

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION
4 CASE NO. 21-cr-20231-DMM

5 UNITED STATES OF AMERICA,
6 Plaintiff,

7 vs.

8 CARLOS VAZQUEZ,
9 Defendant.

Miami, Florida
July 12, 2021
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11 TRANSCRIPT OF CHANGE OF PLEA HEARING
12 BEFORE THE HONORABLE DONALD M. MIDDLEBROOKS
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

15 FOR THE PLAINTIFF:

United States Attorney's Office
16 BY: JOSEPH EGOZI, A.U.S.A.
17 99 Northeast Fourth Street
18 Miami, Florida 33132

19 FOR THE DEFENDANT:

20 BY: CARLOS M. FLEITES, ESQ.
21 407 Lincoln Road
22 Miami Beach, Florida 33139

23 REPORTED BY:

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11:50 AM 1

(Court called to order)

11:51 AM 2

THE COURT: This is the case of the United States
3 versus Carlos Vazquez, case number is 21-20231.

11:51 AM 4

Could we please have appearances?

11:51 AM 5

MR. EGOZI: Good morning, Your Honor. Joe Egozi on
6 behalf of the United States.

11:51 AM 7

THE COURT: Good morning.

11:51 AM 8

MR. FLEITES: Good morning, Your Honor. Carlos Fleites
9 on behalf of Mr. Vazquez.

11:51 AM 10

THE COURT: Good morning.

11:51 AM 11

Okay. First, where do we stand with vaccinations?

11:51 AM 12

MR. EGOZI: Your Honor, I am vaccinated.

11:51 AM 13

MR. FLEITES: I'm vaccinated as well, Your Honor.

11:51 AM 14

THE COURT: And your client?

11:51 AM 15

THE DEFENDANT: He's represented to me that he's not
16 vaccinated, Your Honor.

11:51 AM 17

THE COURT: All right. Well, let's keep masks on then
18 unless you're speaking, then you can remove them.

11:51 AM 19

And this is a change of plea?

11:51 AM 20

MR. FLEITES: Yes, Your Honor.

11:51 AM 21

THE COURT: And no plea agreement?

11:51 AM 22

MR. FLEITES: No, Your Honor.

11:51 AM 23

THE COURT: Let me ask the Government, are there any
24 agreements of the parties?

11:51 AM 25

MR. EGOZI: No, Your Honor. Like you had mentioned, we

1 extended a plea agreement and counsel's informed me that his
2 client is not signing that agreement, so we understand he's
3 pleaing straight up without any representations.

11:52 AM 4 THE COURT: All right. And then let me make sure I
5 know the penalties. A maximum of 30 years?

11:52 AM 6 MR. EGOZI: Your Honor, there is a change to that.
7 That was based on a misunderstanding of an enhancement dealing
8 with the Stafford Act. That actually is 20 years imprisonment
9 and the standard \$250,000 fine, three years supervised release.

11:52 AM 10 THE COURT: Three years? Up to three years?

11:52 AM 11 MR. EGOZI: Correct.

11:52 AM 12 THE COURT: And, of course, the \$100 special
13 assessment?

11:52 AM 14 MR. EGOZI: Yes, Your Honor.

11:52 AM 15 THE COURT: All right.

11:52 AM 16 Is your client ready to proceed then?

11:52 AM 17 MR. FLEITES: Your Honor, if we could have a second.
18 He's, once again, reviewing the factual proffer. I don't know
19 if he wants to proceed. Does Your Honor require that we proceed
20 with a factual proffer in absence of the plea agreement?

11:52 AM 21 THE COURT: well, I don't require it although then
22 we'll just read it and he'll have to agree to it verbally. So
23 if he wants to take some time to review it, go ahead.

11:52 AM 24 MR. FLEITES: If we could have a couple minutes, Your
25 Honor.

11:53 AM 1 (Defendant and his counsel conferring)

11:53 AM 2 MR. FLEITES: Your Honor, we're prepared to proceed
3 now.

11:53 AM 4 THE COURT: All right. Please administer the oath to
5 Mr. Vazquez.

11:54 AM 6 COURTROOM DEPUTY: Please stand, raise your right hand.

11:54 AM 7 (Defendant placed under oath)

11:54 AM 8 THE COURT: All right. Go ahead and have a seat, sir.
9 You're now under oath. If you answer falsely to any of
10 my questions, your answer could later be used against you in
11 another prosecution for perjury or for making a false statement.
12 Do you understand?

11:54 AM 13 THE DEFENDANT: Yes, sir.

11:54 AM 14 THE COURT: I'm going to ask you a series of questions.
15 The purpose of the questions is to make sure you've carefully
16 considered your decision to plead guilty in this case; to
17 determine that you're competent to make the decision; that
18 you're aware of your rights, and that there's a reason for you
19 to plead guilty; that you did what the government says you did.
20 If you don't understand any of my questions, tell me.
21 If you want to stop at any point and speak with your lawyer, you
22 may do that. Do you understand?

11:54 AM 23 THE DEFENDANT: Yes, sir.

11:54 AM 24 THE COURT: First, how far did you go in school?

11:54 AM 25 THE DEFENDANT: I didn't hear you, sir.

11:54 AM 1 THE COURT: How far did you go in school? Your
2 education?

11:54 AM 3 THE DEFENDANT: High school. I dropped out of high
4 school my last year.

11:55 AM 5 THE COURT: All right. So what, you finished 11 years?

11:55 AM 6 THE DEFENDANT: Yes, sir.

11:55 AM 7 THE COURT: Have you ever been treated for any mental
8 illness?

11:55 AM 9 THE DEFENDANT: Yes, sir.

11:55 AM 10 THE COURT: What type of treatment did you receive?

11:55 AM 11 THE DEFENDANT: The program that I'm in, sir. I
12 believe, Your Honor -- yes, substance abuse and mental abuse.

11:55 AM 13 THE COURT: Have you ever been hospitalized for it?

11:55 AM 14 THE DEFENDANT: Yes, sir.

11:55 AM 15 THE COURT: How long were you hospitalized and when?

11:55 AM 16 THE DEFENDANT: I was hospitalized 38 days of which a
17 couple of days were for that, and it was last year.

11:55 AM 18 THE COURT: All right. I saw something from Pretrial
19 Services that you were diagnosed with generalized anxiety
20 disorder and also marijuana use; is that accurate?

11:55 AM 21 THE DEFENDANT: Yes, sir.

11:55 AM 22 THE COURT: All right. And they also said you were
23 prescribed some medications. Are you taking those medications?

11:55 AM 24 THE DEFENDANT: Yes, sir.

11:55 AM 25 THE COURT: Can you tell me what those are?

11:55 AM 1 THE DEFENDANT: I don't want to lie to you, sir. I
2 don't know the name, but I'm taking medications that they
3 prescribed from the Compass Health.

11:56 AM 4 THE COURT: All right. And you're taking those at
5 present?

11:56 AM 6 THE DEFENDANT: Yes, sir.

11:56 AM 7 THE COURT: And are you under the influence of any drug
8 or alcohol or medication other than those prescribed
9 medications?

11:56 AM 10 THE DEFENDANT: No, sir.

11:56 AM 11 THE COURT: And have you been able to meet with your
12 lawyer, talk to your lawyer about your case; do you feel
13 confident in your ability to deal with this from a mental
14 standpoint?

11:56 AM 15 THE DEFENDANT: Yes.

11:56 AM 16 THE COURT: Counsel, have you seen any problem that you
17 think would merit further examination?

11:56 AM 18 MR. FLEITES: No, Your Honor. I think he understands
19 the situation around him.

11:56 AM 20 THE COURT: All right. Have you reviewed the
21 indictment, the charges filed against you in the case, and have
22 you discussed those charges with your lawyer?

11:56 AM 23 THE DEFENDANT: Yes, sir.

11:56 AM 24 THE COURT: Are you satisfied with the representation
25 your lawyer has provided to you?

11:56 AM 1 THE DEFENDANT: Yes, sir.

11:57 AM 2 THE COURT: Now, the indictment charges that -- there
3 are two counts of the indictment, and they basically charge wire
4 fraud in connection with the Coronavirus Aid Relief and Economic
5 Security Act, the CARES Act. And it's alleged that from on or
6 about June 18, 2020 continuing through on or about January 29,
7 2021, in Miami-Dade County which is in the Southern District of
8 Florida, that you knowingly, and with the intent to defraud and
9 to obtain money and property by means of materially false and
10 fraudulent representations, knowing those representations to be
11 false, that you did knowingly transmit and cause to be
12 transmitted, by means of wire communication in interstate and
13 foreign commerce, certain writings in violation of federal law.
14 And the purpose of this scheme was for you to unlawfully enrich
15 yourself by submitting a false and fraudulent PPP application to
16 obtain loan proceeds for your own use and gain. And it's
17 alleged that the SBA deposited loan proceeds in the amount of
18 \$921,875 into a bank account you controlled.

11:58 AM 19 Do you understand those are the charges against you in
20 this case?

11:58 AM 21 THE DEFENDANT: Yes, sir.

11:58 AM 22 THE COURT: All right. Now the elements of wire fraud,
23 you can be found guilty of this crime if you -- and here are the
24 four elements -- knowingly devised or participated in a scheme
25 to defraud or obtain money or property by using false

1 representations or promises; that the false representations or
2 promises were about a material fact; that you acted with the
3 intent to defraud, and that you transmitted or caused to be
4 transmitted, by wire, some communication in interstate commerce
5 to help carry out the scheme to defraud.

11:59 AM 6 Do you understand that's the nature of this crime?

11:59 AM 7 THE DEFENDANT: Yes, sir.

11:59 AM 8 THE COURT: Now, the indictment -- are forfeiture
9 allegations going to come into play in this case?

11:59 AM 10 MR. EGOZI: Yes, Your Honor. There, I believe in the
11 agreement, was a reference to a specific cashier's check, and I
12 understand the Defendant is not signing that agreement, but yes,
13 our office is seeking forfeiture to include, but not limited to,
14 a cashier's check in the amount of \$175,000. That check was
15 dated on January 29, 2021.

11:59 AM 16 THE COURT: All right. Also in this indictment are
17 allegations with respect to forfeiture and the government is
18 seeking to forfeit any property to which you have an interest
19 which was property constituting or derived from proceeds,
20 obtained directly or indirectly, as a result of the violation
21 alleged in the indictment.

12:00 PM 22 Do you understand the government is seeking to forfeit
23 assets and income of yours, including a cashier's check?

12:00 PM 24 THE DEFENDANT: Yes, sir. The cashier's check, yes.

12:00 PM 25 THE COURT: All right. Now, has the Government made

1 any promises -- well first, let me make sure you understand the
2 possible penalties for this crime. I'm obligated to calculate a
3 sentencing guideline range under the sentencing guidelines.
4 Usually a sentence falls within that range. I do have some
5 discretion to vary from the guidelines up or down, but I have to
6 take them into account, as well as other laws passed by Congress
7 related to sentencing. The Court has legal authority to
8 sentence you up to the maximum authorized by law for the offense
9 to which you're pleading guilty. You won't be able to withdraw
10 your plea as a result of the sentence imposed. Do you
11 understand?

12:01 PM 12 THE DEFENDANT: Yes, sir.

12:01 PM 13 THE COURT: All right. The possible penalties are as
14 follows: You could be sentenced to a term of imprisonment of up
15 to 20 years. Imprisonment would be followed by a term of
16 supervised release of up to three years, a fine of up to
17 \$250,000 could be ordered, and there will be a special
18 assessment of \$100 payable at sentencing.

12:01 PM 19 Do you understand these are the possible penalties for
20 this crime?

12:01 PM 21 THE DEFENDANT: Yes sir, Your Honor.

12:01 PM 22 THE COURT: Has the Government made any promises to you
23 in connection with your decision to plead guilty in this case?

12:01 PM 24 THE DEFENDANT: No sir, Your Honor.

12:01 PM 25 THE COURT: Has anyone attempted to force you to plead

1 guilty?

12:01 PM 2 THE DEFENDANT: No, sir.

12:01 PM 3 THE COURT: Are you pleading guilty of your own free
4 will because you are guilty?

12:01 PM 5 THE DEFENDANT: Yes, sir.

12:01 PM 6 THE COURT: Do you understand you have a right to plead
7 not guilty. If you plead not guilty, you have a right to a
8 trial by jury. The government would have to prove your guilt
9 beyond a reasonable doubt. You would have the right to the
10 assistance of counsel. Your lawyer could cross-examine the
11 witnesses called by the government, present witnesses on your
12 behalf. You could either testify or choose not to testify and
13 if you chose not to testify, that fact couldn't be used against
14 you in the trial.

12:02 PM 15 Do you understand you have those rights?

12:02 PM 16 THE DEFENDANT: Yes, sir.

12:02 PM 17 THE COURT: By pleading guilty, you're giving up those
18 rights and there will be no trial. Do you understand?

12:02 PM 19 THE DEFENDANT: Yes, sir.

12:02 PM 20 THE COURT: This crime's a felony. If your plea is
21 accepted, you will be adjudged guilty of a felony and may lose
22 valuable civil rights such as the right to vote, the right to
23 hold office, the right to own a firearm. Do you understand?

12:02 PM 24 THE DEFENDANT: Yes, sir.

12:02 PM 25 THE COURT: Does your client face any possible

1 immigration consequence?

12:02 PM 2 MR. FLEITES: Yes, Your Honor.

12:02 PM 3 THE COURT: All right. It's also possible that as a
4 result of the adjudication of this crime, you will be removed
5 from the United States and if you are removed, you will not be
6 able to re-enter the United States without the express written
7 permission of the Secretary for Homeland Security. Do you
8 understand?

12:02 PM 9 THE DEFENDANT: Yes, sir.

12:02 PM 10 THE COURT: Did you all end up signing that factual
11 proffer? Is that signed or not?

12:03 PM 12 well, in any event, I'm going to ask the prosecutor to
13 read what he would have proven at trial had the case gone to
14 trial. Please listen carefully. When he finishes, I will ask
15 you whether you did what the government says you did.

12:03 PM 16 And you can keep your seat so everybody can hear you.

12:03 PM 17 MR. EGOZI: Thank you, Judge. So the Defendant, Carlos
18 Vazquez, is and was the CEO and 100% own of Big League, LLC.

12:03 PM 19 On June 30, 2020 he submitted a PPP loan application
20 for \$921,875 -- sorry. \$921,875 on Big League's behalf to a
21 Georgia-based internet loan processor and PPP lender named
22 Kabbage, Inc. The PPP application traveled in interstate
23 commerce from Miami, Florida to Georgia and the Defendant
24 electronically signed the loan note that same day.

12:04 PM 25 The application contains several materially false

1 statements that Kabbage relied on, including first that Big
2 League, quote, was in operation on February 15, 2020 and had
3 employees for whom it paid salaries and payroll taxes or paid
4 independent contractors as reported on forms 1099 MISC, end
5 quote.

12:04 PM 6 Second, that Big League's average monthly payroll is
7 \$368,750.

12:04 PM 8 Third, that Big League has 64 employees.

12:04 PM 9 Fourth, a purported IRS form W-3 for from the 2019 tax
10 year submitted in support of the application which claims Big
11 League paid wages in the amount of \$4,425,000.

12:04 PM 12 As of February 15, 2020, Big League was not in
13 operation and did not have employees or payroll, so the
14 Defendant's representations to Kabbage in the PPP application
15 were false, and the Defendant intended to defraud Kabbage. He
16 reinstated Big League with the Florida Department of State
17 shortly before filing the loan application and after the
18 business had been administratively dissolved for failing to file
19 annual reports.

12:05 PM 20 The Defendant filed Big League's 2020, 2019 and 2018
21 annual reports on the same day, and Big League has never
22 registered to file taxes in Florida with the Florida Department
23 of Revenue.

