UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 23-cr-80154-Middlebrooks/Matthewman

18 U.S.C. § 1349
18 U.S.C. § 1343
18 U.S.C. § 1957(a)
18 U.S.C. § 981(a)(1)(C)
18 U.S.C. § 982(a)(2)(A)
18 U.S.C. § 982(a)(l)

UNITED STATES OF AMERICA

vs.

GREGORY SCOTT KEOUGH,

Defendant.

______________________________/

FILED BY SP D.C.

AUG 24 2023

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. – W.P.B.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

The Economic Injury Disaster Loan Program

1. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to Americans suffering economic harm from the COVID-19 pandemic.

2. The Economic Injury Disaster Loan ("EIDL") program was a U.S. Small Business Administration ("SBA") program that existed before the COVID-19 pandemic to provide low-interest financing to small business, renters, and homeowners in regions affected by declared disasters.

3. The CARES Act authorized the SBA to provide EIDLs to eligible small businesses experiencing substantial financial disruptions due to the COVID-19 pandemic. In order to obtain a COVID-19 EIDL, a qualifying business was required to submit an EIDL application to the SBA and

provide information about its operations, such as the number of employees, gross revenues, and the cost of goods sold for the 12-month period preceding January 31, 2020. The applicant was also required to certify that all of the information in the application was true and correct to the best of the applicant's knowledge. In addition, the CARES Act authorized the SBA to issue advances of up to $10,000 to small businesses within three days of applying for an EIDL. The amount of the advance was determined by the number of employees the applicant certified having. The advances did not have to be repaid.

4. All EIDL applications were submitted online. All applications submitted on July 11, 2020 or after were handled by an SBA contractor with servers located in Des Moines, Iowa. Prior to July 11, 2020, EIDL applications were submitted through three different servers, located in Boydton, VA, West Des Moines, IA, or Quincy, WA.

5. EIDL applications were submitted directly to the SBA and processed by the SBA with support from a government contractor. The amount of the loan was determined based, in part, on the information provided in the application concerning the number of employees, gross revenues, and cost of goods sold. Any EIDL funds were issued directly by the SBA.

Paycheck Protection Program

6. Another source of relief provided by the CARES Act was the authorization of forgivable loans to small businesses for payroll, mortgage interest, rent/lease, utilities, through a program referred to as the Paycheck Protection Program ("PPP"). In April 2020, Congress authorized additional PPP funding.

7. The PPP allowed qualifying small businesses and other organizations to receive PPP loans. Businesses were required to use PPP loan proceeds on payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be

entirely forgiven if the business spent the loan proceeds on these expense items within a designated period of time and used a certain percentage of the PPP loan proceeds on payroll expenses.

8. The amount of PPP loan that a small business was entitled to receive was determined by the number of employees employed by the business and the business' average monthly payroll costs.

9. To obtain a PPP Loan, a qualifying business was required to submit a PPP loan application which was signed by an authorized representative of the business. The PPP loan application required the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications to be eligible to obtain the PPP loan. In the PPP loan application (SBA Form 2483), the small business (through its authorized representative) was required to state, among other things, its: (a) average monthly payroll expenses; 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. In addition, businesses applying for a PPP loan were required to provide documentation confirming their payroll expenses.

10. A PPP loan application was processed by a participating lender. If a PPP loan application was approved, the participating lender disbursed the loan funds to the applicant. While a participating lender issued the PPP loan, the loan was 100% guaranteed by the SBA. Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, was transmitted by a wire transfer by the lender to the SBA in the course of processing the loan.

11. In addition, businesses applying for the PPP loan were required to provide documentation confirming their payroll expenses. Typically, businesses supplied documents showing the amount of payroll taxes reported to the Internal Revenue Service ("IRS"). Small

businesses (non-sole proprietorship) had to report and document the business' income and expenses, as typically reported to the IRS on Form W3 or Form 941. These figures and documentation were used to calculate the amount of money the small business was eligible to receive under the PPP.

The Defendant and Relevant Entities

12. **GREGORY SCOTT KEOUGH** was a resident of Palm Beach Gardens, Florida.

13. Derek Acree was a resident of Palm Beach Gardens, Florida.

14. National Financial Holdings Inc. ("NFHI"), formerly National Financial Holdings LLC, was a Delaware corporation with a registered address in Wilmington, Delaware and a principal address in Palm Beach Gardens, Palm Beach County, Florida. **GREGORY SCOTT KEOUGH** was the Chief Executive Officer of NFHI. Derek James Acree was the Chief Operating Officer of NFHI.

15. NFH Florida LLC ("NFH Florida") was a Delaware limited liability company with a registered address in Wilmington, Delaware.

16. Finova Financial LLC ("Finova Financial") was a Florida limited liability company with a principal address in Palm Beach Gardens, Palm Beach County, Florida. NFH Florida LLC is the named manager of Finova Financial.

17. NFH Partners LLC ("NFH Partners") was a Florida limited liability company with a registered address in West Palm Beach, Palm Beach County, Florida. **GREGORY SCOTT KEOUGH** was the Managing Member of NFH Partners.

18. Grupo Keough LLC ("Grupo Keough"), was a Florida limited liability company with a registered address in West Palm Beach, Palm Beach County, Florida. **GREGORY SCOTT KEOUGH** and Individual 1 were the Managing Members of Grupo Keough.

19. Enclave Partners LLC ("Enclave") was a Florida limited liability company with a registered address in West Palm Beach, Palm Beach County, Florida. **GREGORY SCOTT**

KEOUGH and Individual 1 were the managing members of Enclave.

Relevant Financial Institutions

20. Bank of America was a federally insured financial institution headquartered in Charlotte, North Carolina, with offices located in the state of Florida.

21. First Home Bank ("FH Bank"), now known as BayFirst National Bank, was a federally insured financial institution headquartered in St. Petersburg, Florida.

22. Silicon Valley Bank ("SV Bank") was a federally insured financial institution headquartered in Santa Clara, California.

23. TD Bank ("TD Bank") was a federally insured financial institution headquartered in Cherry Hill, New Jersey, with offices located in the state of Florida.

24. Truist Bank, formerly known as BB&T Bank, was a federally insured financial institution headquartered in Charlotte, North Carolina, with offices located in the state of Florida.

COUNT 1
Conspiracy to Commit Wire Fraud
18 U.S.C. § 1349

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around March 2020, and continuing through in or around October 2020, the exact dates being unknown to the grand jury, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

GREGORY SCOTT KEOUGH,

did knowingly and willfully combine, conspire, confederate, and agree with Derek Acree to commit an offense against the United States, that is, to knowingly devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises and to transmit and cause to be transmitted by means of wire communication in interstate commerce writings, signs, signals, and pictures for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE CONSPIRACY

3. It was the purpose of the conspiracy for the conspirators to unlawfully enrich themselves and others by, among other things, submitting and causing the submission of false and fraudulent applications for EIDL and PPP loans and diverting the proceeds of those loans for **GREGORY SCOTT KEOUGH's** and Derek Acree's personal use and benefit and to further the conspiracy.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendant and his coconspirator sought to accomplish the object and purpose of the conspiracy included, among others, the following:

4. In or around March 2020, **GREGORY SCOTT KEOUGH** and Derek Acree entered an agreement whereby Derek Acree would submit EIDL and PPP loan applications that contained fraudulent and false statements on behalf of NFHI. Once EIDL and PPP loan funds were received, **GREGORY SCOTT KEOUGH** and Derek Acree personally benefitted and shared the proceeds.

5. On or about March 31, 2020, Derek Acree submitted an EIDL application on behalf NFHI to SBA's online portal. This EIDL application, which sought approximately $509,900 in EIDL funds, included false statements about the NFHI's gross revenues for the twelve months prior to the date of the disaster (January 31, 2020). As a result of the false and fraudulent statements, SBA approved the application and sent the requested funds to Finova Financial's Truist Bank account ending in 5893.

6. On or about April 3, 2020, Derek Acree submitted a PPP loan application on behalf NFHI to FH Bank's online portal. This PPP application, which sought approximately $376,300 in PPP funds, included false statements about NFHI's number of employees and NFHI's average monthly payroll. As a result of the false and fraudulent statements, FH Bank approved the PPP loan application and transferred approximately $376,300 into NFHI's SV Bank account ending in 0470.

7. **GREGORY SCOTT KEOUGH** and Derek Acree each spent much of the loan proceeds for his personal use and benefit, not for payroll costs, interest on mortgages, rent, or utilities.

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

<u>COUNTS 2-3</u>
Wire Fraud
18 U.S.C. § 1343

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around March 2020, and continuing through in or around October 2020, the exact dates being unknown to the grand jury, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

GREGORY SCOTT KEOUGH,

did knowingly, and with the intent to defraud, 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, knowing that the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, certain writings, signs, signals, pictures, and sounds.

PURPOSE OF THE SCHEME AND ARTIFICE

3. It was the purpose of the scheme and artifice for the Defendant and Derek Acree to each unlawfully enrich himself and others by, among other things, submitting and causing the submission of false and fraudulent applications for EIDL and PPP loans and diverting the proceeds of those loans for **GREGORY SCOTT KEOUGH's** and Derek Acree's personal use and benefit and to further the conspiracy.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE

4. The allegations contained in paragraphs 4 through 7 of the Manner and Means of the Conspiracy section of Count 1 are realleged and incorporated by reference as though fully stet forth herein as a description of the scheme and artifice.

USE OF THE WIRES

5. On or about the dates specified below, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

GREGORY SCOTT KEOUGH,

and Derek Acree for the purpose of executing and in furtherance of the aforesaid scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, did knowingly transmit and cause to be transmitted in interstate commerce, by means of wire communication, certain writings, signs, signals, pictures, and sounds, that is, an electronic transmission of a fraudulent EIDL or PPP application in the name of the entity described in the table below to SBA.

COUNT	APPROXIMATE DATE OF WIRE TRANSMISSION	ENTITY	LOAN TYPE
2	March 31, 2020	NFHI	EIDL

3	April 3, 2020	NFHI	PPP

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS 4-7
Wire Fraud
18 U.S.C. § 1343

6. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

7. From in or around March 2020, and continuing through in or around June 2020, the exact dates being unknown to the grand jury, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

GREGORY SCOTT KEOUGH,

did knowingly, and with the intent to defraud, 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, knowing that the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, certain writings, signs, signals, pictures, and sounds.

PURPOSE OF THE SCHEME AND ARTIFICE

8. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich himself and others by, among other things, submitting and causing the submission of false and fraudulent applications for EIDL and PPP loans and diverting the proceeds of those loans for the defendant's own personal use and benefit.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE

9. On or about March 31, 2020, **GREGORY SCOTT KEOUGH** submitted and caused to be submitted an EIDL application on behalf NFH Partners to SBA's online portal. This EIDL application, which sought approximately $150,000 in EIDL funds, included false statements about NFH PARTNERS' gross revenues for the twelve months prior to the date of the disaster (January 31, 2020).

10. As a result of the false and fraudulent representations made in this EIDL application, SBA approved the application. SBA disbursed EIDL proceeds in the amount of $149,900 into NFH Partners' TD Bank account ending in 5925, for which **GREGORY SCOTT KEOUGH** was a signatory.

11. On or about April 8, 2020, **GREGORY SCOTT KEOUGH** submitted and caused to be submitted an EIDL application on behalf of Grupo Keough to SBA's online portal. This application, which sought approximately $150,000 in EIDL funds, included false statements about Grupo Keough's gross revenues for the twelve months prior to the date of the disaster (January 31, 2020).

12. As a result of the false and fraudulent representations made in this EIDL application, SBA disbursed EIDL proceeds in the amount of $149,900 into Grupo Keough's Bank of America account ending in 1970, for which **GREGORY SCOTT KEOUGH** was a signatory.

13. On or about April 8, 2020, **GREGORY SCOTT KEOUGH** submitted and caused to be submitted a PPP application on behalf Grupo Keough to Bank of America's online portal. This application sought approximately $126,750 in PPP funds. This PPP application, which sought approximately $126,750, included false statements about Grupo Keough's average monthly payroll and number of employees. This application was not approved by Bank of America.

14. On or about April 9, 2020, **GREGORY SCOTT KEOUGH** submitted and caused to be submitted an EIDL application on behalf of Enclave to SBA's online portal. This EIDL application included false statements about Enclave's gross revenues for the twelve months prior to the date of the disaster (January 31, 2020). This application was not approved by SBA.

USE OF THE WIRES

15. On or about the dates specified below, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

GREGORY SCOTT KEOUGH,

for the purpose of executing and in furtherance of the aforesaid scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, did knowingly transmit and cause to be transmitted in interstate commerce, by means of wire communication, certain writings, signs, signals, pictures, and sounds, that is, an electronic transmission of a fraudulent EIDL or PPP application in the name of the entity described in the table below to SBA.

COUNT	APPROXIMATE DATE OF WIRE TRANSMISSION	ENTITY	LOAN TYPE
4	March 31, 2020	NFH Partners	EIDL
5	April 8, 2020	Grupo Keough	EIDL
6	April 8, 2020	Grupo Keough	PPP
7	April 9, 2020	Enclave	EIDL

In violation of Title 18, United States Code, Section 1343.

COUNTS 8-11
Money Laundering
(18 U.S.C. § 1957(a))

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. On or about the dates specified below, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

GREGORY SCOTT KEOUGH,

did knowingly engage in a monetary transaction by, through, and to a financial institution affecting interstate commerce in criminally derived property of a value greater than $10,000, such property having been derived from a specified unlawful activity, knowing that the property involved in the monetary transactions represented the proceeds of some form of unlawful activity, in violation of Title 18 United States Code, Section 1343.

COUNT	APPROXIMATE DATE OF TRANSACTION	DESCRIPTION OF TRANSACTION
8	May 26, 2020	Cash withdrawal in the amount of $57,500 and identified with withdrawal transaction ID #: 745900276.
9	June 17, 2020	Cash withdrawal in the amount of $44,500 and identified with withdrawal transaction ID #: 546686426.
10	July 15, 2020	Cash withdrawal in the amount of $52,500 and identified with withdrawal transaction ID #: 764553316.
11	August 12, 2020	Cash withdrawal in the amount of $45,000 and identified with withdrawal transaction ID #: 767315631.

In violation of Title 18, United States Code, Section 1957.

FORFEITURE ALLEGATIONS

1. The allegations of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **GREGORY SCOTT KEOUGH**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1349, as alleged in this Indictment, the defendant, shall forfeit to the United States, any property, real or personal, which constitutes or is derived from proceeds traceable to such offense, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

3. Upon conviction of a violation of Title 18, United States Code, Section 1343, as alleged in this Indictment, the defendant shall forfeit to the United States any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such offense, pursuant to Title 18, United States Code, Section 982(a)(2)(A).

4. Upon conviction of a violation of Title 18, United States Code, Section 1957, as alleged in this Indictment, the defendant shall forfeit to the United States any property, real or personal, involved in such offense, and any property traceable to such property, pursuant to Title 18, United States Code, Section 982(a)(l).

5. If any of the property described above, as a result of any act or omission of the defendant:

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,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 982(a)(1), and 982(a)(2)(A), and the procedures set forth at Title 21, United States Code, Section 853, as incorporated by Title 18, United States Code, Section 982(b)(1), and Title 28, United States Code, Section 2461(c).

A TRUE BILL

FOREPERSON

Anthony W. Lacosta for
MARKENZY LAPOINTE
UNITED STATES ATTORNEY

Robin Waugh
ROBIN W. WAUGH
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA **CASE NO.:** 23-cr-80154-Middlebrooks/Matthewman

v.

GREGORY SCOTT KEOUGH,
_______________________________/
Defendant.

CERTIFICATE OF TRIAL ATTORNEY

Court Division (select one)
☐ Miami ☐ Key West ☐ FTP
☐ FTL ☒ WPB

Superseding Case Information:
New Defendant(s) (Yes or No) ______
Number of New Defendants ______
Total number of counts ______

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. §3161.
3. Interpreter: (Yes or No) No
   List language and/or dialect: ______________
4. This case will take 6 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

(Check only one)		(Check only one)
I	☐ 0 to 5 days	☐ Petty
II	☒ 6 to 10 days	☐ Minor
III	☐ 11 to 20 days	☐ Misdemeanor
IV	☐ 21 to 60 days	☒ Felony
V	☐ 61 days and over	

6. Has this case been previously filed in this District Court? (Yes or No) No
   If yes, Judge ______________________ Case No. ______________________
7. Has a complaint been filed in this matter? (Yes or No) Yes
   If yes, Magistrate Case No. 23-mj-8393-WM
8. Does this case relate to a previously filed matter in this District Court? (Yes or No) ______
   If yes, Judge ______________________ Case No. ______________________
9. Defendant(s) in federal custody as of August 9, 2023
10. Defendant(s) in state custody as of ______________________
11. Rule 20 from the __________ District of ______________
12. Is this a potential death penalty case? (Yes or No) No
13. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard? (Yes or No) No
14. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss? (Yes or No) No
15. Did this matter involve the participation of or consultation with now Magistrate Judge Eduardo I. Sanchez during his tenure at the U.S. Attorney's Office, which concluded on January 22, 2023? No

By: ______________________
Robin W. Waugh
Assistant United States Attorney
FL Bar No. 0537837

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: **GREGORY SCOTT KEOUGH**

Case No: 23-cr-80154-Middlebrooks/Matthewman

Count #: 1

Conspiracy to Commit Wire Fraud

18 U.S.C. § 1349
*** Max. Term of Imprisonment: 20 years' imprisonment**
*** Mandatory Min. Term of Imprisonment (if applicable): N/A**
*** Max. Supervised Release: 3 years term of supervised release**
*** Max. Fine: $250,000 fine or twice the gross loss or gross gain**

Count #s: 2 - 7:

Wire Fraud

18 U.S.C. § 1343
*** Max. Term of Imprisonment: 20 years' imprisonment**
*** Mandatory Min. Term of Imprisonment (if applicable): N/A**
*** Max. Supervised Release: 3 years term of supervised release**
*** Max. Fine: $250,000 fine or twice the gross loss or gross gain**

Count #s: 8 and 11:

Engaging in Monetary Transactions in Criminally Derived Property

18 U.S.C. § 1957
*** Max. Term of Imprisonment: 10 years' imprisonment**
*** Mandatory Min. Term of Imprisonment (if applicable): N/A**
*** Max. Supervised Release: 3 years term of supervised release**
*** Max. Fine: $250,000 fine or twice the value of the criminally derived property involved in the transaction**

***Refers only to possible term of incarceration, supervised release and fines. It does not include restitution, special assessments, parole terms, or forfeitures that may be applicable.**