AF Approval ~~KR for SN~~ Chief Approval

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 2:22-cr-39-SPC-NPM

DANIEL JOSEPH TISONE

AMENDED PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Roger B. Handberg, United States Attorney for the Middle District of Florida, and the defendant, Daniel Joseph Tisone, and the attorney for the defendant, Mark Eiglarsh, mutually agree as follows:

A. Particularized Terms

1. Counts Pleading To

The defendant shall enter a plea of guilty to Counts Two, Eight, Fourteen, and Eighteen of the Indictment. Count Two charges the defendant with Wire Fraud, in violation of 18 U.S.C. § 1343; Count Eight charges the defendant with Bank Fraud, in violation of 18 U.S.C. § 1344; Count Fourteen charges the defendant with Illegal Monetary Transaction, in violation of 18 U.S.C. § 1957; and Count Eighteen charges the defendant with Possession of Ammunition by a Convicted Felon, in violation of 18 U.S.C. § 922(g)(1).

2. Maximum Penalties

Counts Two and Eight each carry a maximum sentence of 30 years of imprisonment, a fine of up to $1,000,000, or twice the gross gain caused by the offense, or twice the gross loss caused by the offense, whichever is greater, a term of supervised release of not more than five years, and a special assessment of $100 per felony count. Count Fourteen carries a maximum sentence of 10 years of imprisonment, a fine of up to $250,000 or alternate fine of twice the amount of the criminally derived property, a term of supervised release of not more than three years, and a special assessment of $100 per felony count. Count Eighteen carries a maximum sentence of 10 years of imprisonment, a fine of up to $250,000, a term of supervised release of not more than three years, and a special assessment of $100 per felony count.

With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offenses, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offenses, or to the community, as set forth below.

3. Elements of the Offenses

The defendant acknowledges understanding the nature and elements of the offenses with which defendant has been charged and to which defendant is pleading guilty.

The elements of Count Two, which charges Wire Fraud in violation of 18 U.S.C. § 1343, are:

<u>First</u>: The Defendant knowingly devised or participated in a scheme to defraud, or to obtain money or property by using false pretenses, representations, or promises;

<u>Second</u>: the false pretenses, representations, or promises were about a material fact;

<u>Third</u>: The Defendant acted with the intent to defraud; and

<u>Fourth:</u> The Defendant transmitted or caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud.

The elements of Count Eight, which charges Bank Fraud in violation of 18 U.S.C. § 1344, are:

<u>First</u>: The Defendant knowingly carried out or attempted to carry out a scheme to defraud a financial institution or to get money, assets, or other property from a financial institution by using false or fraudulent pretenses, representations, or promises about a material fact;

<u>Second</u>: The false or fraudulent pretenses, representations, or promises were material;

<u>Third</u>: The Defendant intended to defraud the financial institution or someone; and

<u>Fourth</u>: The financial institution was federally insured or chartered.

The elements of Count Fourteen, which charges Illegal Monetary Transaction in violation of 18 U.S.C. 1957, are:

<u>First</u>: The Defendant knowingly engaged in a monetary transaction;

Second: The monetary transaction was of a value greater than \$10,000;

Third: The monetary transaction involved criminally derived property;

Fourth: Criminally derived property was derived from specified unlawful activity, namely Wire Fraud;

Fifth: The Defendant knew that the monetary transaction involved criminally derived property; and

Sixth: The monetary transaction took place within the United States.

The elements of Count Eighteen, which charges Possession of Ammunition by a Convicted Felon in violation of 18 U.S.C. § 922(g)(1), are:

First: The defendant knowingly possessed ammunition in or affecting interstate commerce;

Second: Before possessing the ammunition, the defendant had been convicted of a crime punishable by imprisonment for more than one year (commonly referred to as a "felony"); and

Third: At the time he possessed the ammunition, the defendant knew he had been convicted of a crime punishable by imprisonment for more than one year.

