address, and was submitted from an Internet Protocol ("IP") Address, both of which, based on my involvement in this

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<sup>1</sup> The social security number, date of birth, and street address listed for DELILAH CUMMINGS, the defendant, on the CUMMINGS EIDL Application were the same as the social security number, date of birth, and street address associated with CUMMINGS's bank accounts, tax returns, and Cash App account, all discussed below, and are also consistent with the information for CUMMINGS contained in a public records database frequently used by law enforcement.

<sup>2</sup> Based on my review of records from the New York Department of State, I have learned that DELILAH CUMMINGS, the defendant, was licensed by the State of New York as a cosmetologist between at least in or about August 2016 and in or about August 2020, and again beginning in or about January 2021.

<sup>3</sup> Based on my review of publicly available information, I have learned that Financial Institution-1 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-1 requires proof of eligibility in order to open an account.

investigation, I do not believe are connected to DELILAH CUMMINGS, the defendant.

g. On or about July 18, 2020, the SBA approved the CUMMINGS EIDL Application, and issued a payment to the CUMMINGS Checking Account in the amount of \$150,000.

8. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. In or about May 2019, DELILAH CUMMINGS, the defendant, opened the CUMMINGS Checking Account and a connected savings account (the "CUMMINGS Savings Account," and collectively the "CUMMINGS Financial Institution-1 Accounts"). Financial Institution-1's files for the CUMMINGS Financial Institution-1 Accounts include a copy of CUMMINGS's New York State driver's license.

b. The CUMMINGS Checking Account regularly received payments labeled "payroll" from the City of New York.

c. On or about July 21, 2020, the CUMMINGS Checking Account received an Automated Clearing House ("ACH") transfer from the SBA in the amount of \$149,900.00.<sup>4</sup> Immediately before receiving this transfer, the balance in the CUMMINGS Checking Account was \$3.21.

d. On or about July 21, 2020, \$146,000 was transferred from the CUMMINGS Checking Account to the CUMMINGS Savings Account, which Financial Institution-1's records indicate was a "Mobile Transfer." Immediately before receiving this transfer, the balance in the CUMMINGS Savings Account was \$5.00.

e. Statements for the CUMMINGS Financial Institution-1 Accounts indicate that the SBA EIDL proceeds were spent on, among other things, a trip to Las Vegas, Nevada, multiple large purchases at retailers including Apple, Louis Vuitton, Polo Ralph Lauren, Macys, and Canada Goose, transfers to investment accounts, and multiple large payments to an auto loan servicing company. Those records do not indicate that the SBA EIDL proceeds were used for expenditures consistent with running a hair and nail salon, such as commercial rent or the purchasing of supplies.

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<sup>4</sup> Based on my review of information from the SBA's website about the EIDL program, I know that for EIDLs greater than \$25,000, the SBA charged a one-time \$100 fee in order to file a lien on the borrower's business assets.

f. Statements for the CUMMINGS Financial Institution-1 Accounts reflect that during the period beginning when she opened the accounts in or about May 2019, and ending January 31, 2020, CUMMINGS's principal source of earnings was her job with the NYC DOE. Statements for the CUMMINGS Financial Institution-1 Accounts do not reflect any other significant deposits prior to January 31, 2020, and are therefore not consistent with the operation of a sole proprietorship that purportedly earned approximately \$500,000 in revenue during the 12 months prior to January 31, 2020.

9. Based on my communications with employees of Financial Institution-1, I have learned, among other things, that Financial Institution-1 is headquartered in Manhattan, New York, and that during the relevant period, when ACH transfers were sent to accounts at Financial Institution-1, Financial Institution-1's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of wire communications between Manhattan and servers located in New Jersey.

10. Based on my review of tax filings for DELILAH CUMMINGS, the defendant, I know, among other things, that the only income she reported to the Internal Revenue Service ("IRS") for tax year 2019 was her salary from the NYC DOE, and that CUMMINGS did not report any income from, or file a Schedule C, Profit or Loss from Business Form, for any sole proprietorship in her name.

11. Based on my review of records from the New York State Department of Labor ("NYS DOL"), I have learned that the NYS DOL does not have records that DELILAH CUMMINGS, the defendant, or any sole proprietorship using her name in New York State, had any employees or paid any wages to employees during 2019 or 2020, contrary to CUMMINGS's claim in the CUMMINGS EIDL Application that her business employed 45 people.

12. Based on my review of records from the mobile payments application Cash App, I have learned, among other things, the following:

a. DELILAH CUMMINGS, the defendant, has an account on Cash App (the "CUMMINGS Cash App Account").

b. One of the payment sources for the CUMMINGS Cash App Account is a debit card associated with the CUMMINGS Checking Account.

c. The CUMMINGS Cash App Account made a series of attempted and actual payments, and received certain payment



requests, from a Cash App account in the name "Brian Mohammed." In total, the CUMMINGS Cash App Account paid a total of \$6,000 to Mohammed in the days after receiving the EIDL proceeds discussed above. Based on my review of records from Financial Institution-1, I know that each of the completed payments discussed below were withdrawn from the CUMMINGS Checking Account, and were funded using proceeds from the EIDL. The payments and requests between CUMMINGS and Mohammed included, among others, the following:

i. On or about July 21, 2020, CUMMINGS paid Mohammed \$2,500;

ii. On or about July 23, 2020, CUMMINGS paid Mohammed \$500;

iii. On or about July 25, 2020, Mohammed sent CUMMINGS a request for \$2,500 with the memo "Application," and this request was declined with the message "AMOUNT\_EXCEEDED\_WEEKLY\_TRANSACTION\_LIMIT";

iv. On or about July 27, 2020 Mohammed sent CUMMINGS a request for \$2,500 with the memo "balance \$3,000.00," and this request was declined with the message "AMOUNT\_EXCEEDED\_WEEKLY\_TRANSACTION\_LIMIT";

v. On or about July 28, 2020, CUMMINGS paid Mohammed \$2,500;

vi. On or about July 29, 2020, CUMMINGS paid Mohammed \$500, with the memo "thank you again."

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of DELILAH CUMMINGS, the defendant, and that she be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA


LaVale Jackson  
Special Agent  
United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this Complaint by reliable electronic means, pursuant to Federal Rule of Criminal Procedure 4.1, this 29th day of November 2022.



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

- - - - - X **22 MAG 9612**  
: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
: JAROD OTTLEY, :  
: COUNTY OF OFFENSE:  
Defendant. : NEW YORK  
: - - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. From in or about July 2020 up to and including in or about September 2020, in the Southern District of New York and elsewhere, JAROD OTTLEY, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, OTTLEY engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program, by submitting false and fraudulent loan applications.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

### **Overview**

4. At all times relevant to this Complaint, JAROD OTTLEY, the defendant, was employed by the New York City Department of Transportation ("NYC DOT").

5. From in or about July 2020 to in or about September 2020, JAROD OTTLEY, the defendant, engaged in a scheme to defraud the SBA and enrich himself by submitting two fraudulent EIDL applications. First, in or about July 2020, OTTLEY submitted an EIDL application on behalf of a sole proprietorship named "jerry home improvement" that contained material false representations. Based on this fraudulent application, the SBA issued an EIDL to OTTLEY in the amount of \$96,000. Later, in or about September 2020, OTTLEY submitted an EIDL application on behalf of a sole proprietorship named "JD Transportation" that also contained material false representations. Although the SBA ultimately denied the second application, OTTLEY stood to earn approximately \$106,400 if the loan application had been approved.

### The SBA's EIDL Program

6. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020, and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

### **OTTLEY's Fraudulent EIDL Applications**

7. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about July 22, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a sole proprietorship with the business name "jerry home improvement" (the "Jerry Home EIDL Application"). The Jerry Home EIDL Application stated that the business's primary address was a certain address in Rosedale, New York, which is a neighborhood in Queens County, New York.

b. The Jerry Home EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The Jerry Home EIDL Application claimed that the "jerry home improvement" sole proprietorship was 100% owned by JAROD OTTLEY, the defendant.

d. The Jerry Home EIDL Application claimed, among other things, that the "jerry home improvement" sole proprietorship was established on April 1, 2017, was a "Construction & Contractors" and "House Remodeling/Improvements (ie structural remodeling)" business, had 10 employees, earned \$202,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$10,200 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The Jerry Home EIDL Application directed that the loan payment be sent to a certain account in the name of "Jarod H Ottley" ("OTTLEY Checking Account-1") at a certain financial institution ("Financial Institution-1").<sup>1</sup>

f. On or about July 23, 2020, the SBA approved the Jerry Home EIDL Application and a loan in the amount of \$96,000.

g. On or about September 2, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a sole proprietorship

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<sup>1</sup>Based on my review of publicly available information, I have learned that Financial Institution-1 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-1 required proof of eligibility in order to open an account.

with the business name "JD Transportation" (the "JD Transportation EIDL Application").

h. The JD Transportation EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

i. The JD Transportation EIDL Application claimed that the "JD Transportation" sole proprietorship was 100% owned by OTTLEY.

j. The JD Transportation EIDL Application claimed, among other things, that the "JD Transportation" sole proprietorship was established on April 15, 2015, was a "Educational Services" business, had 3 employees, earned \$225,560 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$12,800 in cost of goods sold during the 12-month period ending January 31, 2020.

k. On or about September 2, 2020, the SBA denied the JD Transportation EIDL Application. SBA records show that on or about the same date, an SBA employee noted that the JD Transportation EIDL Application listed a sole proprietorship without a federal tax identification number but with declared employees. The SBA employee further noted that "per the [Internal Revenue Service], any time a sole proprietor hires an employee, the sole proprietorship will need to obtain an Employer Identification Number (EIN). Decline loan[.]" On or about September 5, 2020, the SBA sent a letter to OTTLEY notifying him that the JD Transportation EIDL Application was denied.<sup>2</sup>

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<sup>2</sup> Based on my review of SBA records, I have learned, among other things, that on or about July 25, 2020, an EIDL application was submitted for a sole proprietorship named "Jays Construction," listing "jarod ottley" as the 100% owner of the business (the "Jays Construction EIDL Application"). The Jays Construction EIDL Application listed the same phone number for "jarod ottley" as was listed on the Jerry Home EIDL Application and JD Transportation EIDL Application, although other identifying information differs. The SBA's notes for the Jays Construction EIDL Application show that on or about August 12, 2020, "jarod ottley" called the SBA to ask about the status of his loan application. However, an SBA employee noted that she "had to wait too long for him to get his info to give me to make sure [t]his is the person that I [was] speaking with." During a subsequent call on or about August 16, 2020, when "jarod Ottley"

8. Based on my review of SBA records, email provider records, and phone carrier records, I have learned, among other things, the following:

a. Both the Jerry Home EIDL Application and the JD Transportation EIDL Application list a certain email address for OTTLEY (the "OTTLEY Email Address"). Email provider records show that the OTTLEY Email Address was created in or about 2014 and is subscribed to in the name of "Jarod Ottley."

b. Both the Jerry Home EIDL Application and the JD Transportation EIDL Application were submitted from the same IP Address. In addition, on or about July 23, 2020, the Jerry Home EIDL Application was electronically signed by "jarod ottley" using another certain IP address ending in 169 (the "Signing IP Address").

9. Based on my review of records from Cash App, I have learned, among other things, the following:

a. On or about June 13, 2019, an individual, who I believe to be JARROD OTTLEY, the defendant, created a Cash App account using the name "Jarod Ottley" (the "OTTLEY Cash App Account"). OTTLEY also provided the OTTLEY Email Address as the contact email address.

b. Cash App records show that the OTTLEY Cash App Account was accessed by an individual using the Signing IP Address on or about July 11, 2020, *i.e.*, the same month an individual at the same IP address signed the Jerry Home EIDL Application.

10. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. In or about May 16, 1994, JAROD OTTLEY, the defendant, opened an account at Financial Institution-1. At Financial Institution-1, OTTLEY held OTTLEY Checking Account-1 and a connected bank account ("OTTLEY Checking Account-2"). Financial Institution-1's files for OTTLEY's accounts include a copy of OTTLEY's New York State driver's license.

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called again to check on the status of his loan application, another SBA employee was able to verify the caller's identity. Ultimately, the SBA denied the Jays Construction EIDL Application.



b. OTTLEY Checking Account-2 regularly received payments labeled "payroll" from the City of New York.

c. On or about July 24, 2020, OTTLEY Checking Account-1 received an ACH transfer from the SBA in the amount of \$95,900.<sup>3</sup> Immediately before receiving this transfer, the balance in OTTLEY Checking Account-1 was \$609.17.

d. In the period soon after the EIDL was disbursed, bank records show that on or about July 24, 2020, OTTLEY transferred \$88,000 to OTTLEY Checking Account-2, and there were frequent cash withdrawals from both bank accounts OTTLEY controlled.

e. Statements for OTTLEY Checking Account-1 and OTTLEY Checking Account-2 reflect that OTTLEY's principal source of earnings during the 12-month period ending January 31, 2020 was his job with the NYC DOT. Statements for OTTLEY Checking Account-1 also show tens of thousands of dollars in cash deposits, but those cash deposits, even collectively, do not appear to be consistent with the operation of a sole proprietorship that purportedly earned approximately \$202,200 in revenue during the 12 months ending January 31, 2020.

11. Based on my training and experience and my review of information published by the New York City and New York State governments, I know that under the New York General Business Law, a sole proprietorship operating in a name other than the name of the sole proprietor him or herself must file a Certificate of Assumed Name with the County Clerk in the county where the sole proprietorship is based. Based on my review of records from the Queens County Clerk, I know that no Certificate of Assumed Name was filed in Queens County for "jerry home improvement" or "JD Transportation" between in or about 1993 and in or about April 2022.<sup>4</sup>

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<sup>3</sup> Based on my review of information from the SBA's website about the EIDL program, I know that for EIDLs greater than \$25,000, the SBA charged a one-time \$100 fee in order to file a lien on the borrower's business assets.

<sup>4</sup> Based on my review of records provided by the New York Department of State, I have learned that a business named "JD Transportation LLC" was incorporated in New York State on or about March 30, 1999, by an individual other than JAROD OTTLEY, the defendant. Based on my review of records associated with "JD Transportation LLC," including the fact that this is a limited

12. Based on my communications with employees of Financial Institution-1, I have learned, among other things, that Financial Institution-1 is headquartered in Manhattan, New York, and that during the relevant period, when ACH transfers were sent to accounts at Financial Institution-1, Financial Institution-1's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of wire communications between Manhattan and servers located in New Jersey.

13. Based on my review of tax filings for JAROD OTTLEY, the defendant, I know, among other things, that OTTLEY filed a tax return for tax years 2019 and 2020 but did not file a tax return for tax year 2021. For tax years 2019 and 2020, the only income OTTLEY reported to the Internal Revenue Service ("IRS") was his salary from the NYC DOT.<sup>5</sup> For tax years 2019, 2020, and 2021, OTTLEY did not report any income from, or file a Schedule C, Profit or Loss from Business, for, "jerry home improvement," "JD Transportation," or any other sole proprietorship.

14. Based on my review of records from the New York State Department of Labor ("NYS DOL"), I have learned that the NYS DOL does not have records that "jerry home improvement" or "JD Transportation" had any employees or paid any wages to employees during 2019 or 2020, contrary to the claim by JAROD OTTLEY, the defendant, in the Jerry Home EIDL Application and the JD Transportation EIDL Application that these businesses employed 10 and 3 employees, respectively.

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liability company rather than a sole proprietorship and it was created long before the date JAROD OTTLEY, the defendant, claimed his business were established, I believe this is a different business than the "JD Transportation" for which OTTLEY submitted an EIDL application.

<sup>5</sup> For tax year 2020, JAROD OTTLEY, the defendant, filed an IRS Form 8915-E reporting to the IRS that he received a \$100,000 disbursement from a retirement plan due to the coronavirus or other 2020 disaster. See Instructions for Form 8915-E (Feb. 11, 2021) ("If you were impacted by the coronavirus and you made withdrawals from your retirement plan in 2020 before December 31, you may have coronavirus-related distributions eligible for special tax benefits on Form 8915-E. . . . Taxpayers adversely affected by qualified 2020 disasters, other than the coronavirus, may be eligible for special tax benefits.").

WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of JAROD OTTLEY, the defendant, and that he be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA

LaVale Jackson

Special Agent


United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this  
29th day of November 2022.



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

**22 MAG 9613**

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: **SEALED COMPLAINT**  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343, 1349,  
: 1028A, and 2  
RODNEY SMITH, :  
DENISE GANT, : COUNTY OF OFFENSE:  
EBONY SIMON, : NEW YORK  
PHYA SCOTT, :  
PRISCILLA JACKSON, :  
SHARON CHARLES, :  
YOLANDA LAWRENCE, :  
YOLANDA RATCLIFF, and :  
ZHANE RATCLIFF, :  
: Defendants. :  
: :  
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SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Conspiracy to Commit Wire Fraud)**

1. From at least in or about June 2020 up to and including at least in or about May 2021, in the Southern District of New York and elsewhere, RODNEY SMITH, DENISE GANT, EBONY SIMON, PHYA SCOTT, PRISCILLA JACKSON, SHARON CHARLES, YOLANDA LAWRENCE, YOLANDA RATCLIFF, and ZHANE RATCLIFF, the defendants, and others known and unknown, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343.

2. It was a part and object of the conspiracy that RODNEY SMITH, DENISE GANT, EBONY SIMON, PHYA SCOTT, PRISCILLA JACKSON, SHARON CHARLES, YOLANDA LAWRENCE, YOLANDA RATCLIFF, and ZHANE RATCLIFF, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

(Title 18, United States Code, Section 1349.)

**COUNT TWO**  
**(Wire Fraud)**

3. From at least in or about June 2020 up to and including at least in or about May 2021, in the Southern District of New York and elsewhere, RODNEY SMITH, DENISE GANT, EBONY SIMON, PHYA SCOTT, PRISCILLA JACKSON, SHARON CHARLES, YOLANDA LAWRENCE, YOLANDA RATCLIFF, and ZHANE RATCLIFF, the defendants, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, knowingly transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, SMITH, GANT, SIMON, SCOTT, JACKSON, CHARLES, LAWRENCE, YOLANDA RATCLIFF, and ZHANE RATCLIFF engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program by submitting false and fraudulent loan applications.

(Title 18, United States Code, Sections 1343 and 2.)

**COUNT THREE**  
**(Aggravated Identity Theft)**

4. From at least in or about June 2020 up to and including at least in or about May 2021, in the Southern District of New York and elsewhere, RODNEY SMITH, the defendant, knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit, SMITH used identifying information

belonging to other persons to work with others to submit fraudulent loan applications to the SBA in furtherance of the offenses charged in Counts One and Two of this Complaint.

(Title 18, United States Code, Sections 1028A and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

5. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

6. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

### Overview

7. At all times relevant to this Complaint, DENISE GANT, EBONY SIMON, PHYA SCOTT, PRISCILLA JACKSON, SHARON CHARLES, YOLANDA LAWRENCE, YOLANDA RATCLIFF, and ZHANE RATCLIFF, the defendants (together, the "Applying Defendants"), were employed by various New York City and New York State agencies, and one non-profit organization. Specifically, GANT, SIMON, SCOTT, YOLANDA RATCLIFF, and ZHANE RATCLIFF were employees of the New York City Police Department ("NYPD"), LAWRENCE was an employee of the New York City Human Resources Administration ("NYC HRA"), and JACKSON was an employee of the Metropolitan Transportation Authority

("MTA"). CHARLES worked as a director at a non-profit organization based in New York.

