UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA	)	Criminal Case No. 1:23-cr-15-JL-01
v.	)	
	)	Count 1-6: Wire Fraud and Attempted Wire Fraud (18 U.S.C. §§ 1343, 1349)
HEATH GAUTHIER,	)	
Defendant	)	Counts 7-9: Aggravated Identity Theft (18 U.S.C. § 1028A)

INDICTMENT

The Grand Jury charges:

At all times material to this indictment:

COUNTS ONE THROUGH SIX
Wire Fraud and Attempted Wire Fraud
[18 U.S.C. §§ 1343, 1349]

1. The defendant, HEATH GAUTHIER, was a resident of New Hampshire with a residence in Rochester.

2. Itria Ventures LLC was a non-bank lender located in New York.

3. Harvest Small Business Finance LLC was a non-bank lender located in California.

4. Fountainhead Small Business Finance LLC was a non-bank lender located in Florida.

5. ReadyCap Lending LLC was a non-bank lender located in New Jersey.

6. WebBank was an FDIC insured bank headquartered in Utah.

7. Cross River Bank was an FDIC insured bank headquartered in New Jersey.

8. Northeast Bank was an FDIC insured bank with corporate offices in Maine, Massachusetts, and New York.

9. Customers Bank was an FDIC insured bank headquartered in Pennsylvania.

<u>CARES Act Payroll Protection Program</u>

10. The United States Small Business Administration ("SBA") is an executive-branch agency of the United States government that provides support to entrepreneurs and small businesses.

11. In or around March 2020, the Coronavirus Aid, Relief, and Economic Security ("CARES") Act was enacted to provide emergency financial assistance to the millions of Americans suffering adverse economic effects caused by the COVID-19 pandemic. The CARES Act established several new temporary programs and expanded existing programs, including programs created or administered by the SBA.

12. 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").

13. To obtain a PPP loan, the authorized representative of a business was required to state the business's average monthly payroll expenses and number of employees. These figures were used to calculate the amount of money the small business was eligible to receive under the PPP.

14. A participating lender would then process the PPP loan application. If the PPP loan application was approved, the participating lender funded the PPP loan using its own monies, which were fully guaranteed by the SBA.

15. Itria Ventures LLC, Harvest Small Business Finance LLC, Fountainhead Small Business Finance LLC, ReadyCap Lending LLC, WebBank, Cross River Bank,Northeast Bank, and Customers Bank (the "Lenders") participated in the PPP as lenders to small businesses.

16. PPP loan applications were received by Lenders through server locations located outside of New Hampshire.

<u>CARES Act Economic Injury Disaster Loan Program</u>
<u>and Economic Injury Disaster Grants</u>

17. The Economic Injury Disaster Loan ("EIDL") program was another source of financial assistance provided by the CARES Act. It provided low-interest financing to small businesses, renters, and homeowners in regions affected by declared disasters. The EIDL program was administered by the SBA.

18. The CARES Act authorized the SBA to provide EIDLs to eligible small businesses experiencing substantial financial disruptions due to the COVID-19 pandemic. In addition, the CARES Act authorized the SBA to issue advances of up to $10,000 to small businesses, known as Economic Injury Disaster Grants (EIDGs). The amount of the advance was determined by the number of employees the applicant certified having. The advances did not need to be repaid.

19. To obtain an EIDL and/or EIDG, a qualifying business was required to apply to the SBA and provide information about its operations, such as the number of employees, the entity's gross business revenues, and cost of goods sold in the 12 months prior to January 31, 2020. The amount of the loan, if approved, was determined based, in part, on the information provided concerning the number of employees, gross revenue, and cost of goods.

20. Any funds issued under an EIDL or EIDG were issued directly by the SBA. EIDL funds could be used for payroll expenses, sick leave, production costs, and business

obligations, such as debts, rent, and mortgage payments.

21. EIDL and EIDG applications were received by a cloud-based platform through a server located in Des Moines, Iowa.

The Scheme and Artifice to Defraud

22. Between in or around February, 2020, and continuing through in or around March, 2021, in the District of New Hampshire and elsewhere, the defendant,

HEATH GAUTHIER,

knowingly and willfully executed and attempted to execute a scheme and artifice to defraud the Lenders and the SBA and to obtain money by means of false and fraudulent pretenses, representations, and promises.

23. GAUTHIER applied for approximately 10 PPP loans from the Lenders. The total requested loan amount of these PPP loans was approximately $990,000.

24. GAUTHIER applied for four EIDLs from the SBA. The total requested loan amount of these EIDLs was approximately $130,000.

25. GAUTHIER electronically signed and submitted each PPP and EIDL application form over the internet.

26. For some applications, GAUTHIER applied as a sole proprietor in his own name. For others, he applied for loans for one of three fictitious businesses: Sellingham Farm, Lilac City Home Care, and New England Power and Light (the "Companies").

27. Though they purport to be New Hampshire companies, none of the Companies are registered with the New Hampshire Secretary of State, and the Internal Revenue Service ("IRS") does not have records related to the Companies.

28. GAUTHIER used the identities of deceased persons to support many of his

applications. For example, GAUTHIER submitted three PPP loan applications and two EIDL applications in the names of two deceased persons, DP-1 and DP-2. In these applications GAUTHIER used the real name and social security number of DP-1 and DP-2 and included PDF images of counterfeit driver's licenses purporting to be DP-1 and DP-2 but with pictures of other people.

29. GAUTHIER also used the identities of DP-1, DP-2 and other deceased persons in supporting documentation for several of his PPP loan applications—approximately eight of whom died in or before 2011. For example, in several PPP applications GAUTHIER listed these deceased persons in false tax and payroll documents for the Companies.

30. As part of the PPP loan applications, the defendant was required to provide supporting documents substantiating his request for funds. For most PPP applications, the defendant presented tax documents that were purportedly filed with the IRS. The supporting tax documents were fraudulent because they were never filed with the IRS.

31. GAUTHIER also submitted altered municipal and bank records in support of several of his PPP applications.

32. As part of the EIDL applications, the defendant was required to provide certain information about the Companies. For each EIDL application, the defendant provided false financial and payroll information. Sometimes, the defendant also provided tax documents that were purportedly filed with the IRS. The supporting tax documents were fraudulent because they were never filed with the IRS.

33. The fraudulent documents provided in the loan applications were capable of influencing the Lenders and the SBA in making their determinations about whether to approve the loans.

The Wire Fraud Offenses

34. On or about the dates listed below, in the District of New Hampshire and elsewhere, for the purpose of executing the scheme to defraud, the defendant transmitted and caused the transmission of writings, signs, and signals in interstate commerce by sending the wire transmissions listed below to the Lenders listed below and the SBA to and through locations outside of New Hampshire.

Count	Date	PPP/ EIDL	Listed Applicant	Listed Business	Lender	Wire	Amount Awarded
1	5/19/2020	PPP	Gauthier	Heath R Gauthier	Itria Ventures	Application to lender	$70,000
2	2/9/2021	PPP	Gauthier	Sellingham Farm	Harvest Small Business Finance	Application to lender	$116,007
3	4/15/2020	EIDL	Gauthier	New England Power and Light	SBA	Application to SBA	$6,500

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

The Attempted Wire Fraud Offenses

35. On or about the dates listed below, in the District of New Hampshire and elsewhere, for the purpose of attempting to execute the scheme to defraud, the defendant transmitted and caused the transmission of writings, signs, and signals in interstate commerce by sending the wire transmissions listed below to the Lenders listed below and the SBA to and through locations outside of New Hampshire.

Count	Date	PPP/ EIDL	Listed Applicant	Listed Business	Lender	Wire	Approx. Amount Sought
4	8/4/2020	PPP	DP-1	Sellingham Farm	Itria Ventures	Application to lender	$99,000
5	8/11/2020	PPP	DP-2	Sellingham Farm	Fountainhead Small Business Finance	Application to lender	$99,000
6	6/18/2020	EIDL	DP-1	Heath Gauthier	SBA	Application to SBA	$43,500

All in violation of Title 18, United States Code, Sections 1343, 1349.

COUNTS SEVEN THROUGH NINE
Aggravated Identity Theft
18 U.S.C. § 1028A

36. The Grand Jury realleges paragraphs 1 through 33.

37. On or about the dates charted below, in the District of New Hampshire and elsewhere, the defendant,

HEATH GAUTHIER,

during and in relation to a felony violation of wire fraud and attempted wire fraud in violation of Title 18, United States Code, Sections 1343 and1349, knowingly possessed and used, without lawful authority, means of identification of another person—including the name and social security number—on applications for CARES Act loans.

Count	**Date of Application**	**Type of Application**	**Means of Identification Used**
7	8/4/2020	PPP	DP-1
8	8/11/2020	PPP	DP-2
9	6/18/2020	EIDL	DP-1

All in violation of Title 18, United States Code, Section 1028A.

NOTICE OF FORFEITURE

Upon conviction of one or more of the offenses set forth in Counts One through Nine of this Indictment, the defendants shall forfeit to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C), 982(a)(2) and 28 U.S.C. § 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense, including a sum of money equal to the proceeds of the charged offenses.

Pursuant to 21 U.S.C. § 853(p), the United States of America shall be entitled to forfeiture of substitute property if any of the property described above, as a result of any act or omission of the defendants: (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be divided without difficulty.

A TRUE BILL

Dated: February 15, 2023

/s/ FOREPERSON
FOREPERSON

JANE E. YOUNG
UNITED STATES ATTORNEY

By: /s/ Matthew T. Hunter
Matthew T. Hunter
Assistant U.S. Attorney