3. Counts Dismissed

At the time of sentencing, the remaining counts against the defendant, Counts One, Three through Seven, Nine through Thirteen, and Fifteen through Seventeen, will be dismissed pursuant to Fed. R. Crim. P. 11(c)(1)(A).

4. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement, related to the conduct giving rise to this plea agreement.

5. Mandatory Restitution to Victim of Offense of Conviction

Pursuant to 18 U.S.C. § 3663A and (b), defendant agrees to make full restitution to the Small Business Administration, MS Facilities, LLC, and Bank of Clarke County. While this amount will be determined and set by the Court, the defendant agrees that restitution should be ordered for at least $2,617,447.17 which he admits he obtained from the scheme.

In anticipation of a restitution order for these victims, the defendant has agreed to take all necessary steps to liquidate assets for payment toward his anticipated restitution. Doc. 41. The defendant will take all necessary steps to liquidate the assets identified in the Stipulation and apply the proceeds to his anticipated restitution order in accordance with the Stipulation and the Order allowing for prejudgment payment of restitution in this case. Docs. 41 and 37.

6. Guidelines Sentence

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States will recommend to the Court that the defendant be sentenced within the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines, as adjusted by any departure the United States has agreed to recommend in this plea agreement. The parties understand that such a recommendation is not binding on the Court and that, if it is not accepted by this

Court, neither the United States nor the defendant will be allowed to withdraw from the plea agreement, and the defendant will not be allowed to withdraw from the plea of guilty.

7. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will recommend to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG § 3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

Further, at the time of sentencing, if the defendant's offense level prior to operation of subsection (a) is level 16 or greater, and if the defendant complies with the provisions of USSG § 3E1.1(b) and all terms of this Plea Agreement, including but not limited to, the timely submission of the financial affidavit referenced in Paragraph B.5., the United States agrees to file a motion pursuant to USSG § 3E1.1(b) for a downward adjustment of one additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot and will not challenge that determination, whether by appeal, collateral attack, or otherwise.

8. Low End

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will not oppose the defendant's request to the Court that the defendant receive a sentence at the low end of the applicable guideline range, as calculated by the Court. The defendant understands that this recommendation or request is not binding on the Court, and if not accepted by the Court, the defendant will not be allowed to withdraw from the plea.

9. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 18 U.S.C. §§ 924(d)(1), 981(a)(1)(C), 982(a)(2)(A), and 982(a)(1), and 28 U.S.C. § 2461(c), whether in the possession or control of the United States, the defendant, or defendant's nominees. The assets to be forfeited specifically include, but are not limited to, the following: the $2,617,447.17 in proceeds the defendant admits he obtained as the result of the commission of the offenses, as well as the amount involved in the money laundering offense, to which the defendant is pleading guilty, as well as the following:

a) Approximately $64,813.43 seized from Bank of Clarke County account ending in 2616, held in the name of TEC Ventures LLC;

b) Approximately $832.26 seized from JP Morgan Chase account ending in 8870, held in the name of TEC Ventures LLC;

c) a 4.02 carat diamond engagement ring;

d) a 2019 Tiara 34LS boat, hull number SSUKC007L819;

e) real property located at 1001 10th Avenue South, Naples, Florida 34102, including all improvements thereon and appurtenances thereto, the legal description for which is as follows:

Unit 101, OLDE NAPLES SEAPORT, a Condominium, according to the Declaration of Condominium thereof as recorded in Official Records Book 3869, Page 3913, as amended from time to time, of the Public Records of Collier County, Florida;

f) real property located at 550 Starboard Drive, Naples, Florida 34103, including all improvements thereon and appurtenances thereto, the legal description for which is as follows:

Lot 5, Block F, THE MOORINGS, UNIT NO. 6, in accordance with and subject to the plat thereof, recorded in Plat Book 8, pages 7 and 8, of the Public Records of Collier County, Florida; and

g) assorted ammunition,

which assets constitute proceeds of the offenses and/or property involved in the offenses. While the defendant and the United States agree that the assets above are subject to forfeiture, in order to expedite the return to victims, the United States has agreed to allow the defendant to sell and liquidate the diamond engagement ring, the Tiara boat, and the two real properties, identified above, and to apply the sale proceeds to the anticipated restitution order in this case, in accordance with the terms detailed in the parties' Stipulation Regarding Restitution (Doc. 41). The defendant agrees that any payments made to the Clerk of Court from the sale of any assets in accordance with the Stipulation Regarding Restitution will not reduce his forfeiture obligation in this case. Furthermore, in the event any of these assets is not sold by 30 days prior to his sentencing, the defendant consents to entry of preliminary orders of forfeiture for these assets. The net proceeds from the forfeiture and sale of any specific assets will be credited to and reduce the amount the United States shall be entitled to forfeit as substitute assets pursuant to 21 U.S.C. § 853(p).

The defendant acknowledges and agrees that (1) the defendant obtained $2,617,447.17 as a result of the commission of the offenses and (2) as a result of the acts and omissions of the defendant, the proceeds not recovered by the United States through the forfeiture of the directly traceable assets listed herein have been transferred to third parties and cannot be located by the United States upon the exercise of due diligence. Therefore, the defendant agrees that, pursuant to 21 U.S.C. § 853(p), the United States is entitled to forfeit any other property of the defendant (substitute assets), up to the amount of proceeds the defendant obtained, as the result of the offenses of conviction and, further, the defendant consents to, and agrees not to oppose, any motion for substitute assets filed by the United States up to the amount of proceeds obtained from commission of the offenses and consents to the entry of the forfeiture order into the Treasury Offset Program.

The defendant additionally agrees that since the criminal proceeds have been transferred to third parties and cannot be located by the United States upon the exercise of due diligence, the preliminary and final orders of forfeiture should authorize the United States Attorney's Office to conduct discovery (including depositions, interrogatories, requests for production of documents, and the issuance of subpoenas), pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, to help identify, locate, and forfeit substitute assets.

The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence and the United States shall not be limited to the forfeiture of the substitute assets, if any, specifically listed in this plea agreement.

The defendant agrees and consents to the forfeiture of these assets pursuant to any federal criminal, civil, judicial or administrative forfeiture action. The defendant also agrees to waive all constitutional, statutory and procedural challenges (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture described herein constitutes an excessive fine, was not properly noticed in the charging instrument, addressed by the Court at the time of the guilty plea, announced at sentencing, or incorporated into the judgment.

The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture will satisfy the notice requirement and will be final as to the defendant at the time it is entered. In the event the forfeiture is omitted from the judgment, the defendant agrees that the forfeiture order may be incorporated into the written judgment at any time pursuant to Rule 36.

The defendant agrees to take all steps necessary to identify and locate all property subject to forfeiture (including substitute assets) and to transfer custody of such property to the United States before the defendant's sentencing. To that end, the defendant agrees to make a full and complete disclosure of all assets over which defendant exercises control, including all assets held by nominees, to execute any documents requested by the United States to obtain from any other parties by lawful means any records of assets owned by the defendant, and to consent to the release of the defendant's tax returns for the previous five years. The defendant agrees to be interviewed by the government, prior to and after sentencing, regarding such assets and their connection to criminal conduct. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States. The defendant agrees that Federal Rule of Criminal Procedure 11 and USSG § 1B1.8 will not protect from forfeiture assets disclosed by the defendant as part of the defendant's cooperation.

The defendant agrees to take all steps necessary to assist the government in obtaining clear title to the forfeitable assets before the defendant's sentencing. In addition to providing full and complete information about forfeitable assets, these steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and signing of any other documents necessary to effectuate such transfers.

The defendant agrees that, in the event the Court determines that the defendant has breached this section of the Plea Agreement, the defendant may be found ineligible for a reduction in the Guidelines calculation for acceptance of responsibility and substantial assistance, and may be eligible for an obstruction of justice enhancement.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture.

The defendant agrees that the forfeiture provisions of this plea agreement are intended to, and will, survive the defendant, notwithstanding the abatement of any underlying criminal conviction after the execution of this agreement. The forfeitability of any particular property pursuant to this agreement shall be determined as if the defendant had survived, and that determination shall be binding upon defendant's heirs, successors and assigns until the agreed forfeiture, including the forfeiture of any substitute assets, is final.

10. Abandonment of Property - Firearms and Ammunition

The United States of America and defendant hereby agree that any firearm and/or ammunition as defined in 18 U.S.C. § 921, seized from defendant and currently in the custody and/or control of the Bureau of Alcohol, Tobacco and Firearms, Federal Bureau of Investigation, or other government agency, were properly seized and are subject to forfeiture to the government according to 18 U.S.C. § 924(d) and/or that the firearms and ammunition constitute evidence, contraband, or fruits of the crime to which he/she has pled guilty. As such, defendant hereby relinquishes all claim, title and interest he/she has in the firearms and ammunition to the United States of America with the understanding and consent that the Court, upon approval of this agreement, hereby directs the Bureau of Alcohol, Tobacco and Firearms, or other appropriate agency, to cause the firearms and/or ammunition described above to be destroyed forthwith without further obligation or duty whatsoever owing to defendant or any other person.

As part of the plea agreement in this case, defendant in this case hereby states under penalty of perjury that he is the sole and rightful owner of the property, and that defendant hereby voluntarily abandons all right and claim to assorted ammunition, including Speer ammunition, Winchester ammunition, Sellier & Bellot ammunition, PMC ammunition, BVAC ammunition, Remington ammunition, IMT ammunition, Fiocchi ammunition, Blazer ammunition, FC ammunition, RP ammunition, YVX ammunition, PPU ammunition, and GFL ammunition.

B. <u>Standard Terms and Conditions</u>

1. <u>Restitution, Special Assessment and Fine</u>

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, <u>shall</u> order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663A, for all offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense(s), pursuant to 18 U.S.C. § 3663, including restitution as to all counts charged, whether or not the defendant enters a plea of guilty to such counts, and whether or not such counts are dismissed pursuant to this agreement. The defendant further understands that compliance with any restitution payment plan imposed by the Court in no way precludes the United States from simultaneously pursuing other statutory remedies for collecting restitution (28 U.S.C. § 3003(b)(2)), including, but not limited to, garnishment and execution, pursuant to the Mandatory Victims Restitution Act, and inclusion of the debt in the Treasury Offset Program, in order to ensure that the defendant's restitution obligation is satisfied.

On each count to which a plea of guilty is entered, the Court shall impose a special assessment pursuant to 18 U.S.C. § 3013. The special assessment is due on the date of sentencing.

The defendant understands that this agreement imposes no limitation as to fine.

2. Supervised Release

The defendant understands that the offense(s) to which the defendant is pleading provide(s) for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate the conditions of release, the defendant would be subject to a further term of imprisonment.

3. Immigration Consequences of Pleading Guilty

The defendant has been advised and understands that, upon conviction, a defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

4. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count(s) to which defendant pleads, to respond to comments made by the defendant or defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein, if any.

5. Financial Disclosures

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit to the United States Attorney's Office within 30 days of execution of this agreement an affidavit reflecting the defendant's financial condition. The defendant promises that his financial statement and disclosures will be complete, accurate and truthful and will include all assets in which he has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, dependent, nominee or other third party.

The defendant further agrees to execute any documents requested by the United States needed to obtain from any third parties any records of assets owned by the defendant, directly or through a nominee, and, by the execution of this Plea Agreement, consents to the release of the defendant's tax returns for the previous five years. The defendant similarly agrees and authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state, and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution, or forfeiture ordered by the Court. The defendant expressly authorizes the United States Attorney's Office to obtain current credit reports in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

6. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges that, although the parties are permitted to make recommendations and present arguments to the Court, the sentence will be determined solely by the Court, with the assistance of the United States Probation Office. Defendant further understands and acknowledges that any discussions between defendant or defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, defendant will not be permitted to withdraw defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

7. Defendant's Waiver of Right to Appeal the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal defendant's sentence on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. § 3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

8. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state, or local prosecuting authorities, although this office will bring defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

9. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of defendant's entry of a plea of guilty pursuant hereto.

10. Voluntariness

The defendant acknowledges that defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and defendant's attorney and without promise of benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges defendant's understanding of the nature of the offense or offenses to which defendant is pleading guilty and the elements thereof, including the penalties provided by law, and defendant's complete satisfaction with the representation and advice received from defendant's undersigned counsel (if any). The defendant also understands that defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in defendant's defense; but, by pleading guilty, defendant waives or gives up those rights and there will be no trial. The defendant further understands that if defendant pleads guilty, the Court may ask defendant questions about the offense or offenses to which defendant pleaded, and if defendant answers those questions under oath, on the record, and in the presence of counsel (if any), defendant's answers may later be used against defendant in a prosecution for perjury or false statement. The defendant also understands that defendant will be adjudicated guilty of the offenses to which defendant has pleaded and, if any of such offenses are felonies, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to have possession of firearms.

11. Factual Basis

Defendant is pleading guilty because defendant is in fact guilty. The defendant certifies that defendant does hereby admit that the facts set forth below are true, and were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt.

FACTS

Background on PPP, EIDL, and MSLP

In March of 2020, the Coronavirus Aid, Relief, and Economic Security ("CARES") Act was enacted as a federal law, designed to provide emergency financial assistance to the millions of Americans who were 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 for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program ("PPP"). Another source of relief was the Economic Injury Disaster Loan ("EIDL") program, which was a Small Business Administration ("SBA") program that provided low-interest financing to small businesses affected by declared disasters. The CARES Act authorized the SBA to provide EIDLs of up to $2 million to eligible businesses experiencing substantial financial disruption due to the COVID-19 pandemic. Additionally, eligible businesses could apply for an EIDL advance of up to $10,000, which was determined by the number of employees the applicant certified having and did not have to be repaid.

To obtain a PPP loan, qualifying businesses were required to submit a PPP loan application, which contained numerous certifications, to a participating PPP lender. In the PPP application, the small business (through its authorize representative) was required to state and certify, among other things, its: (a) average monthly payroll expense; and (b) number of employees. These figures were used to calculate the amount of money the small business was eligible to receive under the PPP. Furthermore, businesses applying for a PPP loan were required to provide documentation showing their payroll expenses.

PPP loan applications were processed, approved, and funded by participating lenders. The PPP loan funds were 100% guaranteed by the SBA. PPP loan proceeds were required to be used for certain permissible expenses, including payroll costs, mortgage interest, rent, and utilities. In December 2020, the SBA was authorized by federal law to guarantee Second Draw PPP loans under generally the same terms and conditions available under the original PPP ("First Draw PPP loans"). First Draw PPP loan borrowers were only eligible for Second Draw PPP loans if the borrower had 300 or fewer employees and experience a revenue reduction of 25% or greater in 2020 relative to 2019. Second Draw PPP loan applicants were also required to make the same or similar certifications and representations concerning the use of PPP funds.

To obtain an EIDL and advance, a qualifying business had to submit an application directly to the SBA and provide information about its operation, such as the number of employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. These figures were used by the SBA to calculate the EIDL and advance amount. For COVID-19 relief EIDLs, the 12-month period was that preceding January 31, 2020.

EIDL funds could be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rents, and mortgage payments. If the applicant also obtained a loan under the PPP, the EIDL funds could not be used for the same purpose as the PPP funds.

An additional source of relief for small and medium sized businesses affected by the COVID-19 pandemic was the Main Street Lending Program ("MSLP"), which was an emergency lending program established by the Federal

Reserve Board. As part of the MSLP, the Federal Reserve Bank of Boston ("FRBB") created MS Facilities LLC – a special-purpose vehicle that borrowed funds from the FRBB and used the funds to purchase participation in loans made by private lenders that conformed to the MSLP terms. Eligible MSLP borrowers would apply through a private lender. If the lender approved the application, the lender would originate and service the loan, though it would sell a 95% participation at par to MS Facilities LLC. MSLP loans were 5-year term loans. Interest repayment was deferred for the first year and principal repayment was deferred for two years.

Defendant's Background and Businesses

The defendant, Daniel Joseph Tisone, was a resident of Naples, Florida and owned and operated five businesses that had been incorporated in the State of Virginia and for which he had fraudulently sought PPP, EIDL, and MSLP loans. Those businesses were TEC Ventures, LLC ("TEC Ventures"), Rub a Dub, LLC ("RAD"), Rub a Dub Atlantic, LLC ("RAD Atlantic"), Rub a Dub Eco Wash, LLC ("RAD Eco Wash"), Rub a Dub Marines, LLC ("RAD Marines"). Additionally, the defendant owned and operated Rub a Dub Holdings, Inc. ("RAD Holdings"), which was a Delaware corporation. The defendant was a previously convicted felon as of October 24, 2007.

Wire Fraud

Between March 30, 2020 and November 9, 2020, the defendant, Daniel Joseph Tisone, electronically submitted four (4) false and fraudulent EIDL applications that were approved by the SBA. In each EIDL application, the defendant falsely represented his businesses' gross revenues and costs of goods sold for the 12 months prior to January 31, 2020 (the date of the disaster) to qualify for the loan. Further, in the EIDL applications, the defendant falsely represented the number of employees for each business. The defendant's false and fraudulent representations caused the SBA to approve a total of $562,200 in EIDL funds and $6,000 in EIDL Advance funds, which were deposited into accounts controlled by the defendant. Below is a chart summarizing each fraudulent EIDL application that was approved and funded by the SBA.

EIDL Applications					
Business	**# of Employees**	**On or About Application Date**	**Approx. Loan Amount**	**EIDL Adv**	**Indictment Count**
RAD Holdings	6	3/30/2020	$150,000	Y ($6,000)	ONE
TEC Ventures	3	4/1/2020	$112,200	N	TWO
RAD Atlantic	5	10/12/2020	$150,000	N	THREE
RAD Marines dba RAD Eco Wash	4	11/9/2020	$150,000	N	FOUR

Specifically, on April 1, 2020, the defendant electronically submitted a false and fraudulent EIDL application for TEC Ventures (Count Two). In furtherance of the fraud, the defendant submitted the application using his father's name, an individual with the initials A.T., as the applicant and without A.T.'s consent or approval. In the application, the defendant falsely represented that TEC Ventures's gross revenues for the year preceding the pandemic were $480,000 and the cost of goods sold were $249,000. The defendant's false and fraudulent representations caused the SBA to approve and fund a $112,200 EIDL for TEC Ventures. The funds were deposited into an Evolve Bank & Trust account ending in 5581, that the defendant was the sole signatory on.

Bank Fraud

Between April 20, 2020 and March 31, 2021, the defendant submitted five fraudulent PPP applications (three First Draw PPP loan applications and two Second Draw PPP loan applications) to Blue Ridge Bank, a federally-insured bank based in Virginia. In each application, the defendant falsely represented the business' number of employees and average monthly payroll. Additionally, the defendant falsely represented and certified that the PPP funds would be used to retain workers, maintain payroll, or make mortgage interest payments, lease payments, and utility payments.

In furtherance of the fraud, the defendant submitted fake quarterly federal tax returns (IRS Form 941s) for each applicant business that contained false representations about the business's quarterly payroll expenses. Additionally, the defendant unlawfully used the personal identifiable information (PII) of an individual with initials S.A. to create fake payroll documents, which enabled him to fraudulently obtain a First Draw and Second Draw PPP loan for TEC Ventures. Below is a chart summarizing each fraudulent First Draw and Second Draw PPP application that was approved and funded by Blue Ridge Bank.

Business Name	**Application Date**	**Amount Requested**	**Indictment Count**
First Draw PPP Loans			
TEC Ventures	4/20/2020	$103,900	FIVE
RAD	4/22/2020	$130,600	SIX
RAD Atlantic	7/16/2020	$130,600	SEVEN
Second Draw PPP Loans			
TEC Ventures	01/12/2021	$104,954.17	NINE
RAD Atlantic	03/31/2021	$103,900	TEN

In total, the defendant's false and fraudulent representations caused Blue Ridge Bank to approve and a fund a total of $573,954.17 in First Draw and Second Draw PPP loans for the businesses described above. The funds were deposited into accounts that were opened and controlled by the defendant.

On or about November 9, 2020, the defendant submitted a false and fraudulent MSLP application to the Bank of Clarke County, a federally-insured bank based in Virginia, for TEC Ventures (Count Eight). In support of his application, the defendant submitted false and fraudulent corporate income tax returns for the years 2018 and 2019, as well as false and fraudulent profit and loss statements for 2018, 2019, and the first nine months of 2020. These materials falsely reported revenues earned and waged paid between 2018 and 2020 by TEC Ventures. The defendant's false and fraudulent representations caused Bank of Clarke County to approve a $1,500,000 MSLP loan for TEC Ventures. The funds were deposited into a Bank of Clarke County account ending in 2616, which was controlled and maintained by the defendant.

Illegal Monetary Transaction

In total, approximately $2,617,447.17 in fraudulently obtained EIDL, PPP, and MSLP loan funds were deposited into accounts controlled and maintained by the defendant. The funds were misused for the defendant's own personal enrichment. This included monetary transactions of a value greater than $10,000. Specifically, on November 5, 2020, the defendant wired $185,000 from his Morgan Stanley account ending in 38001 to a law firm for the purchase of a residence in Naples, FL (Count Fourteen). Additionally, the defendant used fraudulently obtained loan funds to purchase more than $1,000,000 in stocks and securities with use of his Morgan Stanley brokerage accounts.

The fraudulently obtained loan funds, as well as funds derived from the fraudulently obtained loan funds, were also used to purchase a 2019 Tiara 34LS boat, a 4.02 carat diamond engagement ring, and real property located at 1001 10th Avenue South, #101, Naples, FL 34102 and real property located at 550 Starboard Drive, Naples, FL 34103.

Possession of Ammunition by a Convicted Felon

On March 30, 2022, the FBI executed a federal search warrant at the defendant's residence located at 550 Starboard Drive, Naples, FL. Prior to the search of the residence, the defendant's financial records revealed he had purchased, and had shipped to him, ammunition and firearms parts on August 13, 2020 and January 8, 2021 from online ammunition and firearms part retailers outside the State of Florida. During a search of the residence, FBI agents discovered rounds of assorted ammunition in the defendant's master bedroom and garage. Specifically, more than 800 rounds of assorted .223/5.56 caliber ammunition and 9mm ammunition were found in the defendant's residence. The assorted ammunition was manufactured by Winchester, Sellier & Bellot, PMC, BVAC, Remington, IMT, Fiocchi, Blazer, Speer, RP, YVX, PPU, FC, and FM. A portion of the ammunition found in the defendant's residence matched the type, caliber, and manufacturer of the ammunition purchased by the defendant online.

On the date the ammunition was discovered in the defendant's residence, he had already been convicted of multiple felony offenses, including those listed in the Indictment in this case. Because the defendant had actually served a term of imprisonment of more than one year in connection to a prior conviction, he was aware of his status as a convicted felon at the time he possessed the ammunition.

Additionally, an interstate nexus expert with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) examined the assorted ammunition found in the defendant's residence and determined it met the federal definition of ammunition and that it had been manufactured outside of the State of Florida. Thus, the ammunition had traveled in or affected interstate or foreign commerce before coming into the defendant's possession.

12. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or defendant's attorney with regard to such guilty plea.

13. Certification

The defendant and defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that defendant fully understands its terms.

DATED this 26 day of August, 2022.

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Defendant

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