8. As set forth below, between at least June 2020 and at least May 2021, the defendants engaged in a scheme to defraud the SBA and enrich themselves. RODNEY SMITH, the defendant, conspired with the eight Applying Defendants to submit fraudulent loan applications to the EIDL Program on behalf of the Applying Defendants (together, the "Fraudulent Applications"). The Fraudulent Applications contained materially false representations about the Applying Defendants' purported businesses. Fraudulent Applications were frequently similar to each other, in terms of the numbers of employees, amounts of revenue, and types of businesses falsely claimed in the applications. Based on the Fraudulent Applications, the SBA issued EIDLs to each of the Applying Defendants ranging from approximately \$52,000 to approximately \$60,000. In certain instances, the Applying Defendants communicated with SMITH before the Fraudulent Applications were submitted. In addition, after obtaining their loans, certain Applying Defendants transferred approximately \$5,000 of their fraudulently obtained money to co-conspirators, including SMITH. In addition, SMITH's involvement in this scheme was not limited to the Fraudulent Applications; SMITH conspired to create at least 95 total EIDL applications suspected to be fraudulent, on behalf of numerous people including, but not limited to, the Applying Defendants.

#### **The SBA's EIDL Program**

9. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020,

and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

#### **The Scheme to Submit Fraudulent Applications**

10. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. For each EIDL application submitted, the SBA collects the IP address from which the application was submitted.

b. SBA records show that from on or about June 30, 2020, through May 18, 2021, approximately 95 EIDL applications were created from a particular IP address (the "Common IP Address"), including each of the Fraudulent Applications. In total, 23 of the 95 EIDL applications created from the Common IP Address were funded by the SBA for a total of more than \$1.2 million.

c. The Fraudulent Applications are listed below, along with the business category, gross revenues, and number of employees listed on each respective application:



<b>Business Owner and Primary Contact<sup>1</sup></b>	<b>Business Category</b>	<b>Gross Revenue</b>	<b>Number of Employees</b>	<b>Date and Time Loan Application Created</b>
Denise Gant	Eating & Drinking	\$157,000.00	11	8/7/2020 1:19 p.m.
Ebony Simon	Hair & Nail Salon	\$152,000.00	10	8/7/2020 7:22 p.m.
Phya Scott	Hair & Nail Salon	\$152,000.00	11	7/29/2020 11:13 p.m.
Priscilla Jackson	Educational Services	\$168,000.00	12	7/31/2020 5:05 p.m.
Sharon Charles	Health Services	\$151,300.00	5	8/4/2020 1:10 p.m.
Yolanda Lawrence	Hair & Nail Salon	\$187,000.00	9	6/30/2020 8:17 p.m.
Yolanda Ratcliff	Hair & Nail Salon	\$160,000.00	10	7/29/2020 5:44 p.m.
Zhane Ratcliff	Hair & Nail Salon	\$154,000.00	11	7/29/2020 6:01 p.m.

11. Based on my review of records obtained from internet service providers and phone carriers, I have learned, among other things, that from approximately February 22, 2020, to at least approximately January 21, 2022, the Common IP Address was assigned to "Rodney Smith" at a certain address in Brooklyn, New York (the "SMITH Address"), and the same customer account listed a particular phone number ending in 5186 (the "SMITH Phone number") and a particular email address (the "SMITH Email Address"). The SMITH Phone number has been assigned to "Rodney Smith" since approximately 2017. The SMITH Email Address was created in or about 2004 and is subscribed to in the name of "Remy Jones," which I believe, based on my review of criminal history records, is an alias associated with RODNEY SMITH, the defendant.

12. Based on my review of bank records and records from Cash App, a mobile payment application, I have learned, among other things, the following:

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<sup>1</sup> Based on my review of records received from the SBA, I have learned, among other things, that each of the Fraudulent Applications listed a "primary contact" name and a "company legal name." Each of the Fraudulent Applications listed the same name in both fields. For example, the same application that listed "Yolanda Ratcliff" as the primary contact also listed "Yolanda Ratcliff" as the company legal name.

a. On or about August 5, 2020, ZHANE RATCLIFF, the defendant, sent approximately \$5,000 to YOLANDA RATCLIFF, the defendant, with the message "Loan." As set forth below, ZHANE RATCLIFF received her EIDL approximately one day earlier, on or about August 4, 2020.

b. On or about August 7, 2020, PRISCILLA JACKSON, the defendant, sent approximately \$5,000 to YOLANDA RATCLIFF with the message "Thank you so muc[h]." As set forth below, JACKSON received her EIDL approximately one day earlier, on or about August 6, 2020.

c. On or about August 7, 2020, August 19, 2020, and August 21, 2020, PHYA SCOTT, the defendant, sent three sums of money totaling \$10,000 to RODNEY SMITH, the defendant.<sup>2</sup> Each transfer was accompanied with the message "business." As set forth above, SCOTT received her EIDL loan on or about August 4, 2020.<sup>3</sup>

d. On or about August 10, 2020, YOLANDA RATCLIFF sent three sums of money totaling \$5,000 to SMITH. As set forth below, YOLANDA RATCLIFF received her EIDL approximately nine days earlier, on or about August 1, 2020.

e. Between on or about August 12, 2020, and on or about August 14, 2020, DENISE GANT, the defendant, transferred three sums of money totaling approximately \$5,000 to YOLANDA RATCLIFF.

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<sup>2</sup> Records from Cash App show that on or about August 7, 2020, there was a declined transfer from PHYA SCOTT, the defendant, to RODNEY SMITH, the defendant, for \$5,000 with the message "business advisor."

<sup>3</sup> The financial transactions described in Paragraphs 12(a)-(b) above are reflected in bank statements for PRISCILLA JACKSON and ZHANE RATCLIFF, the defendants, respectively. The financial transaction described in Paragraph 12(c) above is reflected in records for Cash App accounts believed to be used by PHYA SCOTT, the defendant, and SMITH, based on the name and date of birth for each Cash App Account matching those for SCOTT and SMITH, respectively, in their EIDL applications. Records for the SMITH Cash App show that on or about February 26, 2022, after the financial transactions described herein and in response to receiving information from SMITH, Cash App determined that SMITH's Cash App account had been compromised, and Cash App secured the account for SMITH. The financial transaction described in Paragraph 12(d) above is reflected in records for Cash App accounts believed to be used by YOLANDA RATCLIFF and RODNEY SMITH, the defendants, based on the name and date of birth for each Cash App Account matching those for YOLANDA RATCLIFF and SMITH, respectively, in their EIDL applications.

As set forth below, GANT received her EIDL approximately one day earlier, on August 11, 2020.

13. Based on my review of SBA records, bank records, phone carrier records,<sup>4</sup> and my review of another law enforcement officer's analysis of those records, I have learned, among other things, that several of the defendants were in regular contact around the dates on which their Fraudulent Applications were submitted, which suggests that they were working together to submit the Fraudulent Applications. In particular, I have learned the following:

a. On or about July 29, 2020, *i.e.*, the day that applications for YOLANDA RATCLIFF, ZHANE RATCLIFF, and PHYA SCOTT, the defendants, were submitted, YOLANDA RATCLIFF and SCOTT had telephone contact approximately 24 times. Prior to that day, YOLANDA RATCLIFF and SCOTT had telephone contact approximately 7 times that month, approximately 4 times in June 2020, and approximately 16 times in May 2020. Also on July 29, 2020, SCOTT and ZHANE RATCLIFF had telephone contact once. The same day, SCOTT had telephone contact with SMITH approximately three times. SCOTT had not previously had telephone contact with SMITH. SCOTT also had telephone contact with SMITH once on July 30, 2020 and multiple times in August 2020, including once on August 7, 2020, *i.e.*, one of the days that SCOTT sent money to SMITH, as set forth below.

b. On or about the same day, July 29, 2020, YOLANDA RATCLIFF had telephone contact with SMITH approximately 83 times, approximately 28 times the next day, and approximately 41 times the following day. Prior to that, YOLANDA RATCLIFF and SMITH had telephone contact in July 2020 approximately 3 times, zero times in June 2020, and approximately 13 times in May 2020.

c. On or about August 7, 2020, *i.e.*, the day JACKSON sent \$5,000 to YOLANDA RATCLIFF, JACKSON had a text message communication with RATCLIFF. Prior to that date, JACKSON's most recent telephone contact with Yolanda RATCLIFF was on July 25, 2020.

14. Based on my review of text messages exchanges between RODNEY SMITH and YOLANDA RATCLIFF and between SMITH and PHYA SCOTT, the defendants, obtained pursuant to a judicially authorized

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<sup>4</sup> The phone numbers associated with YOLANDA RATCLIFF, ZHANE RATCLIFF, PHYA SCOTT, and PRISCILLA JACKSON, the defendants, in this paragraph were listed on each individual defendants' EIDL application. The phone number associated with RODNEY SMITH, the defendant, is the SMITH Phone Number, discussed above.

search warrant, I have learned, among other things, that between at least in or about July 2020 and in or about October 2020, SMITH, YOLANDA RATCLIFF, and SCOTT had several communications about submitting EIDL applications and receiving a fee to do so. For example:

a. On or about July 29, 2020, SMITH sent YOLANDA RATCLIFF a message saying the following:

Name  
Address  
County  
Phone  
SSN  
Name of bank  
Acct  
Routing  
Dob  
Place of birth  
Email  
Side job

Based on my training and experience and my involvement in this investigation, I believe this message reflects SMITH asking YOLANDA RATCLIFF to provide responses to this message so that he can submit an EIDL application with this information on YOLANDA RATCLIFF's behalf (the "Requested Information").

b. In response, later on the same day, YOLANDA RATCLIFF sent messages to SMITH with the Requested Information, for herself and ZHANE RATCLIFF. In response to the request for her "side job," YOLANDA RATCLIFF provided "cooking/ catering." Later on the same day, SMITH sent a message to YOLANDA RATCLIFF saying, among other things, "Also I put u down for Hair n Nails, they didn't have the option for Cooking." Based on my training and experience and my involvement in this investigation, I believe this message reflects SMITH saying he listed YOLANDA RATCLIFF's business category as Hair & Nail Salon on her EIDL application instead of the description she provided, "cooking/ catering." As set forth herein, the EIDL application for YOLANDA RATCLIFF - along with several of the other Fraudulent Applications - in fact listed the business category "Hair & Nail Salon."

c. Later on or about the same day, July 29, 2020, SMITH sent YOLANDA RATCLIFF a message saying, "Better hit ur ppl b4 this shit is dead, not for just anyone tho, just close Ppl." Based on my training and experience and my involvement in this investigation, I believe this message reflects SMITH saying that

YOLANDA RATCLIFF should find other individuals who will submit EIDL applications through SMITH but, in order to avoid disclosure that might implicate them in a crime, YOLANDA RATCLIFF should communicate about their scheme only with people close to her, *i.e.*, "just close Ppl."

d. On or about July 29, 2020, SCOTT sent SMITH the Requested Information for her application. SMITH asked a few follow up questions and then told SCOTT that he was "able to put it in tonight" and that SCOTT should "[l]ook for an Email tomorrow" and inform SMITH when she received the email. As set forth below, SBA records show that on or about the same day, July 29, 2020, an EIDL application was submitted for SCOTT from the Common IP Address.

e. On or about July 31, 2020, YOLANDA RATCLIFF sent to SMITH the Requested Information for PRISCILLA JACKSON, the defendant, and two other individuals. Later, on or about August 5, 2020, YOLANDA RATCLIFF sent messages to SMITH saying, among other things, "Priscilla signed hers" and "Still waiting on Priscilla money." On or about August 7, 2020, YOLANDA RATCLIFF sent a message to SMITH saying, "Priscilla sent me the money 💰" and "I'll give it to you Monday." As described above, JACKSON sent \$5,000 to YOLANDA RATCLIFF on or about August 7, 2020.

f. On or about August 5, 2020, SMITH told SCOTT that "this is the last few days to apply for the Loan so if you [know] anyone else interested[,] it has to happen ASAP." The following day, SCOTT sent the Requested Information for three more individuals.

g. On or about August 5, 2020, SMITH sent a message to YOLANDA RATCLIFF saying "Hey Phya sent me 2 ppl so u got PC coming from them if it goes thru." Based on my training and experience and my involvement in this investigation, I believe this message reflects SMITH saying that SCOTT has recruited two individuals to this scheme to submit fraudulent applications and, if the applications are granted and the loans disbursed, YOLANDA RATCLIFF will receive some compensation for recruiting SCOTT.

h. On or about August 7, 2020, YOLANDA RATCLIFF sent to SMITH the Requested Information for DENISE GANT, the defendant. In the message, YOLANDA RATCLIFF spelled GANT's last name as "Gant." Later the same day, YOLANDA RATCLIFF sent a message to SMITH saying, "You spelled Denise last name wrong" and "She's afraid to call." As set forth below, the EIDL application for GANT in fact incorrectly listed her last name as "Grant." SMITH responded saying, "I don't think the spelling will be a problem

bcuz her SS# should tell it all." Soon afterwards, YOLANDA RATCLIFF responded saying "Denise got approved and signed."

i. On or about August 7, 2020, YOLANDA RATCLIFF sent to SMITH the Requested Information for EBONY SIMON, the defendant. The next day, on or about August 8, 2020, YOLANDA RATCLIFF sent a message to SMITH saying, "Ebony is approved and signed." On or about August 11, 2020, YOLANDA RATCLIFF sent a message to Smith saying, "Ebony want you to meet with her today."

j. On or about August 7, 2020, SMITH asked SCOTT if she was going to give him the "5k" that day. Later that same day, SMITH said he "got it," which, I believe, means the requested payment. As described above, SCOTT sent SMITH payment on or about August 7, 2020.

k. On or about August 9, 2020, SMITH sent a message to YOLANDA RATCLIFF suggesting that she take a bigger take of the fraud proceeds than what they had previously agreed, which appears to be \$500. Specifically, SMITH wrote, "why don't u start telling ppl that it's 6k and u take the 1 off top plus the \$500 🙄." <sup>5</sup>

15. Based on my review of records received from the SBA, I have learned, among other things, that the SBA required that each applicant disclose whether anyone assisted them in preparing their application, and whether or not that person was paid a fee. None of the Applying Defendants disclosed that RODNEY SMITH, the defendant, or anyone else assisted them in applying for an EIDL.

16. As discussed in greater detail below, many of the loans disbursed by the SBA based on the Fraudulent Applications were sent via Automated Clearing House ("ACH") transfer to a certain

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<sup>5</sup>Based on my review of the text message communications, which are discussed in greater detail above, I believe there may be others involved in the scheme to submit the Fraudulent Applications beyond the defendants charged herein. For example, RODNEY SMITH, the defendant, references "my ppl" offering a particular amount of money for people being recruited into the scheme, and YOLANDA RATCLIFF, the defendant, references SMITH sending identifying information for another person to "[his] boy so he can get started," both of which may be references to others being involved in submitting the Fraudulent Applications and others from the Common IP Address. As also discussed above, all of the Fraudulent Applications, as well as numerous other EIDL applications submitted on behalf of others, were submitted to the SBA from the Common IP Address.

financial institution ("Financial Institution-1").<sup>6</sup> Based on my communications with employees of Financial Institution-1, I have learned, among other things, that Financial Institution-1 is headquartered in Manhattan, New York, and that during the relevant period, when ACH transfers were sent to accounts at Financial Institution-1, Financial Institution-1's process of reviewing batches of those ACH transfers and disbursing them into the destination accounts involved the transmission of wire communications between Manhattan and servers located in New Jersey.

17. As set forth above, the Fraudulent Applications were submitted from the Common IP Address, which subscriber records show was associated with the SMITH Address in Brooklyn, New York. Based on my communications with an employee of the SBA, I have learned, among other things, that the SBA received electronic loan applications on one of three different servers, which are located in Virginia, Washington, and Iowa. Based on my training and experience, electronic communications between Brooklyn and any of the states where the SBA maintained relevant servers would have traveled through or over the waters of the Eastern District of New York, which are within the area comprising this judicial district.

**DENISE GANT's Fraudulent EIDL Application**

18. Based on my review of records received from the SBA, email provider records, and phone carrier records, I have learned, among other things, the following:

a. On or about August 7, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a sole proprietorship under the name "Denise A Grant" (the "GANT EIDL Application"). As set forth above, in a text message exchange, RODNEY SMITH, the defendant, acknowledged misspelling GANT's name on her EIDL application.

b. The GANT EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

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<sup>6</sup> Based on my review of publicly available information, I have learned that Financial Institution-1 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-1 required proof of eligibility in order to open an account.

c. The GANT EIDL Application claimed that the "Denise A Grant" sole proprietorship was 100% owned by DENISE GANT, the defendant.

d. The GANT EIDL Application claimed, among other things, that the "Denise A Grant" sole proprietorship was established on November 21, 2018, was an "Eating & Drinking Places" and "Catering" business, had 11 employees, earned \$157,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$52,000 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The GANT EIDL Application directed that the loan payment be sent to a certain account in GANT's name (the "GANT Checking Account") at a certain financial institution ("Financial Institution-2").

f. The GANT EIDL Application listed a certain phone number ending in 1313 as GANT's contact number (the "GANT Phone Number"). Phone carrier records show that the GANT Phone Number has been assigned to "Denise A Gant" since approximately April 2019.

g. The GANT EIDL Application listed a certain email address (the "GANT Email Address"). Email provider records show that the GANT Email Address was created in or about 2010 and is subscribed to in the name of GANT. Email provider records show that GANT listed the GANT Phone Number as the recovery phone number for the GANT Email Address.

h. The GANT EIDL Application was submitted from the Common IP Address.

i. On or about August 8, 2020, the SBA approved a \$52,500 loan based on the GANT EIDL Application.<sup>7</sup>

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<sup>7</sup> Based on my review of text message exchanges, SBA records, and criminal history records, I have learned, among other things, that YOLANDA RATCLIFF, the defendant, provided to RODNEY SMITH, the defendant, a particular social security number for DENISE GANT, the defendant (the "GANT Social Security Number"). The GANT Social Security Number matches the social security number for GANT listed in criminal history records for GANT and records for the GANT Bank Account. On the Gant EIDL Application, SMITH listed the GANT Social Security Number as the "EIN/SSN for Sole Proprietorship." However, SMITH separately and incorrectly included one wrong digit in the social security number when listing GANT's personal information as the owner of the business applying for the loan.



19. Based on my review of records from Financial Institution-2, I have learned, among other things, the following:

a. On or about April 6, 2010, DENISE GANT, the defendant, opened the GANT Checking Account.

b. The GANT Checking Account regularly received payments labeled "payroll" from the City of New York. Statements for the GANT Checking Account reflect that GANT's principal source of earnings during the 12-month period ending January 31, 2020 was her job with the City of New York. Statements for the GANT Checking Account do not reflect any other significant, regular deposits during the 12-month period ending January 31, 2020, that are consistent with the operation of a sole proprietorship that purportedly earned approximately \$157,000 in revenue during that period.

c. On or about August 11, 2020, the GANT Checking Account received a payment from the SBA in the amount of \$52,400.<sup>8</sup> Immediately before receiving this payment, the balance in the GANT Checking Account was approximately \$10,223.56. As set forth above, soon after receiving her EIDL disbursement, GANT transferred approximately \$5,000 to YOLANDA RATCLIFF, the defendant. On or about August 12, 2020, GANT transferred approximately \$44,000 to a savings account she controlled at Financial Institution-2.

