IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA,	)	**UNDER SEAL**
	)	
	)	No. 1:24-CR-40
	)	
v.	)	Counts 1-4: 18 U.S.C. § 1343
	)	(Wire fraud)
CRAIG DAVID DAVIS,	)	
	)	Forfeiture Notice
Defendant.	)	

INDICTMENT

February 2024 Term – At Alexandria

THE GRAND JURY CHARGES THAT:

Introduction

At times material to this Indictment:

1. CRAIG DAVID DAVIS ("DAVIS") was the owner and operator of Bright Vanguard, LLC ("BV") for which DAVIS filed a Certificate of Formation with the Secretary of State of Texas in 2015. DAVIS described BV to others as a business that provided computer software, hardware, and storage space to other businesses. BV's mailing address was in San Antonio, Texas.

2. Bank-1, Bank-2, and Bank-3 were banks headquartered in the United States with deposits insured by the Federal Deposit Insurance Corporation.

3. The Federal Reserve Bank of Boston ("FRBB") in Massachusetts was one of twelve Federal Reserve Banks within the nationwide Federal Reserve System overseen by the Federal Reserve Board ("FRB").

4. The Department of the Treasury ("Treasury") was a department within the United States Government headquartered in Washington, D.C.

5. The Small Business Administration ("SBA") was an agency within the United States Government headquartered in Washington, D.C.

6. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in March 2020 designed to provide emergency financial assistance to Americans suffering the economic effects caused by the Covid-19 pandemic. One source of relief provided by the CARES Act was the authorization of forgivable loans to small businesses to help with payroll and other business expenses through the Payroll Protection Program ("PPP") overseen by the SBA.

7. To obtain a PPP loan, a qualifying small business had to submit a PPP loan application signed by an authorized representative of the business. The PPP loan application required the business through its representative to acknowledge the program rules and make certain affirmative certifications. The loan application required the business to state, among other things, its monthly payroll expenses, and number of employees. These figures were used to calculate the amount of money the business was eligible to receive under the PPP. In addition, the applicants were required to provide documentation showing their payroll expenses. Lenders relied on the accuracy of the information contained in the PPP applications and supporting documents.

8. Small businesses applied for PPP loans with private lenders, including banks, that had been approved to participate in the program by the SBA. When lenders decided that applications were ready for approval, the lenders sent electronic communication to the SBA E-Tran computer server in Sterling, Virginia, in the Eastern District of Virginia, containing data

from and related to the applications, including the identities of the applicants and the amounts of the proposed loans. The SBA E-Tran server processed the applications electronically. The SBA also used the E-Tran server to send return communications to notify lenders that loans could be funded as part of the PPP program. Specifically, the SBA used the E-Tran server to send an SBA loan number for the lender to use when making the PPP loan. The lenders used their own funds to make the PPP loans, but the loans were guaranteed 100 percent by the SBA.

9. The SBA required that PPP loan proceeds be used for certain expenses, including payroll, rent, mortgage payments, and utility charges. A representative of a PPP loan recipient could apply through its private lender for forgiveness of the principal and interest payments by certifying that the business had used the loan proceeds as required during a specified time period and that a specified percentage of the proceeds had been used for payroll.

10. The CARES Act also authorized the Main Street Lending Program ("MSLP"). The MSLP was an emergency lending program established by the FRB, with prior approval by the Secretary of the Treasury, in accordance with section 13(3) of the Federal Reserve Act. The MSLP was designed to support lending to small and medium-sized businesses that were in sound financial condition before the onset of the Covid-19 pandemic. As part of the MSLP, the FRBB established MS Facilities LLC ("MS Facilities"), a special-purpose vehicle, that borrowed money from the FRBB and used the funds to purchase 95 percent of the loans made by Private Lenders (defined below) that conformed to the terms of the MSLP program. The FRBB was the Managing Member of MS Facilities, and Treasury, which contributed capital to MS Facilities using funds appropriated by the CARES Act, was the Preferred Equity Member.