12:05 PM 24 Shortly after reinstating Big League, the Defendant
25 opened a Chase business account for the business with himself as

1 the sole signatory. Chase Bank's business records show that on
2 June 30, 2020, someone logged in to Vazquez's Chase business
3 account for big league from the same IP address, 172.58.11.67,
4 that same IP that was used to apply for the PPP loan that same
5 day. A week later on July 6, 2020, Kabbage deposited \$921,875
6 in PPP loan funds into Big League's Chase account in Miami from
7 outside the state of Florida.

12:06 PM 8 From September 21, 2020 through the end of the year,
9 the Defendant issued hundreds of purported payroll checks almost
10 all in the approximate amount of \$1,494 from Big League's
11 account. One check recipient advised that she called the
12 Defendant about a job in summer 2020, and the Defendant asked
13 the recipient to meet him at the parking lot of a Chase Bank to,
14 quote, interview her. The Defendant obtained the recipient's
15 social security number and the personal information, and then
16 asked her to cash a check for him at the Chase. The Defendant
17 collected the check proceeds and the recipient never saw the
18 Defendant again.

12:06 PM 19 Another recipient of a check worked as a bodyguard for
20 the Defendant when he went to clubs and purchased expensive
21 items like watches.

12:06 PM 22 Business records show that the Defendant was the one to
23 apply for the Big League loan. First, one of the IP addresses
24 used to login to the Kabbage account was assigned to him at the
25 time; second, a search of his apartment revealed a Post-It note

1 with the exact loan amount written on it; third, his Florida ID
2 card was uploaded as part of the loan application; fourth, the
3 address for Big League on the loan application a residential
4 apartment that he owned; and fifth, finally, the phone number on
5 the loan application is the same phone number that Comcast has
6 on file for the Defendant for his home internet.

12:07 PM 7 And that concludes the Government's proffer. Thank
8 you.

12:07 PM 9 THE COURT: All right. Thank you.

12:07 PM 10 Mr. Vazquez, you heard the prosecutor describe what he
11 would prove at trial. Did you do those things?

12:07 PM 12 THE DEFENDANT: I did not do the -- giving money to
13 nobody in no parking lot, and I did not use a bodyguard to go
14 buy expensive watches or any nightclubs, sir. My health
15 condition doesn't -- barely provides me to even leave the house.

12:07 PM 16 THE COURT: All right. But in terms of the statements
17 you made to get this 900 and some -- \$921,875 loan, did you make
18 those false statements to the lender?

12:08 PM 19 THE DEFENDANT: Sir, I'm here to accept
20 responsibilities.

12:08 PM 21 THE COURT: well, but you got -- if you did the crime
22 you need to admit what you did, otherwise go to trial.

12:08 PM 23 THE DEFENDANT: Sir, that was done on my behalf. Yes,
24 sir. I will accept --

12:08 PM 25 THE COURT: Did you do it or not?

12:08 PM 1 THE DEFENDANT: Yes, sir.

12:08 PM 2 THE COURT: You did it. You made these statements and
3 false representations and sent this through the wires, this
4 application.

12:08 PM 5 THE DEFENDANT: Yes, sir.

12:08 PM 6 THE COURT: I mean, you said a minute ago somebody did
7 it on your behalf. What I'm trying to understand is whether you
8 did this or somebody else did it.

12:09 PM 9 THE DEFENDANT: I'll accept, yes sir.

12:09 PM 10 THE COURT: So you did it.

12:09 PM 11 THE DEFENDANT: Yes, sir.

12:09 PM 12 THE COURT: How do you plead to the charge? Guilty or
13 not guilty?

12:09 PM 14 THE DEFENDANT: No contest.

12:09 PM 15 THE COURT: There's no no-contest plea.

12:09 PM 16 THE DEFENDANT: Okay. Not guilty, sir.

12:09 PM 17 THE COURT: Not guilty?

12:09 PM 18 THE DEFENDANT: Excuse me. Guilty, sir.

12:09 PM 19 THE COURT: Look, have you talked about this with your
20 lawyer? I mean, you're facing a substantial penalty and if you
21 did it, I'll accept your plea. If you think you didn't do it,
22 you need to go to trial and let the jury decide. And there's no
23 no-contest plea for this crime, you're either guilty or not
24 guilty and so you need to tell me which you are.

12:09 PM 25 THE DEFENDANT: I'm guilty, sir.