20. Based on my review of tax filings for DENISE GANT, the defendant, I know, among other things, that for tax years 2019, 2020, and 2021, the only income GANT reported to the Internal Revenue Service ("IRS") was her income from the City of New York. GANT did not report any income from, or file a Schedule C, Profit or Loss from Business, for, any sole proprietorship in her name.

21. Based on my review of records from the New York State Department of Labor ("NYS DOL"), I have learned that the NYS DOL does not have records that DENISE GANT, the defendant, or any sole proprietorship using her name in New York State, had any employees or paid any wages to employees during 2019 or 2020, contrary to GANT's claim in the GANT EIDL Application that her business employed 11 people.

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<sup>8</sup> Based on my review of information from the SBA's website about the EIDL program, I know that for EIDLs greater than \$25,000, the SBA charged a one-time \$100 fee in order to file a lien on the borrower's business assets.

### **EBONY SIMON's Fraudulent EIDL Application**

22. Based on my review of records received from the SBA and an email provider, I have learned, among other things, the following:

a. On or about August 7, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a sole proprietorship in the name of EBONY SIMON, the defendant (the "SIMON EIDL Application").

b. The SIMON EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The SIMON EIDL Application claimed that the sole proprietorship was 100% owned by SIMON.

d. The SIMON EIDL Application claimed, among other things, that the sole proprietorship was established on October 22, 2018, was a "Hair & Nail Salon," had 10 employees, earned \$152,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$45,000 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The SIMON EIDL Application directed that the loan payment be sent to a certain account in SIMON's name (the "SIMON Checking Account") at Financial Institution-1.

f. The SIMON EIDL Application listed a certain email address (the "SIMON Email Address"). Email provider records show that the SIMON Email Address was created in or about 2011 and is subscribed to in the name of SIMON.

g. The SIMON EIDL Application was submitted from the Common IP Address.

h. On or about August 9, 2020, the SBA approved the SIMON EIDL Application, and issued a payment to the SIMON Checking Account in the amount of \$53,500.

23. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. In or about March 2013, EBONY SIMON, the defendant, opened the SIMON Checking Account. Financial Institution-1's files for the SIMON Checking Account include a copy of SIMON's New York State driver's license.

b. The SIMON Checking Account regularly received payments labeled "payroll" from the City of New York.

c. On or about August 11, 2020, the SIMON Checking Account received an ACH transfer from the SBA in the amount of \$53,400.00. Immediately before receiving this transfer, the balance in the SIMON Checking Account was \$74.78.

d. In the period soon after the EIDL was disbursed, bank records show that, on or about August 11, 2020, SIMON withdrew \$10,000 in cash; on or about September 9, 2020, SIMON made online purchases from a luxury goods retailer totaling approximately \$3,450; and, on or about September 9, 2020, SIMON purchased a \$16,000 money order made out to herself and made a \$5,000 cash withdrawal, among other purchases.

e. Statements for the SIMON Checking Account reflect that SIMON's principal source of earnings during the 12-month period ending January 31, 2020 was her job with the NYPD. Statements for the SIMON Checking Account do not reflect any other significant deposits during the 12-month period ending January 31, 2020, and are therefore not consistent with the operation of a sole proprietorship that purportedly earned approximately \$152,000 in revenue during that period.

24. Based on my review of records from the New York Department of State and publicly available information, I have learned, among other things, the following:

a. In New York state, an individual is required to obtain a license from the New York Department of State to work on nail appearance (a nail specialty license); practice nail or hair styling, waxing, and beauty treatment (a cosmetology license); or work or train as a barber (a master or apprentice barber license).

b. EBONY SIMON, the defendant, is not licensed to work as a barber, cosmetologist, or nail specialist and was not during the relevant period, contrary to her representation on the SIMON EIDL Application that she was the sole owner of a profitable Hair & Nail Salon.

25. Based on my review of tax filings for EBONY SIMON, the defendant, I know, among other things, that SIMON filed a tax return for tax year 2019 but did not file for tax years 2020 or 2021. For tax year 2019, which covered much of the period when SIMON claimed that her sole proprietorship earned \$152,000, SIMON claimed only \$33,711 in income, which is consistent with the wages that NYPD reported paying her in that year. SIMON did not report

any income from any sole proprietorship in her name in 2019, and did not file any separate business return for a sole proprietorship in her name for 2019, 2020, or 2021.

26. Based on my review of records from the NYS DOL, I have learned that the NYS DOL does not have records that EBONY SIMON, the defendant, or any sole proprietorship using her name in New York State, had any employees or paid any wages to employees during 2019 or 2020, contrary to SIMON's claim in the SIMON EIDL Application that her business employed 10 people.

#### **PHYA SCOTT's Fraudulent EIDL Application**

27. Based on my review of records received from the SBA and an email provider, I have learned, among other things, the following:

a. On or about July 29, 2020, an EIDL application was submitted to the SBA, seeking an EIDL for a sole proprietorship in the name of PHYA SCOTT, the defendant (the "SCOTT EIDL Application").

b. The SCOTT EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The SCOTT EIDL Application claimed that the sole proprietorship was 100% owned by SCOTT.

d. The SCOTT EIDL Application claimed, among other things, that the sole proprietorship was established on March 11, 2018, was a "Hair & Nail Salon,"<sup>9</sup> had 11 employees, earned \$152,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$41,000 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The SCOTT EIDL Application directed that the loan payment be sent to a certain account in the name of SCOTT (the "SCOTT Checking Account") at a certain financial institution ("Financial Institution-3").<sup>10</sup>

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<sup>9</sup> Based on my review of records from the New York Department of State, I have learned that PHYA SCOTT, the defendant, was licensed by the State of New York as a cosmetologist from at least 1998 through the present.

<sup>10</sup> The bank account number listed on the SCOTT EIDL Application is missing one digit from the correct bank account number for the

f. The SCOTT EIDL Application listed a certain email address (the "SCOTT Email Address"). Email provider records show that the SCOTT Email Address was created in or about 2014 and is subscribed to in the name of SCOTT.

g. The SCOTT EIDL Application was submitted from the Common IP Address.

h. On or about August 1, 2020, the SBA approved the SCOTT EIDL Application, and issued a payment to the SCOTT Checking Account in the amount of \$55,500.

28. Based on my review of records from Financial Institution-3, I have learned, among other things, the following:

a. In or about January 2007, PHYA SCOTT, the defendant, opened the SCOTT Checking Account. Financial Institution-3's files for the SCOTT Checking Account list SCOTT's employer as the "NYC POLICE DEPT" and list the same phone number, social security number, and date of birth listed on the SCOTT EIDL Application.

b. The SCOTT Checking Account regularly received payments labeled "payroll" from the City of New York.

c. On or about August 4, 2020, the SCOTT Checking Account received a payment from the SBA in the amount of \$55,400. Immediately before receiving this transfer, the balance in the SCOTT Checking Account was \$1,125.91.

d. In the period soon after the EIDL was disbursed, bank records show transfers totaling \$10,000 to RODNEY SMITH, the defendant, as set forth above.

e. Statements for the SCOTT Checking Account reflect that SCOTT's principal source of earnings during the 12-month period ending January 31, 2020 was her job with the NYPD. Statements for the SCOTT Checking Account do not reflect any other significant deposits during the 12-month period ending January 31,

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SCOTT Checking Account at Financial Institution-3. However, given that, as discussed below, the EIDL was ultimately disbursed to the SCOTT Checking Account and the identifying information for the SCOTT EIDL Application and the SCOTT Checking Account match, I believe, based on my training and experience and my participation in this investigation, that SCOTT may have corrected this error after the application was submitted or otherwise transmitted the correct information to SBA.

2020, and are therefore not consistent with the operation of a sole proprietorship that purportedly earned approximately \$152,000 in revenue during that period.

29. Based on my review of tax filings for PHYA SCOTT, the defendant, I know, among other things, that SCOTT filed a personal tax return for tax year 2019, but did not file a personal tax return for tax year 2020 or 2021, and did not file any separate business return for a sole proprietorship in her name for 2019, 2020, or 2021. For tax year 2019, SCOTT reported to the IRS her salary from the NYPD and filed a Schedule C for a sole proprietorship in her own name. For the sole proprietorship, SCOTT listed the "principal business or profession" as "CONSULTANT." For this business, SCOTT reported gross receipts or sales of \$6,117 and expenses of \$41,754 for a total loss of \$35,637. These sales are far short of the gross receipts of \$152,000 that she reported on the SCOTT EIDL Application. SCOTT did not file any other Schedule C in connection with the sole proprietorship in her own name.

30. Based on my review of records from the NYS DOL, I have learned that the NYS DOL does not have records that PHYA SCOTT, the defendant, or any sole proprietorship using her name in New York State, had any employees or paid any wages to employees during 2019 or 2020, contrary to SCOTT's claim in the SCOTT EIDL Application that her business employed 11 people.

#### **PRISCILLA JACKSON's Fraudulent EIDL Application**

31. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about July 31, 2020, an EIDL application was submitted to the SBA for a sole proprietorship in the name of PRISCILLA JACKSON, the defendant (the "JACKSON EIDL Application").

b. The JACKSON EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The JACKSON EIDL Application claimed that her sole proprietorship was 100% owned by JACKSON.

d. The JACKSON EIDL Application claimed, among other things, that her sole proprietorship was established on May 2, 2018, was in the business of "Educational Services - Daycare," had 12 employees, earned \$168,000 in gross revenues during the 12-

month period ending January 31, 2020, and incurred \$48,000 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The JACKSON EIDL Application was submitted from the Common IP Address.

f. The JACKSON EIDL Application directed that the loan payment be sent to a certain account in JACKSON's name (the "JACKSON Bank Account") at Financial Institution-1.

g. The JACKSON EIDL Application listed a certain email address (the "JACKSON Email Address"), which, based on my review of subscriber records, I know was subscribed to JACKSON and created in 2008.

h. On or about August 4, 2020, the SBA emailed JACKSON at the JACKSON Email Address and requested that JACKSON sign her loan documents. That same day, JACKSON, using the JACKSON Email Address, replied that she would sign her loan documents. That same day, JACKSON signed her loan documents.

i. On or about August 4, 2020, the SBA approved a \$60,000 loan based on the JACKSON EIDL Application.

32. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. The JACKSON Bank Account regularly received payments labeled "DIR DEP" [i.e. "direct deposit"] from the MTA Bus Company.

b. On or about August 6, 2020, the JACKSON Bank Account received an ACH transfer from the SBA in the amount of \$59,900. Immediately before receiving this transfer, the balance in the JACKSON Bank Account was approximately \$5,016.87. As discussed above, JACKSON transferred \$5,000 to YOLANDA RATCLIFF the day after receiving her loan.

33. Based on my review of tax filings for PRISCILLA JACKSON, the defendant, I have learned, among other things, the following:

a. In tax year 2019, JACKSON reported adjusted gross income of \$51,753, which came from her wages from the MTA.

b. In tax year 2019, JACKSON did not file a Schedule C in connection with the sole proprietorship in her own name.

34. Based on my review of records from the NYS DOL, I have learned that the NYS DOL does not have records that PRISCILLA JACKSON, the defendant, had any employees or paid any wages to employees during 2019 or 2020, contrary to JACKSON's claim in the JACKSON EIDL Application that her business employed 12 people.

35. Based on my review of the website of the New York State Office of Children and Family Services (the "OCFS"), I have learned, among other things, that any child day care program planning to serve three or more children for more than three hours a day on a regular basis must obtain a license or registration.

36. Based on my review of records from the OCFS, I have learned that the OCFS does not have any records for PRISCILLA JACKSON, the defendant, from January 2020 through the present.<sup>11</sup>

**SHARON CHARLES's Fraudulent EIDL Application**

37. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about August 4, 2020, an EIDL application was submitted to the SBA for a sole proprietorship in the name of SHARON CHARLES, the defendant (the "CHARLES EIDL Application").

b. The CHARLES EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The CHARLES EIDL Application claimed that her sole proprietorship was 100% owned by CHARLES.

d. The CHARLES EIDL Application claimed, among other things, that her sole proprietorship was established on January 25, 2017, was in the business of "Health Services," had 5 employees, earned \$151,300 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$52,500 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The CHARLES EIDL Application was submitted from the Common IP Address.

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<sup>11</sup> Based on my review of records from a law enforcement database, I have learned that PRISCILLA JACKSON, the defendant, applied to the OCFS for a child day care license in 2014.



f. The CHARLES EIDL Application directed that the loan payment be sent to a certain account in CHARLES's name (the "CHARLES Bank Account") at Financial Institution-1.

g. The CHARLES EIDL Application listed a certain email address (the "CHARLES Email Address"), which, based on my review of subscriber records, I know was subscribed to "S CH" and created in 2016. The CHARLES Email Address was also used to open the CHARLES Bank Account in 2018. Based on the foregoing, I believe the CHARLES Email Address belongs to CHARLES.

h. On or about August 6, 2020, the SBA approved a \$49,400 loan based on the CHARLES EIDL Application.

38. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. On or about August 7, 2020, the CHARLES Bank Account received an ACH transfer from the SBA in the amount of \$49,300. Immediately before receiving this transfer, the balance in the CHARLES Bank Account was approximately \$176.13. On or about August 12, 2020, CHARLES withdrew \$5,000 in cash.

b. Statements for the CHARLES Bank Account reflect that, during 2019, CHARLES received much less than \$151,300 in total deposits, and that a significant majority of the deposits were bimonthly payments of \$150. These deposits are therefore inconsistent with the operation of a sole proprietorship that earned approximately \$151,300 in gross revenues.

39. Based on my review of tax filings for SHARON CHARLES, the defendant, I have learned, among other things, the following:

a. In tax year 2019, CHARLES reported adjusted gross income of \$94,280, which primarily came from her wages from the Fund for the City of New York.

b. In tax year 2019, CHARLES did not file a Schedule C in connection with a sole proprietorship in her own name.<sup>12</sup>

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<sup>12</sup> In tax year 2019, SHARON CHARLES, the defendant, filed a Schedule C form for the "consulting" business Sharon Charles-Hewitt Consulting LLC. CHARLES indicated that this business earned \$4,800 in gross income and had \$2,861 in total expenses. On or about July 17, 2020, CHARLES also submitted to the SBA an EIDL application for Sharon Charles-Hewitt Consulting Business. On or about February 12, 2021, CHARLES cancelled the loan application.

40. Based on my review of records from the NYS DOL, I have learned that the NYS DOL does not have records that SHARON CHARLES, the defendant, had any employees or paid any wages to employees during 2019 or 2020, contrary to CHARLES's claim in the CHARLES EIDL Application that her business employed 5 people.

**YOLANDA LAWRENCE's Fraudulent EIDL Application**

41. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about June 30, 2020, an EIDL application was submitted to the SBA for a sole proprietorship in the name of YOLANDA LAWRENCE, the defendant (the "LAWRENCE EIDL Application").

b. The LAWRENCE EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The LAWRENCE EIDL Application claimed that her sole proprietorship was 100% owned by LAWRENCE.

d. The LAWRENCE EIDL Application claimed, among other things, that her sole proprietorship was established on April 10, 2012, was in the business of "Personal Services - Hair & Nail Salon," had 9 employees, earned \$187,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$59,500 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The LAWRENCE EIDL Application was submitted from the Common IP Address.

f. The LAWRENCE EIDL Application directed that the loan payment be sent to a certain account in LAWRENCE's name ("LAWRENCE Bank Account-1") at a certain financial institution ("Financial Institution-4").

g. On or about July 1, 2020, LAWRENCE digitally signed the loan application associated with the LAWRENCE EIDL Application from a certain IP address beginning with the numbers "47" (the "47 IP Address").

h. The LAWRENCE EIDL Application listed a certain email address ("LAWRENCE Email Address-1"), which, based on my review of subscriber records, I know was subscribed to LAWRENCE and created in 2009. The subscriber information for LAWRENCE Email Address-1 also listed the following: (i) a recovery phone number

which was also listed on the LAWRENCE EIDL Application (the "LAWRENCE Phone Number"), (ii) dates on which LAWRENCE Email Address-1 was accessed from the 47 IP Address, and (iii) a recovery email address ("LAWRENCE Email Address-2").

i. On or about July 1, 2020, the SBA approved a \$9,000 advance on the LAWRENCE EIDL Application and a \$54,800 loan based on the LAWRENCE EIDL Application.

42. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about January 26, 2021, YOLANDA LAWRENCE, the defendant, using the 47 IP Address, submitted an EIDL application to the SBA for a sole proprietorship in the name of Beautiful Are the Gifts (the "Beautiful Are the Gifts EIDL Application"). The Beautiful Are the Gifts EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

b. The Beautiful Are the Gifts EIDL Application claimed that the sole proprietorship was 100% owned by LAWRENCE. The Beautiful Are the Gifts EIDL Application claimed, among other things, that the sole proprietorship was established on April 1, 2008, was in the business of "Manufacturing," had 3 employees, earned \$51,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$36,000 in cost of goods sold during the 12-month period ending January 31, 2020.

c. The Beautiful Are the Gifts EIDL Application directed that the loan payment be sent to LAWRENCE Bank Account-1. The Beautiful Are the Gifts EIDL Application listed LAWRENCE Email Address-1.

d. The SBA denied the Beautiful Are the Gifts EIDL Application.

e. On or about January 29, 2021, YOLANDA LAWRENCE, the defendant, using the 47 IP Address, submitted an EIDL application to the SBA for a sole proprietorship in the name of Lady Braids (the "Lady Braids EIDL Application"). The Lady Braids EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

f. The Lady Braids EIDL Application claimed that the sole proprietorship was 100% owned by LAWRENCE.

g. The Lady Braids EIDL Application claimed, among other things, that the sole proprietorship was established on April 21, 2006, was in the business of "Personal Services - Hair & Nail Salon," had one employee, earned \$30,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$21,500 in cost of goods sold during the 12-month period ending January 31, 2020.

h. The Lady Braids Application directed that the loan payment be sent to a certain bank account in LAWRENCE's name which also listed LAWRENCE Email Address-2 (the "LAWRENCE Bank Account-2") at Financial Institution-1. The Lady Braids Application also listed LAWRENCE Email Address-2.

i. The SBA denied the Lady Braids EIDL Application.

43. Based on my review of records from Apple for an Apple iCloud account associated with LAWRENCE Email Address-1 and the LAWRENCE Phone Number, I know that the iCloud account associated with LAWRENCE Email Address-1 was accessed numerous times from the 47 IP Address.

44. Based on my review of records from Cash App, I have learned, in substance and in part, that a Cash App account for YOLANDA LAWRENCE, the defendant, which lists LAWRENCE's date of birth, the last four digits of LAWRENCE's social security number, and LAWRENCE Email Address-2, was accessed from the 47 IP Address numerous times, including on or about June 30, 2020 and in or around January 2021.

45. Based on my review of records from Financial Institution-4, I have learned, among other things, the following:

a. On or about July 2, 2020, LAWRENCE Bank Account-1 received payments from the SBA in the amount of \$9,000 and \$54,700.

b. After receiving the loan, during the rest of July 2020, LAWRENCE Bank Account-1 had withdrawals for, among other things, \$5,000 at "Brooklyn Mitsubishi," over \$1,000 at Macys, over \$1,000 at Lacoste, and over \$800 at Old Navy.

