UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 2:21-cr-74-TPB-MRM

AMBER REWIS BRUEY

NOTICE OF MAXIMUM PENALTIES, ELEMENTS OF OFFENSE, PERSONALIZATION OF ELEMENTS AND FACTUAL BASIS

The United States of America, by Roger B. Handberg, United States Attorney for the Middle District of Florida, hereby files this Notice of Maximum Penalties, Elements of Offense, Personalization of Elements and Factual Basis, stating as follows:

ESSENTIAL ELEMENTS

The essential elements of a violation of 18 U.S.C. § 1349, Conspiracy to Commit Wire Fraud, charged in Count One, are as follows:

First: Two or more persons, in some way or manner, agreed to try to accomplish a common and unlawful plan to commit wire fraud, as charged in the indictment; and

Second: The Defendant knew the unlawful purpose of the plan and willfully joined in it.

The essential elements of a violation of 18 U.S.C. § 1343, Wire Fraud, charged in Counts Two through Eleven, are as follows:

First:	The Defendant knowingly devised or participated in a scheme to defraud, or to obtain money or property by using false pretenses, representations, or promises;
Second:	The false pretenses, representations, or promises were about a material fact;
Third:	The Defendant acted with the intent to defraud; and
Fourth:	The Defendant transmitted or caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud.

The essential elements of a violation of 18 U.S.C. § 1956(h), Conspiracy to Commit Money Laundering, charged in Count Fourteen, are as follows:

First:	Two or more people agreed to try to accomplish a common and unlawful plan to violate 18 U.S.C. § 1957; and
Second:	The Defendant knew about the plan's unlawful purpose and voluntarily joined in it.

The essential elements of a violation of 18 U.S.C. § 1957, Illegal Monetary Transaction, charged in Counts Fifteen through Eighteen, are as follows:

First:	The Defendant knowingly engaged in or attempted to engage in a monetary transaction;
Second:	The Defendant knew the transaction involved property or funds that were the proceeds of some criminal activity;
Third:	The property had a value of more than $10,000;
Fourth:	The property was in fact proceeds of wire fraud; and
Fifth:	The transaction took place in the United States.

PENALTY

The penalties for the offenses charged in Counts One through Eleven of the Indictment are a term of imprisonment of not more than 30 years, a fine of up to $1,000,000, a term of supervised release of up to five (5) years, and a $100 special assessment for each count.

The penalties for the offenses charged in Counts Fourteen through Eighteen of the Indictment are a maximum of ten (10) years imprisonment, a fine of up to $250,000 or alternate fine of twice the amount of the criminally derived property, a term of supervised release of up to three (3) years, and $100 special assessment for each count.

Additionally, the defendant must forfeit property, pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(1), and 28 U.S.C. § 2461(c), as outlined in the Indictment.

FACTUAL BASIS

Background on PPP and EIDL

In March of 2020, the Coronavirus Aid, Relief, and Economic Security ("CARES") Act was enacted as a federal law, designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. 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"). Another source of relief was the Economic Injury Disaster Loan ("EIDL") program, which was a Small Business Administration ("SBA") program that provided low-interest financing to small businesses affected by declared disasters. The CARES Act authorized the SBA to provide EIDLs of up to $2 million to eligible businesses experiencing substantial financial disruption due to the COVID-19 pandemic. Additionally, eligible businesses could apply for an EIDL advance of up to $10,000, which was determined by the number of employees the applicant certified having and did not have to be repaid.

To obtain a PPP loan, qualifying businesses were required to submit a PPP loan application, which contained numerous certifications, to a participating PPP lender. In the PPP application, the small business (through its authorize representative) was required to state and certify, among other things, its: (a) average monthly payroll expense; 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. Furthermore, businesses applying for a PPP loan were required to provide documentation showing their payroll expenses. Individuals who operated as a sole proprietorship, independent contractor, or eligible self-employed individual were also eligible to apply for a PPP loan. All PPP applicants was required to disclosed whether the applicant (if the loan was for an individual) or an owner of the applicant business had been convicted of a felony or had served a term of probation within the last five years.

PPP loan application were processed, approved, and funded by participating lenders. The PPP loan funds were 100% guaranteed by the SBA. PPP loan proceeds were required to be used for certain permissible expenses, including payroll costs, mortgage interest, rent, and utilities.

To obtain an EIDL and advance, a qualifying business had to submit an application directly to the SBA and provide information about its operation, such as the number of employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. These figures were used by the SBA to calculate the EIDL and advance amount. For COVID-19 relief EIDLs, the 12-month period was that preceding January 31, 2020. An EIDL applicant was also required to disclose whether the applicant had been convicted of a felony or had served a term of probation within the last five years.

EIDL funds could be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rents, and mortgage payments. If the applicant also obtained a loan under the PPP, the EIDL funds could not be used for the same purpose as the PPP funds.

Conspiracy to Commit Wire Fraud

Beginning on an unknown date, but no later than in or around April 2020, the defendant, Amber Rewis Bruey, and her husband and co-conspirator Anthony James Bruey (hereinafter, "the Brueys"), conspired to defraud PPP lenders and the SBA by submitting false and fraudulent PPP and EIDL applications. In total, the Brueys submitted approximately 26 fraudulent PPP and EIDL applications between April 2020 and June 2020. The false and fraudulent applications were electronically submitted from the Middle District of Florida (MDFL) to SBA approved lenders, loan processing companies, and the SBA, all located outside of the State of Florida.

The fraudulent applications contained numerous false and fraudulent misrepresentations concerning the applicant's dates of operation, payroll, gross revenues, total number of employees, and the criminal history of the applicant or business owner. The Brueys' false and fraudulent misrepresentations caused PPP lenders and the SBA to approve approximately 12 loans and issue a total of $881,058.35 in PPP and EIDL funds. The PPP and EIDL funds were deposited into bank accounts that were controlled and maintained by the Brueys. The defendant then used these fraudulently obtained funds for her own personal enrichment, which included financial transactions of more than $10,000, discussed in detail below.

<u>Wire Fraud</u>

The defendant electronically submitted or caused the electronic submission of approximately five fraudulent EIDL applications to the SBA that were funded and approved. In each application, the defendant falsely represented that she had not been placed on probation in the last five years. Additionally, in each EIDL application, the defendant misrepresented the number of employees, gross revenue, and cost of goods sold for businesses that did not exist. The defendant also submitted fraudulent tax returns, income statements, and profit and loss statements to the SBA in furtherance of the fraud.

As specified in the Indictment, each of the five fraudulent EIDL applications were submitted by the defendant electronically from MDFL to the SBA, located outside of the State of Florida, on April 2, 2020 (Count Two), April 3, 2020 (Count Three), May 18, 2020 (Count Nine), June 16, 2020 (Count Ten), and June 24, 2020 (Count Eleven). In all, the defendant's false and fraudulent representations caused the SBA to approve and fund a total of $660,900 in EIDL funds and $15,000 in EIDL advance funds. The EIDLs and advance funds were deposited into bank accounts the defendant controlled and maintained.

The defendant also electronically submitted or caused the electronic submission of approximately five fraudulent PPP loan applications to PPP loan servicers and lenders. In each PPP loan application, the defendant falsely represented that she had not been placed on probation in the last five years. Additionally, in each PPP application, the defendant false represented the average monthly payroll for businesses that did not exist. To further the fraud, the defendant submitted fraudulent tax documents and an income statement.

Each of the five fraudulent PPP applications were submitted by the defendant electronically from MDFL to PPP loan servicers and lenders, located outside of the State of Florida, on April 12, 2020 (Count Four), May 4, 2020 (Count Five), May 5, 2020 (Count Six), May 6, 2020 (Count Seven), and May 15, 2020 (Count Eight). In all, the defendant's false and fraudulent representations caused PPP loan servicers and lenders to approve and fund a total of $97,775.01 in PPP funds. The PPP funds were deposited into bank accounts the defendant controlled and maintained.

Conspiracy to Commit Money Laundering

Beginning on an unknown date, but no later than in or around April 2020, the Brueys conspired to use and attempted to use fraudulently obtained PPP and EIDL funds for financial transactions of a value greater than $10,000. Specifically, after unlawfully obtained PPP and EIDL funds were deposited into accounts controlled and maintained by the Brueys, including an account with Stride Bank/Chime ending in 3607, the funds were used to purchase a 2019 GMC Yukon SUV, a 2020 Honda Talon side by side UTV, and a residence in North Carolina. These transactions affected interstate and foreign commerce. