UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

RAFAEL MARTINEZ,

Defendant.

SUPSERSEDING INFORMATION

S2 22 Cr. 251 (LJL)

COUNT ONE
(Conspiracy to Commit Wire Fraud)

The United States Attorney charges:

1. From in or about April 2020 through at least in or about February 2022, in the Southern District of New York and elsewhere, RAFAEL MARTINEZ, the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to commit an offense against the United States, to wit, wire fraud, in violation of Title 18, United States Code, Section 1343.

2. It was a part and an object of the conspiracy that RAFAEL MARTINEZ, the defendant, and others known and unknown, knowingly having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, which affected a financial institution, in violation of Title 18, United States Code, Section 1343, to wit, (a) MARTINEZ and others used false and fraudulent pretenses, representations, and documents to fraudulently obtain capital to issue loans through the Paycheck Protection Program (the "PPP") from both an insurance company (the "Company") and the Federal

Reserve Bank of San Francisco, and to earn millions of dollars in lender fees associated with the PPP, including by, among other things, making false representations to the United States Small Business Administration (the "SBA") in order to obtain approval for his company, MBE Capital Partners, LLC ("MBE"), to become a non-bank PPP lender; and (b) MARTINEZ and others engaged in a scheme to obtain a Government-guaranteed PPP loan for MBE from an FDIC-insured bank by means of false and fraudulent pretenses, representations, and documents.

Overt Acts

3. In furtherance of the conspiracy and to effect its illegal object, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about April 5, 2020, RAFAEL MARTINEZ, the defendant, applied to a financial institution for a government-guaranteed PPP loan for Republic Group, d/b/a MBE.

b. On or about April 9, 2020, within five days of applying for the PPP loan referenced above, MARTINEZ submitted an application to the SBA for MBE to become a non-bank PPP lender.

c. On or about April 15, 2020, in connection with MBE's application for a PPP loan, MARTINEZ submitted to a financial institution fraudulent IRS Forms 941 (Employer's Quarterly Federal Tax Return) for MBE, including the forged signature of MBE's tax preparer, who had not prepared or signed the forms.

(Title 18, United States Code, Section 371.)

FORFEITURE ALLEGATIONS

4. As the result of committing the wire fraud offense charged in Count One of this Superseding Information, RAFAEL MARTINEZ, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any and all property constituting, or derived from, proceeds obtained directly or indirectly, as a result of the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense, and the following specific property:

a. i. $250,273.84 formerly on deposit in JPMorgan Chase Bank, N.A. account number 3375794608, held in the name of Rafael Martinez, seized by the Government on or about March 8, 2022;

b. ii. $10,544,757.26 formerly on deposit in Carver Federal Savings Bank account number 110013868, held in the name of "MBE Capital Partners, LLC," seized by the Government on or about March 9, 2022;

c. $4,560,000 formerly on deposit in Citibank, N.A. account number 9348809151, held in the name of Rafael Martinez, seized by the Government on or about March 9, 2022;

d. The real property commonly described as 21 Shinnecock Trails, Franklin Lakes, New Jersey 07417, more particularly described as Lot 7.01 on Block 1106.05 in the Municipality of Franklin Lakes in Bergen County, as recorded on April 15, 2021, and associated with Document No./Book-Page: 2021057494 / 4081-102;

e. The real property commonly described as a 1.19-acre lot on Costamar 10, Casa De Campo, 22000 Buena Vista, Dominican Republic, at the location with Global Positioning System coordinates 18.42557, -68.96918;

f. A White 2017 Ferrari Model 488 Spider, with VIN No. ZFF80AMAXH0228614, and New Jersey License Plate No. D7NWE;

g. A Black 1962 Mercedes Benz Model 190, with VIN No. 1210421000394, and New Jersey License Plate No. S69NAZ;

h. A Black 2021 BMW Model 750, with VIN No. WBA7U2C04MCF02203, and New Jersey License Plate No. R56PBG;

i. A 2017 Bentley Model Continental GT, with VIN No. SCBFT7ZA9HC061995; and

j. A 2018 Porsche Model 911 Turbo, with VIN No. WP0CD2A98JS162197, and New Jersey License Plate No. M38PVZ.

Substitute Assets Provision

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

k. cannot be located upon the exercise of due diligence;

l. has been transferred or sold to, or deposited with, a third person;

m. has been placed beyond the jurisdiction of the Court;

n. has been substantially diminished in value; or

o. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461, to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 982;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)

DAMIAN WILLIAMS
United States Attorney