46. Based on my review of tax filings for YOLANDA LAWRENCE, the defendant, I have learned, among other things, the following:

a. In tax year 2019, LAWRENCE reported adjusted gross income of \$39,265, which came from her wages from the City of New York.

b. In tax year 2019, LAWRENCE did not file a Schedule C in connection with the sole proprietorship in her own name, Beautiful Are the Gifts, or Lady Braids.

47. Based on my review of records from the NYS DOL, I have learned that the NYS DOL does not have records that YOLANDA LAWRENCE, the defendant, had any employees or paid any wages to employees during 2019 or 2020, contrary to LAWRENCE's claim in the LAWRENCE EIDL Application that her business employed 9 people.

48. Based on my review of records from the New York State Department of State, I have learned, among other things, the following:

a. There are no filings associated with Beautiful Are the Gifts or Lady Braids.

b. From at least January 1, 2016 through the present, YOLANDA LAWRENCE, the defendant, was not licensed as a barber or cosmetologist.

**YOLANDA RATCLIFF's Fraudulent EIDL Application**

49. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about July 29, 2020, an EIDL application was submitted to the SBA for a sole proprietorship in the name of YOLANDA RATCLIFF, the defendant (the "YOLANDA RATCLIFF EIDL Application").

b. The YOLANDA RATCLIFF EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The YOLANDA RATCLIFF EIDL Application claimed that her sole proprietorship was 100% owned by YOLANDA RATCLIFF.

d. The YOLANDA RATCLIFF EIDL Application claimed, among other things, that her sole proprietorship was established on June 6, 2018, was in the business of "Personal Services - Hair & Nail Salon," had 10 employees, earned \$160,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$40,000 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The YOLANDA RATCLIFF EIDL Application was submitted from the Common IP Address.

f. The YOLANDA RATCLIFF EIDL Application directed that the loan payment be sent to a certain account in YOLANDA RATCLIFF's name (the "YOLANDA RATCLIFF Bank Account") at Financial Institution-2.

g. The YOLANDA RATCLIFF EIDL Application listed a certain email address (the "YOLANDA RATCLIFF Email Address"), which, based on my review of subscriber records, I know was subscribed to YOLANDA RATCLIFF and created in 2009.

h. On or about August 1, 2020, the SBA approved a \$60,000 loan based on the YOLANDA RATCLIFF EIDL Application.

50. Based on my review of records from Financial Institution-2, I have learned, among other things, the following:

a. On or about August 4, 2020, the YOLANDA RATCLIFF Bank Account received a payment from the SBA in the amount of \$59,900. Immediately before receiving this transfer, the balance in the YOLANDA RATCLIFF Bank Account was approximately \$282.49.

51. Based on my review of tax filings for YOLANDA RATCLIFF, the defendant, I have learned, among other things, the following:

a. In tax year 2019, YOLANDA RATCLIFF reported adjusted gross income of \$51,544, which came from her wages from the City of New York.

b. In tax year 2019, YOLANDA RATCLIFF did not file a Schedule C in connection with the sole proprietorship in her own name.

52. Based on my review of records from the NYS DOL, I have learned that the NYS DOL does not have records that YOLANDA RATCLIFF, the defendant, had any employees or paid any wages to employees during 2019 or 2020, contrary to YOLANDA RATCLIFF's claim in the YOLANDA RATCLIFF EIDL Application that her business employed 10 people.

53. Based on my review of records from the New York State Department of State, I have learned, among other things, that, from at least January 1, 2016 through the present, YOLANDA LAWRENCE, the defendant, was not licensed as a barber or cosmetologist.

**ZHANE RATCLIFF's Fraudulent EIDL Application**

54. Based on my review of records received from the SBA, I have learned, among other things, the following:

a. On or about July 29, 2020, an EIDL application was submitted to the SBA for a sole proprietorship in the name of ZHANE RATCLIFF, the defendant (the "ZHANE RATCLIFF EIDL Application").

b. The ZHANE RATCLIFF EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

c. The ZHANE RATCLIFF EIDL Application claimed that her sole proprietorship was 100% owned by ZHANE RATCLIFF.

d. The ZHANE RATCLIFF EIDL Application claimed, among other things, that her sole proprietorship was established on November 21, 2018, was in the business of "Personal Services - Hair & Nail Salon," had 11 employees, earned \$154,000 in gross revenues during the 12-month period ending January 31, 2020, and incurred \$36,000 in cost of goods sold during the 12-month period ending January 31, 2020.

e. The ZHANE RATCLIFF EIDL Application was submitted from the Common IP Address.

f. The ZHANE RATCLIFF EIDL Application directed that the loan payment be sent to a certain account in ZHANE RATCLIFF's name (the "ZHANE RATCLIFF Bank Account") at Financial Institution-1.

g. The ZHANE RATCLIFF EIDL Application listed a certain email address (the "ZHANE RATCLIFF Email Address"), which, based on my review of subscriber records, I know was subscribed to ZHANE RATCLIFF and created in 2013.

h. On or about August 1, 2020, the SBA approved a \$59,000 loan based on the ZHANE RATCLIFF EIDL Application.

55. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. The ZHANE RATCLIFF Bank Account regularly received payments labeled "payroll" from the City of New York.

b. On or about August 4, 2020, the ZHANE RATCLIFF Bank Account received an ACH transfer from the SBA in the amount of

\$58,900. Immediately before receiving this transfer, the balance in the ZHANE RATCLIFF Bank Account was approximately \$592.61.

56. Based on my review of tax filings for ZHANE RATCLIFF, the defendant, I have learned, among other things, the following:

a. In tax year 2019, ZHANE RATCLIFF reported adjusted gross income of \$64,242.

b. In tax year 2019, ZHANE RATCLIFF did not file a Schedule C in connection with a sole proprietorship in her own name.

c. ZHANE RATCLIFF did not file any tax return, including any Schedule C, for tax year 2020.

57. Based on my review of records from the NYS DOL, I have learned that the NYS DOL does not have records that ZHANE RATCLIFF, the defendant, had any employees or paid any wages to employees during 2019 or 2020, contrary to ZHANE RATCLIFF's claim in the ZHANE RATCLIFF EIDL Application that her business employed 11 people.

58. Based on my review of records from the New York State Department of State, I have learned, among other things, that, from at least January 1, 2016 through the present, ZHANE RATCLIFF, the defendant, was not licensed as a barber or cosmetologist.

WHEREFORE, deponent respectfully requests that warrants issue for the arrest of RODNEY SMITH, DENISE GANT, EBONY SIMON, PHYA SCOTT, PRISCILLA JACKSON, SHARON CHARLES, YOLANDA LAWRENCE,



YOLANDA RATCLIFF, and ZHANE RATCLIFF, the defendants, and that they be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA


LaVale Jackson  
Special Agent  
United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this  
29th day of November 2022.



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

Approved:   
KEDAR S. BHATIA / REBECCA T. DELL / DEREK WIKSTROM  
Assistant United States Attorneys

Before: THE HONORABLE STEWART D. AARON  
United States Magistrate Judge  
Southern District of New York

**22 MAG 9637**

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: SEALED COMPLAINT  
UNITED STATES OF AMERICA :  
: Violation of  
- v. - : 18 U.S.C. §§ 1343 and 2  
: EDWIN SKEPPLE, :  
: : COUNTY OF OFFENSE:  
Defendant. : ROCKLAND  
: :  
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SOUTHERN DISTRICT OF NEW YORK, ss.:

LAVALE JACKSON, being duly sworn, deposes and says that he is a Special Agent with the United States Attorney's Office for the Southern District of New York, and charges as follows:

**COUNT ONE**  
**(Wire Fraud)**

1. From in or about July 2020 up to and including in or about August 2020, in the Southern District of New York and elsewhere, EDWIN SKEPPLE, the defendant, knowingly and with the intent to defraud, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, SKEPPLE engaged in a scheme to obtain funds from the United States Small Business Administration ("SBA") through the SBA's Economic Injury Disaster Loan ("EIDL") Program, by submitting false and fraudulent loan applications.

(Title 18, United States Code, Sections 1343 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I am a Special Agent with the United States Attorney's Office for the Southern District of New York ("USAO-SDNY"), and have been in that position for over eight years. Before joining the USAO-SDNY, I was a Special Agent with the United States Department of Labor - Office of Inspector General for more than nine years. In both of these capacities, I have participated in numerous criminal investigations, including investigations into fraud and public corruption.

3. This case arises from an investigation the USAO-SDNY, the Internal Revenue Service - Criminal Investigations ("IRS-CI"), and the SBA's Office of Inspector General ("SBA-OIG"), have been conducting into public employees who submitted or caused to be submitted fraudulent applications for SBA loans related to the COVID-19 pandemic. I have been personally involved in that investigation. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with other law enforcement officers, and my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my participation in the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

### **Overview**

4. At all times relevant to this Complaint, EDWIN SKEPPLE, the defendant, was employed by the New York City Department of Corrections ("NYC DOC").

5. In or about July 2020, EDWIN SKEPPLE, the defendant, engaged in a scheme to defraud the SBA and enrich himself, by applying for an EIDL on behalf of a sole proprietorship in his own name that purportedly provided printing and graphic design services. SKEPPLE's EIDL application contained materially false representations about his purported sole proprietorship. Based on that fraudulent application, the SBA issued an EIDL to SKEPPLE in the amount of \$50,000.