12:09 PM 1 THE COURT: Any further inquiry you believe I should
2 make?

12:09 PM 3 MR. EGOZI: Your Honor, I think it's worth clarifying
4 with the Defendant that even if he is unwilling to admit that he
5 was the specific one to submit an application, that aiding and
6 abetting or agreeing with somebody else to commit this crime is
7 effectively the same for purposes of the plea, and that so long
8 as he had the requisite knowledge and awareness of all the
9 material facts, then he is equally liable under the law and
10 under the wire fraud statute.

12:10 PM 11 THE COURT: Well, what the prosecutor is saying would
12 be the case, but you just told me you did it. Now, did somebody
13 else do it with you or -- I'm trying to understand the meaning
14 of your answers. You could direct somebody to do it and you
15 would still be guilty. I don't know if you're trying to protect
16 somebody or what the situation is, but I need to know what you
17 did so I can figure out whether you're guilty or not guilty of
18 the crime charged. And so it's really not a point to dance
19 around.

12:11 PM 20 THE DEFENDANT: Your Honor, please, can you give me one
21 minute please?

12:11 PM 22 THE COURT: Sure.

12:12 PM 23 (Counsel and Defendant conferring)

12:12 PM 24 MR. FLEITES: I think we're ready to proceed.

12:12 PM 25 THE COURT: All right. Tell me where you stand. Did

1 you do these things?

12:12 PM 2 THE DEFENDANT: Your Honor, I plead guilty. It was
3 done on my behalf and I plead guilty.

12:12 PM 4 THE COURT: By on your behalf, did you tell somebody
5 else to submit this loan for you? Is that what happened? Or
6 did you submit it?

12:12 PM 7 THE DEFENDANT: I applied based to my knowledge with my
8 credit, and the paperwork was -- you know, I had knowledge that
9 I was getting a loan, but I didn't do the paperwork.

12:13 PM 10 THE COURT: Did you tell somebody else to do it or were
11 you --

12:13 PM 12 THE DEFENDANT: Yes, sir.

12:13 PM 13 THE COURT: -- what's the situation here?

12:13 PM 14 THE DEFENDANT: Yes, sir. Yes, sir.

12:13 PM 15 THE COURT: Do you know anything -- do you have any
16 concerns about this aspect of it? I don't understand what the
17 hesitancy is.

12:13 PM 18 Maybe let me ask the prosecutor. Is there some
19 indication somebody else was involved?

12:13 PM 20 MR. EGOZI: Your Honor, I don't want to make any
21 factual representations about what exactly happened in this case
22 given here that I'm standing in on behalf of AUSA Hayden
23 O'Byrne, though I do obviously have my case agent behind me here
24 from the IRS. So I would defer to defense counsel, and
25 obviously the Defendant, on what the specifics are of this case.

1 At the same time, I'll sort of repeat what I had said
2 earlier, Judge, which is if the Defendant here is unwilling to
3 necessarily take responsibility for being the one to press
4 "send", but he is willing to put on the record that he knew
5 full-well that the representations in this PPP loan application
6 were false and that there was a lender relying on those
7 representations, and that whoever did submit this application
8 did so on his behalf and with his knowledge, then I think we
9 would be comfortable moving forward.

12:14 PM 10 I also think that part of the hesitancy, I get the
11 impression, comes from the question of whether or not this
12 Defendant was going to cooperate. And that was, as I think Your
13 Honor is aware, a question going into this hearing. Defense
14 counsel has advised me that he was not going to sign the
15 agreement and our office has a policy which basically means that
16 if you don't sign the agreement, then we're not going to sit
17 down and have a proffer because we cannot rely on what's said.
18 Now, if the Defendant changes his mind about that and wants to
19 go into detail about what somebody else's involvement was in
20 this case, then perhaps it's worth recessing for a later date to
21 go over that agreement again. And of course if the Defendant
22 right now is unwilling to go into detail about what that
23 relationship was, or at least take responsibility for the
24 material elements of the indictment, then absolutely we would
25 just need to recess for later.