11. MSLP applicants, through their representatives, applied for their loans with private lenders, such as banks ("Private Lenders"), that had been approved by the FRBB for

making MSLP loans. The borrowers had to meet the eligibility requirements set by the MSLP and certify that they would abide by the terms of the program. MSLP borrowers also had to meet any additional eligibility requirements set by the Private Lenders and agree to comply with any additional terms set by the Private Lenders. The MSLP and Private Lenders required applicants to submit accurate financial information to support their applications. The MSLP and Private Lenders also required that the loan proceeds be used for business expenses, and Private Lenders often required more specific representations by the representatives of the businesses. Private Lenders relied on the accuracy of the information contained in the loan applications and supporting documents.

12. When one of the Private Lenders decided that an applicant met the requirements of the MSLP and the Private Lender, the Private Lender sent MS Facilities information about the borrower and the requested loan amount. After MS Facilities had approved the loan, MS Facilities sent the Private Lender a commitment letter stating, among other things, that MS Facilities would purchase 95 percent of the loan. The Private Lenders kept five percent of the loans and were responsible for servicing the loans. The MSLP deferred interest payments until the second year of each loan, the first repayment of principal until the third year of each loan, and the final repayment of principal until the fifth year of each loan. All MSLP loans were made between July 2020 and January 2021 and were not forgivable.

Counts 1-4
(Wire fraud)

13. Paragraphs 1 through 12 of the Indictment are re-alleged and incorporated by reference as though fully set forth herein.

14. Beginning in or around April 2020, and continuing through at least in or around June 2021, in the Eastern District of Virginia and elsewhere, the defendant,

CRAIG DAVID DAVIS,

did knowingly devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and, knowingly transmitted and caused to be transmitted by means of wire and radio communications in interstate commerce certain writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice.

<u>Purpose and Objects of the Scheme and Artifice</u>

15. It was a purpose and object of the scheme and artifice to defraud for DAVIS to unlawfully enrich himself by, among other things: (a) submitting and causing the submission of false and fraudulent PPP and MSLP loan applications to banks and financial institutions; (b) falsely promising to use the loan proceeds on permitted business expenses under the PPP and MSLP; and (c) concealing and causing the concealment of the scheme.

Ways, Manner and Means of the Scheme and Artifice

PPP Application to Bank-1

16. Between on or about April 1, 2020, and on or about April 21, 2020, DAVIS submitted an application for a PPP loan for $341,300 to Bank-1 for BV, which DAVIS knew included false information, including false employee payroll information, a false Social Security number ("SSN") for himself, a false Employee Identification number ("EIN"), false IRS Form 941s, and false attestations.

17. On or about September 16, 2021, DAVIS applied to have the PPP loan from Bank-1 to BV forgiven. In his application, DAVIS falsely attested, among other things, that the information in the application, including information related to BV's employees, was true and accurate. Bank-1 denied the application.

18. It was further part of the scheme that DAVIS concealed and caused to be concealed the fraudulent nature of the PPP application.

PPP Applications to Bank-2

19. Between on or about April 27, 2020, and on or about April 29, 2020, DAVIS submitted an application for a PPP loan for $354,000 to Bank-2 for BV, which DAVIS knew included false information and documents, such as a false name, false employee payroll information, a false SSN for himself, false IRS Form 941s, and false attestations.

20. On or about February 25, 2021, DAVIS sent a preliminary application to Bank-2 to obtain a second-draw PPP loan. In support, DAVIS provided false IRS Form 941s for 2020, a false profit and loss statement for BV, and a false SSN for himself. Bank-2 denied the application.

21. It was further part of the scheme that DAVIS concealed and caused to be concealed the fraudulent nature of the PPP applications.

MSLP Application to Bank-3

22. In and around 2020, DAVIS engaged a firm that helped clients obtain financing for their businesses. DAVIS worked with a representative of that firm, C.G., purportedly to assist DAVIS in obtaining a loan for BV to expand BV's operations. DAVIS provided C.G., both directly and indirectly, with information and documents purporting to show BV's financial condition, such as federal tax returns for BV for 2018 and 2019.

23. On or about July 3, 2020, on behalf of DAVIS and BV, C.G. contacted a representative of Bank-3, B.M., by email to indicate DAVIS's and BV's interest in obtaining a loan.

24. On or about July 7, 2020, on behalf of DAVIS and BV, C.G. communicated with B.M. by email to confirm that DAVIS and BV were interested in obtaining an MSLP loan for BV from Bank-3. In that same email, C.G. provided B.M. with documents that falsely represented BV's financial condition. These documents were supplied to C.G. by DAVIS and included, among other items, false tax returns and false financial statements for BV. Several of these documents contained false SSNs for DAVIS and false EINs for BV.

25. Beginning in or around July 2020, and continuing through in or around December 2020, C.G. sent B.M. additional materials by email, which he had received from DAVIS, in support of BV's MSLP loan application, including a false SSN and falsified personal tax returns.

26. On or about November 13, 2020, C.G. forwarded to B.M. emails from DAVIS relating to the purported nature of B.V.'s business, its financial condition, and its plans for how it would use the MSLP money.

27. On or about December 3, 2020, DAVIS, on behalf of BV, signed a loan agreement with Bank-3 for a $10 million MSLP loan, a security agreement pledging BV's assets as collateral for the loan, a promissory note promising to repay the MSLP loan, and a personal guarantee for the repayment of the loan. In those documents, DAVIS falsely represented that all the financial information that had been delivered to Bank-3 on his behalf was accurate in all material aspects and that there were no other liens in favor of other creditors previously placed on any of the BV collateral. DAVIS also agreed to provide Bank-3 with financial statements for BV for 2020 within 120 days of December 31, 2020.

28. On or about March 1, 2021, DAVIS provided Bank-3 with a false financial audit report for BV for 2020 and on or about June 30, 2021, DAVIS provided to Bank-3 a false financial audit report for BV for 2020.

29. On or about June 30, 2021, DAVIS provided to Bank-3 a second false financial audit report for BV for 2020.

<u>Executions of the Scheme and Artifice</u>

30. On or about the dates listed below, for the purpose of executing the above-described scheme, in the Eastern District of Virginia and elsewhere, CRAIG DAVID DAVIS transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, any writings, signs, signals, pictures, and sounds, as described below, each count being a separate offense:

Count	Approx. Date	Lender	Type of Communication
1	April 21, 2020	Bank-1	Electronic transmission by Bank-1 of an application for a PPP loan on behalf of BV for $341,300 to SBA's Etran server, located within

			the Eastern District of Virginia
2	April 21, 2020	Bank-1	Electronic assignment by SBA via the Etran server, located within the Eastern District of Virginia, of a SBA loan number to the PPP loan application Bank-1 submitted on behalf of BV for $341,300.
3	April 27, 2020	Bank-2	Electronic transmission by Bank-2 of an application for a PPP loan on behalf of BV for $354,000 to SBA's Etran server, located within the Eastern District of Virginia
4	April 27, 2020	Bank-2	Electronic assignment by SBA via the Etran server, located within the Eastern District of Virginia, of a SBA loan number to the PPP loan application Bank-2 submitted on behalf of BV for $354,000.

(In violation of 18 U.S.C. § 1343)

FORFEITURE NOTICE

There is probable cause that the property described in this forfeiture notice is subject to forfeiture pursuant to the statutes described herein.

1. Pursuant to Federal Rule of Criminal Procedure 32.2(a), the defendant is hereby notified that, if convicted of any of the violations of 18 U.S.C. § 1343 alleged in Counts 1 through 4 of this indictment, he shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), his interest in any property, real or personal, which constitutes or is derived from proceeds traceable to the violations of 18 U.S.C. § 1343. The property subject to forfeiture under Counts 1 through 4 includes, but is not limited to, a sum of money equal to at least $9,195,300 in United States currency, representing the amount of proceeds obtained by the defendant as a result of the offenses.

2. Pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), the defendant shall forfeit substitute property, up to the value of $9,195,300 if, by any act or omission of the defendant, the property directly derived from the charged violations cannot be located upon the exercise of due diligence; has been transferred, sold to, or deposited with a third party; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty.

(All in accordance with § 18 U.S.C. § 981(a)(1)(C); 28 U.S.C. § 2461(c)); and Federal Rule of Criminal Procedure 32.2(a)).

A TRUE BILL:

Pursuant to the E-Government Act,,
The original of this page has been filed
under seal in the Clerk's Office

FOREPERSON

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