IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA,

PLAINTIFF,

V. CASE NO.: 2:24-CR-000192-01

KISHA SUTTON,

DEFENDANT.

DEFENDANT'S SECOND MOTION TO CONTINUE TRIAL, PRE-TRIAL DEADLINES

Now comes the Defendant, Kisha Sutton, by and through counsel, Connor Robertson, and respectfully requests this Court to Continue the Trial and associated Pre-Trial Deadlines for an additional 90 days in order to allow undersigned counsel to properly prepare as undersigned counsel recently discovered new and potentially exculpatory/favorable information relating to the parties/participants in this case. In support thereof, the Defendant states as follows:

1. Defendant self-reported to the Southern District of West Virginia traveling from New York on or about February 20, 2025. Undersigned counsel was appointed at that time.
2. After arraignment, the United States served discovery upon the Defendant, through undersigned counsel, which was received on or about Tuesday, March 11, 2025.
3. Defendant's deadline for pre-trial motions was previously set by the Court on Thursday, March 13, 2013, two days after discovery was received.

4. Undersigned counsel requested additional time, via a Motion to Continue, in order to have time to review the discovery, meet with the Government, meet with the client and properly prepare for trial.
5. The Court granted the request for a continuance on or about April 2, 2025 setting a new Trial date for June 9, 2025 and Pre-Trial Motions deadline of May 6, 2025.
6. Since that time, undersigned counsel has diligently reviewed the voluminous discovery turned over by the Government in this case and conferenced with his client regarding the same. Additionally, undersigned counsel has conferred with the Government regarding key pieces of evidence in order to fully understand the case.
7. After reviewing said evidence, the government's theory of the case became more evident than it was than simply reviewing the Indictment which was silent as to what companies were involved in the PPP loan process and how their actions fit into the alleged scheme. For example, the Indictment simply listed Financial Institution 1 as the victim of the alleged Bank Fraud scheme, but undersigned counsel didn't find out who Financial Institution 1 was until a full and detailed review of the voluminous discovery.
8. After having the opportunity to understand the alleged scheme more specifically and what financial institutions and other companies were involved, undersigned counsel began to investigate the financial institutions and third party administrators role in the PPP loan process in order to determine whether or not their involvement in the alleged scheme caused, contributed to, or in any way facilitated the alleged fraudulent activity.

9. As it stands, and is now more fully understood, the allegations against Ms. Sutton alleged that she used a financial platform called, Womply, to apply for PPP loans on behalf of her acquaintances. Womply is a financial technology company that acted as a third-party administrator to process PPP loan applications and connect the applications with private lenders who would fund the PPP loans. Womply, based on information and belief, is not a financial institution as defined by federal law. It is understood now that Womply would auto-populate many of the application questions with answers leaving the user to simply hit send on the application without the user having to input specific information. Upon submission of the application on the Womply platform, Womply would then connect with the lender to fund the loan if approved. One of these lenders is a company called “Harvest”. It is believed that Harvest is one of the Financial Institutions involved in this case that meets the definition under Federal Law.

10. On Thursday, May 1, 2025, undersigned counsel began investigating what Womply was to determine if it qualified as a Financial Institution as defined by federal law. In doing so, undersigned counsel uncovered a treasure trove of information indicating that the United States Government, more specifically the Small Business Administration, found that Womply facilitated fraud during the Covid-19 pandemic and has now been removed from use by the SBA and criminal investigations into Womply continue. Additionally, the reports detail how lenders like Harvest failed to even review the PPP Loan applications processed by Womply opting to fund the loans without any underwriting. The report issued from a select subcommittee on the coronavirus crisis detailed how companies like Womply generated billions of

dollars in profits in processing loans and how lenders like Harvest failed to even review the loan applications. It is hard to imagine, in a bank fraud prosecution, where "materiality" of false or fraudulent statements is at issue, that a lender was victimized when they failed to even review the application and instead acted as a rubber stamp. It is also difficult to understand how or why Ms. Sutton would have to pay restitution or forfeiture to a company like "Harvest" the alleged lender and victim, when they made billions from the government and were fully secured in funding the loans. *See* New Select Subcommittee Report Reveals How Fintech Companies Facilitated Fraud in the Paycheck Protection Program | House Select Subcommittee on the Coronavirus Crisis.

11. The basis for this Motion to Continue is to allow undersigned counsel to figure out how all of this information fits into the defense of Ms. Sutton's case. Undersigned counsel has reached out to banking experts to inquire if consulting and/or expert witness testimony might be necessary.

12. Given this late uncovering of this information in relation to undersigned Pre-Trial Motion's deadline, undersigned counsel asks the Court for more time to investigate and determine how this information fits into the defense of this case and what next steps might be necessary.

Wherefore, the Defendant respectfully requests this Court to Continue the Trial and Pre-Trial Deadlines and for other such relief as is necessary and proper.

Respectfully submitted,
By Counsel

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CERTIFICATE OF SERVICE

I, Connor Robertson, certify that on the 6th day of May, 2025, a copy of the foregoing motion was served on the United States by ECF, to Jonathan Storage, Assistant United States Attorney to the following:

Jonathan Storage
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