12:15 PM 1 MR. FLEITES: Your Honor, it's our understanding there
2 was another individual involved who purported -- and this is
3 from the criminal -- I believe it was in the complaint,
4 purported to be from Kabbage who, with Mr. Vazquez, physically
5 filled out the application and submitted the paperwork and
6 assisted Mr. Vazquez in submitting the paperwork for the
7 application. Now, subsequent to that obviously many more things
8 happened, but on the initial part there is an individual, I'm
9 sure the Government is aware of the individual. I don't know
10 whether he's indicted or unindicted or what he's doing at this
11 point, but he does exist and he was involved in assisting
12 Mr. Vazquez, and I think that's where his hesitation comes from
13 because it's his position he didn't physically press the
14 buttons, but it was done from his IP address and his computer in
15 his presence, and I understand that the evidence also shows that
16 it's got his Docusign on it.

12:16 PM 17 THE DEFENDANT: It wasn't my computer.

12:16 PM 18 MR. FLEITES: well, in your presence, would that be
19 correct?

12:16 PM 20 THE DEFENDANT: He came over to my house and he
21 represented himself as a loan officer for Kabbage, and he told
22 me if I have good credit that the government was giving out
23 loans. I have no knowledge of anything else, PPP or any of
24 that.

12:16 PM 25 MR. EGOZI: Your Honor, given the hesitancy on the

1 record, I would prefer that if the Defendant is going to plead
2 guilty that we recess this either for a week or two for
3 specifically for a change of plea, or we can set this to trial,
4 ideally at least a month or two out, given the recent
5 administrative order and you know --

12:17 PM 6 THE COURT: Well, we're trying cases. I've got a case
7 we're trying this coming Monday. When was this case set?

12:17 PM 8 MR. EGOZI: Your Honor, this case was set, I believe,
9 for the 26th of this month. I had spoken to AUSA Hayden
10 O'Byrne, the prosecuting attorney on it, and he has another
11 trial that is set at that same time, so had he asked that it at
12 least be pushed to the following month, but preferably to
13 September. I understand Your Honor has your calendar as well.

12:17 PM 14 THE COURT: Well, we're not going to do it in
15 September. What's the situation -- who decided to do this? Did
16 you decide to do this or did this other fellow, whoever this
17 loan officer or purported loan officer is? Who did it?

12:17 PM 18 THE DEFENDANT: He did everything.

12:17 PM 19 THE COURT: He did everything.

12:17 PM 20 THE DEFENDANT: Yes, sir.

12:17 PM 21 THE COURT: All right. Well --

12:18 PM 22 THE DEFENDANT: Your Honor, if I may speak? I'm here
23 today, in the most humble fashion, to accept responsibilities if
24 not knowing what the requirements were to actually fall into a
25 category to be eligible for this. I simply gave a gentleman my

1 credit, which is excellent, and I was applying for a loan, you
2 know, that the government was giving out, but I had no knowledge
3 of what he did. But I'm here in the humble manner. If that
4 constitutes me being guilty and not knowing the laws, you know
5 --

12:18 PM

6 THE COURT: well, knowledge of the law isn't a defense
7 but you got to know you're trying to take money by false
8 representations. So if you didn't know the representations were
9 false, or if you didn't know that he was sending this false
10 information in to get a loan, or if you didn't know it made a
11 difference, this information about how you had employees and a
12 payroll and -- that's why it's important for you to figure out
13 exactly what you did and didn't do and decide whether you want
14 to plead guilty.

12:19 PM

15 I'm not going to accept the plea on this record and I'm
16 going to go ahead and set it for trial. And I'm not clear -- I
17 guess the 26th you say, what's the next calendar we could put
18 this on? August 2nd?

12:19 PM

19 THE DEFENDANT: Your Honor, may I speak one more time?

12:19 PM

20 THE COURT: Sure.

12:19 PM

21 THE DEFENDANT: I want to accept responsibility.

12:19 PM

22 THE COURT: You're talking about a long prison term.
23 You don't want to accept responsibility for something you didn't
24 do. And one of the things in terms of going into a sentence for
25 what you would be sentenced to would be your role in this and

1 whether other people were more or less responsible than you,
2 played a bigger role in it, where the money went, all those
3 kinds of things are going to come up at sentencing and it will
4 impact whatever sentence you might receive. So you don't want
5 to just say "I'm accepting responsibility" and leave all that
6 open. You need to get with your lawyer, figure out what you
7 want to do, whether you want to go to trial or not. But I don't
8 see how it benefits you to say well, I'm taking the
9 responsibility if there was somebody else whose idea it was and
10 who led you down this road. That makes no sense at all. So you
11 just need to figure out what you want to do.

12:20 PM 12 And I think plea agreements are a good idea. I hear
13 you-all didn't want to do a plea agreement. A plea agreement,
14 the advantage of it is it tells you exactly where you stand and
15 so that things aren't just left -- it's easy to say I'm taking
16 responsibility, and then a lot of people who say that might be
17 real unhappy when they end up in prison for a long prison term.
18 And if it's -- I don't know what happened to the money. \$925,000
19 is a lot of money. I don't know who got it, whether you got all
20 of it, none of it, some of it, and those kind of things you
21 ought to get -- ought to decide with your lawyer, figure out the
22 best course for you to take, figure out if you want to cooperate
23 with them or not and whether or not that's even open to you.

12:21 PM 24 But there's a lot that goes into the decision you're
25 making, and from your answers I'm not clear what your

1 involvement in this was despite your statements that you want to
2 take responsibility.

12:21 PM 3 August 2nd, is that a good time for us to set this?

12:21 PM 4 MR. EGOZI: Allow me one second, Your Honor.

12:21 PM 5 MR. FLEITES: Yes, Your Honor. I'm available for trial
6 August 2nd.

12:21 PM 7 THE DEFENDANT: I don't want to go to trial. I'll
8 accept the responsibilities. I'll accept the responsibilities.

12:22 PM 9 THE COURT: why don't you all meet, figure out what you
10 want to do. If he wants to change his plea, I've got a hearing
11 at 1:30, we can do it at 3 if you're going to do it today.
12 Otherwise let's -- we'll set this for trial and --

12:22 PM 13 MR. FLEITES: Your Honor, is it possible to set it for
14 trial and then if we get a resolution in the next day or so I'll
15 call your chambers and have it put on for the change of plea in
16 the next few days?

12:22 PM 17 THE COURT: we'll be back Monday for a trial. When --
18 all right. August 2nd we'll set it for trial.

12:23 PM 19 I suggest -- where is this other prosecutor whose case
20 this is? Is he here today?

12:23 PM 21 MR. EGOZI: He is out for the day, unfortunately, Your
22 Honor.

12:23 PM 23 THE COURT: All right. Well, you need to figure out
24 what you're doing. The case is set for August 2nd here in
25 Miami. I'm here next week doing a trial, although I'll be over

1 in the Ferguson building. So if you're going to be a change of
2 plea, you need to get with Ginny and set it. And I think you
3 ought to do a plea agreement and a factual proffer and sign it
4 so we know exactly what Mr. Vazquez did or didn't do if he's
5 going to plead guilty. Okay. Have a good day.

12:23 PM 6 MR. FLEITES: Thank you, Your Honor.

12:23 PM 7 MR. EGOZI: Thank you, Your Honor.

12:23 PM 8 THE COURT: The same bond conditions remain in effect.
9 Mr. Vazquez, you've had some problems on bond. Make sure that
10 you live up to your bond conditions, or you'll end up having
11 that bond revoked.

12:24 PM 12 THE DEFENDANT: Yes, sir.

12:24 PM 13 THE COURT: Okay. Thank you.

12:24 PM 14 THE DEFENDANT: You have my word on that, sir. Thank
15 you.

12:24 PM 16 (PROCEEDINGS CONCLUDED)

12:24 PM 17 C E R T I F I C A T E

12:24 PM 18 I certify that the foregoing is a correct transcript from the
12:24 PM 19 record of proceedings in the above-entitled matter.

12:24 PM 19 2021-12-21 /s/ Dawn M. Savino, R.P.R., C.R.R.
12:24 PM 20 Date DAWN M. SAVINO, R.P.R., C.R.R.

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