### **The SBA's EIDL Program**

6. Based on my training and experience, my review of information from the SBA's website, my review of information received from the SBA, and my communications with SBA employees, I know that:

a. The SBA is a federal agency that administers assistance to American small businesses. This assistance includes issuing certain loans, and guaranteeing loans issued by certain lenders, to qualifying small businesses. As relevant here, this assistance includes making direct loans to applicants through the EIDL program.

b. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. Among other things, the CARES Act expanded the SBA's EIDL program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020, and up to \$150,000 between in or about May 2020 and in or about December 2021, in order to provide vital economic support to help overcome the loss of revenue small businesses experienced due to COVID-19. These loans were made directly by the SBA.

c. To qualify for an EIDL under the CARES Act, an applicant had to have suffered "substantial economic injury" from COVID-19, based on an actual economic injury determined by the SBA. EIDLs could only be used for certain specified purposes, such as for payroll and other similar costs, increased costs due to supply chain interruption, to pay obligations that could not be met due to revenue loss, and for other similar uses.

d. The CARES Act also permitted applications to request an advance of up to \$10,000 to pay allowable working capital needs. Advances were expected to be paid by the SBA within three days of the submission of an EIDL application to the SBA, provided the application contained a self-certification under penalty of perjury of the applicant's eligibility for an EIDL.

e. Individuals were permitted to submit EIDL applications electronically through the SBA's website, which recorded various information about the application and applicant. Applicants received email notifications at various points in the application process, including, if applicable, when the SBA extended an offer and when the SBA approved the loan.

#### **SKEPPLE's Fraudulent EIDL Application**

7. Based on my review of records received from the SBA, an email provider, and an internet service provider, I have learned, among other things, the following:

a. On or about July 25, 2020, EDWIN SKEPPLE, the defendant, submitted an EIDL application to the SBA, seeking an EIDL for a sole proprietorship under the name "Edwin Skepple" (the "SKEPPLE EIDL Application").

b. The SKEPPLE EIDL Application was submitted from a certain Internet Protocol ("IP") address (the "SKEPPLE IP Address"). Internet service provider records show that from on or about June 23, 2020, to on or about August 7, 2020, the SKEPPLE IP Address was assigned to "edwin skepple" at a particular address in West Nyack, New York (the "SKEPPLE West Nyack Address").

c. The SKEPPLE EIDL Application contained a certification under penalty of perjury that its contents were "true and correct."

d. The SKEPPLE EIDL Application claimed that the "Edwin Skepple" sole proprietorship was 100% owned by EDWIN SKEPPLE, the defendant.

e. The SKEPPLE EIDL Application claimed, among other things, that the "Edwin Skepple" sole proprietorship was established on March 22, 2016, was a "printing/graphic design" business, earned \$250,000 in gross revenues during the 12-month period ending January 31, 2020, incurred \$150,000 in cost of goods sold during the 12-month period ending January 31, 2020, and incurred \$50,000 in lost rents due to the coronavirus pandemic.

f. The SKEPPLE EIDL Application directed that the loan payment be sent to a certain account in the name of "Edwin R Skepple" ("SKEPPLE Checking Account-1") at a certain financial institution ("Financial Institution-1").

g. The SKEPPLE EIDL Application listed a certain email address (the "SKEPPLE Email Address"). Email provider records show that the SKEPPLE Email Address was created in or about July 25, 2020, and is subscribed to in the name of "EDWIN SKEPPLE."

h. SBA notes accompanying the SKEPPLE EIDL Application show that on or about July 25, 2020, SKEPPLE indicated that he "would like to cancel his application." Nevertheless, on or about July 30, 2020, SKEPPLE "confirmed wire information" for SKEPPLE Checking Account-1. On or about the same day, July 30, 2020, SKEPPLE electronically signed the SBA's loan agreement to receive a \$50,000 EIDL.

i. On or about July 31, 2020, the SBA approved the SKEPPLE EIDL Application and a loan in the amount of \$50,000.

8. Based on my review of records from Financial Institution-1, I have learned, among other things, the following:

a. On or about May 17, 2020, EDWIN SKEPPLE, the defendant, opened SKEPPLE Checking Account-1.<sup>1</sup>

b. On or about August 4, 2020, SKEPPLE Checking Account-1 received a deposit from the SBA in the amount of \$49,900.<sup>2</sup>

c. On or about August 7, 2020, *i.e.*, soon after the EIDL was disbursed, SKEPPLE Checking Account-1 began receiving payments labeled "payroll" from the City of New York.<sup>3</sup>

d. In the period soon after the EIDL was disbursed, bank records show, among other things, that, that between on or about August 13, 2020, and on or about September 10, 2020, SKEPPLE made approximately eight cash withdrawals of \$1,000 each and one cash withdrawal of \$6,000.

9. Based on my review of records from a certain financial institution ("Financial Institution-2"),<sup>4</sup> I have learned, among other things, the following:

a. On or about September 21, 2011, EDWIN SKEPPLE, the defendant, opened an account in his own name at Financial Institution-2 ("SKEPPLE Checking Account-2"). Account opening records list SKEPPLE's name and his employer as "NYC Dept of Corrections," and list the same date of birth and social security number listed on the SKEPPLE EIDL Application.

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<sup>1</sup> Although records for SKEPPLE Checking Account-1 show that account opening documents were signed on or about May 17, 2020, bank statements show activity beginning earlier on or about April 30, 2020.

<sup>2</sup> Based on my review of information from the SBA's website about the EIDL program, I know that for EIDLs greater than \$25,000, the SBA charged a one-time \$100 fee in order to file a lien on the borrower's business assets.

<sup>3</sup> SKEPPLE Checking Account-1 received one prior payroll deposit from the City of New York on or about May 15, 2020.

<sup>4</sup> Based on my review of publicly available information, I have learned that Financial Institution-2 is a credit union for which only certain categories of individuals are eligible to open accounts, including but not limited to employees of the City of New York, and Financial Institution-2 required proof of eligibility in order to open an account.

b. Statements for SKEPPLE Checking Account-2 from in or about January 2019 to in or about January 2020 reflect that, during that period, SKEPPLE regularly received payments labeled "payroll" from the City of New York in SKEPPLE Checking Account-2.

c. Statements for SKEPPLE Checking Account-2 from in or about January 2019 to in or about January 2020 reflect that, during this period, SKEPPLE's regular source of earnings into SKEPPLE Checking Account-2 during the 12-month period ending January 31, 2020 was his job with the NYC DOC. While statements for SKEPPLE Checking Account-2 reflect other significant deposits into the account, based on the records available to me and my training and experience, I believe these other deposits are not together consistent with the operation of a sole proprietorship doing printing and graphic design work that earned approximately \$250,000 in revenue during that period.

10. Based on my review of tax filings for EDWIN SKEPPLE, the defendant, I have learned, among other things, the following:

a. For tax year 2019, the only income SKEPPLE reported to the Internal Revenue Service ("IRS") was his salary from the City of New York. SKEPPLE did not report any income from, or file a Schedule C, Profit or Loss from Business, for, any sole proprietorship in his name.

b. For tax year 2020, the only income SKEPPLE reported to the IRS was his salary from the City of New York, approximately \$78,980 rent received from approximately seven rental properties, and approximately \$4,377 income and gross receipts from ERS Foundation LLC, which SKEPPLE reported as a "real estate investment" business on a Schedule C. SKEPPLE filed no Schedule C for a business in printing/graphic design, and the Schedule C he submitted for ERS Foundation LLC listed far less gross revenue than the \$250,000 he claimed on the SKEPPLE EIDL Application. The tax return SKEPPLE filed for tax year 2020 listed the SKEPPLE West Nyack Address as SKEPPLE's "Home address."

c. For tax year 2021, the only income SKEPPLE reported to the IRS was his salary from the City of New York; approximately \$3,741 in income from a property; and approximately \$6,417 in rents received. SKEPPLE filed a Form 8995, Qualified Business Income Deduction, showing no income for ERS Foundation LLC. SKEPPLE did not report any income from, or file a Schedule C for, any sole proprietorship in his name.

11. Based on my review of records provided by the SBA, I have learned, among other things, the following:

a. In addition to submitting the SKEPPLE EIDL Application from the SKEPPLE IP Address, EDWIN SKEPPLE, the defendant, submitted several other EIDL applications from the SKEPPLE IP Address.

b. On or about July 24, 2020, SKEPPLE submitted an EIDL application from the SKEPPLE IP Address for a sole proprietorship with the name "SKEPPLE," that also provided "printing/graphic design" services. With this EIDL application, SKEPPLE listed an email address that I believe to be his workplace email address at NYC DOC. SKEPPLE also claimed \$250,000 in gross revenue (the same as the funded SKEPPLE EIDL Application); \$80,000 in cost of goods sold (less than the \$150,000 in the funded SKEPPLE EIDL Application); no lost rent due to the coronavirus pandemic (less than the \$50,000 claimed in the funded SKEPPLE EIDL Application); and he claimed that his business was established on March 26, 2017 (different than the March 22, 2016 date he claimed in the SKEPPLE EIDL Application). SBA records show that on or about July 24, 2020, SKEPPLE called SBA, requested to withdraw the application, and took no further action on it.

c. Between on or about July 5, 2020, and on or about August 8, 2020, SKEPPLE also submitted at least six applications for a real estate businesses; however, all six applications were denied.<sup>5</sup> Some of these applications were for businesses in his own name and others were for ERS Foundation LLC. These applications listed differing values of gross revenues, cost of good sold, lost rents, and dates the business was established.

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<sup>5</sup> Based on my review of SBA records, I have learned, among other things, that five of the real estate business EIDL applications were submitted from the SKEPPLE IP Address and the last was submitted from another IP address.



WHEREFORE, deponent respectfully requests that a warrant issue for the arrest of EDWIN SKEPPLE, the defendant, and that he be imprisoned or bailed, as the case may be.

/s/ LaVale Jackson, with permission by SDA  
LaVale Jackson  
Special Agent  
United States Attorney's Office for the  
Southern District of New York

Sworn to me through the transmission of this  
Complaint by reliable electronic means, pursuant to  
Federal Rule of Criminal Procedure 4.1, this  
29th day of November 2022.



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THE HONORABLE STEWART D. AARON  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK