AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Middle District of Florida

United States of America
v.
AL CLINT LAROCHE

Defendant(s)

Case No. 2:22-mj- 1127-NPM

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 2020 in the county of Collier in the Middle District of Florida, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. § 1014	False Statement to Lending Institution

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT.

☑ Continued on the attached sheet.

Complainant's signature

Grace M. Bruno, Special Agent, FBI

Printed name and title

Sworn to me via reliable electronic means (telephone):

Date: 10/31/2022

Judge's signature

City and state: Fort Myers, Florida

Nicholas P. Mizell, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF WARRANT

I, Grace M. Bruno, being duly sworn, states as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), Tampa Field Office- Fort Myers Resident Agency, and have been employed in this capacity since June 2021. As a Special Agent assigned to the criminal squad, I am responsible for the investigation of violations of United States federal law, specifically complex financial crimes, to include violations of 18 U.S.C. §§ 1014 (False Statement to Lending Institution) and 1344 (Bank Fraud), as well as other crimes related to Pandemic Relief Fraud.

2. This affidavit supports an application for a criminal complaint and arrest warrant for Al Clint LaRoche ("**LAROCHE**") for the fraudulent submission of a Paycheck Protection Program ("PPP") application to a federally insured financial institution. Specifically, **LAROCHE** fraudulently obtained a $449,500 PPP loan by making false and fraudulent statements in a PPP loan application in violation of 18 U.S.C. § 1014.

3. This affidavit is based on my personal investigation and investigation by others, including federal law enforcement officials whom I know to be reliable and trustworthy. The facts contained herein have been obtained by interviewing witnesses and examining documents obtained in the course of this investigation. This affidavit does not include every fact known to me concerning this investigation, but rather only those facts sufficient to establish probable cause.

OVERVIEW OF THE PAYCHECK PROTECTION PROGRAM

4. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted in or around March 2020 designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to $349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the PPP. In or around April 2020, Congress authorized over $300 billion in additional funding.

5. In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to obtain a PPP loan. In the PPP loan application, the small business (through its authorized representative) must state, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation to the lending institution showing their payroll expenses. Typically, businesses would supply documents showing the amount of payroll taxes reported to the Internal

Revenue Service ("IRS") by submitting copies of their Quarterly Federal Tax Returns ("Form 941").

6. A PPP loan application must be processed by a participating lender. If a PPP loan application is approved, the participating lender funds the PPP loan using its own monies, which are 100% guaranteed by the Small Business Administration ("SBA"). Data from the application, including information from the borrower, the total amount of the loan, and the listed number of employees, is transmitted by the lender to the SBA in the course of processing the loan.

7. PPP loan proceeds MUST be used by the business on certain permissible expenses – payroll costs, interest on mortgages, rent, and utilities. The PPP allows interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

THE PPP LENDER AND SERVICE PROVIDER

8. The Lender is a financial institution federally insured by the Federal Deposit Insurance Corporation ("FDIC"). The Lender is based in Luray, Virginia and participated in the SBA's PPP as a lender and, as such, was authorized to lend funds to eligible borrowers under the terms of PPP.

9. The Service Provider was a financial services and technology company based in Naples, Florida. The Service Provider participated in the SBA's PPP by, among other things, acting as a service provider between small businesses and the

Lender. Small businesses seeking PPP loans could apply through the Service Provider for PPP loans. The Service Provider would receive and review the loan application. If a loan application received by the Service Provider was approved for funding, the Lender disbursed the loan funds to the applicant.

BACKGROUND OF LAROCHE AND BORNWILD

10. The United States is investigating a fraudulent PPP application that was submitted by **LAROCHE** for the business Bornwild, LLC ("Bornwild"). According to Florida Division of Corporation records, Bornwild was originally formed as a Florida Limited Liability ("LLC") on February 10, 2014, with **LAROCHE** listed as the only authorized member. In 2015, Bornwild became an inactive LLC and was later was reinstated as an LLC on August 5, 2020. Further, Bornwild's principal place of business was listed as a residence located at 284 Gazetta Way, West Palm Beach, FL, 33413 (the "Gazetta Residence"), which is also where **LAROCHE** resided at or around the time he fraudulently applied for a PPP loan. In loan applications and correspondence reviewed by your Affiant, **LAROCHE** represented that Bornwild was involved in the entertainment services industry, as well as the restaurant industry.

LAROCHE'S FRAUDULENT PPP APPLICATION

11. On or about April 18, 2020, **LAROCHE**, through the Service Provider, signed and submitted a PPP loan application to the Lender on behalf of Bornwild seeking approximately $449,500 in PPP loan funds. The loan amount was calculated

based on Bornwild's average monthly payroll, listed on the application as $179,815.00, and number of employees, listed on the application as 61 employees. Additionally, on the PPP Application, **LAROCHE** identified himself as the owner of Bornwild, holding a 100% ownership interest. The application further indicated the purpose of the loan was for payroll, rent/mortgage interest, and utilities.

12. Along with the PPP loan application, **LAROCHE** submitted supporting payroll documents in the form of Bornwild's Quarterly Federal Tax Returns (Form 941) for each quarter of 2019. The following relevant information was contained on the Form 941s:

Year/ Quarter	EIN	Business Address	# of Employees	Wages, tips, and other compensation
2019/ Q1	46- 4922693	284 Gezetta West Palm Beach, FL	50	$ 530, 065.55
2019/ Q2	46- 4922693	284 Gezetta West Palm Beach, FL	52	$ 515, 411.80
2019/ Q3	46- 4922693	284 Gezetta West Palm Beach, FL	54	$ 499.682.39
2019/ Q4	46- 4922693	284 Gezetta West Palm Beach, FL	63	$564,182.36

13. Additionally, each Form 941 contained the name and signature of an individual who prepared the Form 941, which revealed the Form 941s were prepared by a payroll company based in Oklahoma City, OK (hereinafter, the "Payroll Company"). As part of the investigation, your Affiant subpoenaed copies of the Form 941s from the Payroll Company. In their response, the Payroll Company indicated they did not provide payroll services to, nor did they prepare 941s for, Bornwild or **LAROCHE.**

14. The Payroll Company also reviewed the Form 941s that **LAROCHE** submitted with his PPP application and indicated the Form 941s belonged to another business (the "Actual Business") the Payroll Company provided payroll services to. The Payroll Company provided your Affiant copies of the Form 941s for 2019 that were filed and submitted by the Payroll Company for the Actual Business. The Actual Business is a restaurant based in New York, New York. Your Affiant has reviewed and compared the Form 941s submitted by **LAROCHE** to the Actual Business. After comparing both, it appears that **LAROCHE** altered the Actual Business' Form 941s to include Bornwild's business name, address, and EIN[1] number, but kept the Actual Business' quarterly tax numbers (number of employees, payroll, and federal income tax withheld). Therefore, there is probable cause to believe that **LAROCHE** submitted fraudulent Form 941s to the Lender as proof of payroll in order qualify for the PPP loan.

15. Further, as part of the investigation, your Affiant reviewed records from the Florida Department of Revenue, which maintains records of wages paid to employees by employers in the state. The Florida Department of Revenue had no records of wages paid to any employees of Bornwild during 2019 and 2020.

16. As part of the PPP Application, **LAROCHE** was required to make certain representations, authorizations, and certifications. Specifically, regarding the use of PPP funds, **LAROCHE** represented that "all SBA Loan proceeds will be used

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[1] An EIN or Employer ID Number is also known as a Federal Tax Identification Number and is used to identify a business entity.

only for business related purposes as specified in the loan application." **LAROCHE** also certified, among other things, that the PPP funds acquired from the requested loan would "be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments." He further certified that he understood that the federal government could pursue criminal fraud charges if the "funds are used for unauthorized purposes." These statements were knowingly false when made because, as further detailed below, **LAROCHE** knowingly misused the PPP loan proceeds for unauthorized purposes.

17. The Lender subsequently approved **LAROCHE's** PPP application and, on August 11, 2020, deposited $449,400 in PPP loan funds into a checking account ending in 6207 in the name of Bornwild LLC (hereinafter, "BW 6207") that was opened by **LAROCHE** on or about August 5, 2020. **LAROCHE** was the account's sole signatory.

LAROCHE'S MISUSE OF PPP LOAN FUNDS

18. As stated above, **LAROCHE** opened BW 6207 on or about August 5, 2020. Prior to the deposit of PPP funds into the account on August 11, 2020, the account's balance was $200.00. The PPP loan deposit was the account's second transaction. After the $449,400 in PPP loan funds was deposited, **LAROCHE** misused the funds, which is summarized as follows:

a. On or about August 13, 2020, **LAROCHE** purchased a used

2018 Mercedes SUV in the amount of $51,823.40 from an auto dealer in West Palm Beach. This vehicle was purchased two days after the receipt of PPP funds. **LAROCHE** made a $20,000 cash down payment and financed $20,490.19 for the vehicle. Your Affiant has probable cause to believe the vehicle was purchased for personal use and not for any business purpose related to Bornwild. Additionally, the vehicle was registered in **LAROCHE's** name.

b. Between August 2020 and January 2021, **LAROCHE** made approximately 16 cash withdrawals totaling $133,200. The individual cash withdrawals ranged in amounts from $1,200 to $25,000. Additionally, between the same period, **LAROCHE** made approximately 56 ATM cash withdrawals, totaling $58,371.25.

c. **LAROCHE** issued a total of 44 checks from the account to 11 different individuals, totaling $115,000. The checks were dated between October 13-17, 2020. Multiple checks issued to the same individuals, contained the same date, and amount of $2,500. On the back of most of the checks, in the endorsement section, the payee and **LAROCHE's** signature are present. Additionally, each check was cashed and not deposited into the recipient's bank account. On November 16, 2020, after **LAROCHE** depleted the account of all its PPP funds, **LAROCHE** began depositing cash into the account, totaling $19,700 between November 16, 2020, and December 30, 2020. Your Affiant believes that **LAROCHE** cashed the checks he issued with the individuals he issued them to and retained a portion of the cash. Your Affiant also has reason to believe **LAROCHE** issued these checks to give the appearance that he was using a portion of the funds for payroll. Moreover, there is no record of **LAROCHE** reporting any wages paid by Bornwild to the Florida Department of Revenue during the year 2020. It should also be noted that **LAROCHE** represented Bornwild had 61 employees (not 11) on its PPP application.

d. **LAROCHE** also used the funds for travel and hotel stays, totaling $3,565.66. This included stays at resort hotels in Palm Beach, West Palm Beach, Fort Lauderdale, and Miami Beach, Florida. Moreover, **LAROCHE** spent approximately $21,300 on 26 retail purchases, to include $9,024 in jewelry from David Yurman, and other retail purchases at Adidas, Foot Locker, Guitar Center, and Saks off 5th Avenue, to name a few.

CONCLUSION

19. Based on the foregoing facts, there is probable cause to believe that Al Clint **LAROCHE** knowingly made false statements for the purpose of influencing the action of a financial institution whose deposits are insured by the FDIC in connection with a loan application, in violation of 18 U.S.C § 1014.

Grace M. Bruno
Special Agent
Federal Bureau of Investigation

Sworn to and subscribed before me
telephonically this 31st day of October 2022.

Nicholas P. Mizell

NICHOLAS P. MIZELL
United States Magistrate Judge
Middle District of Florida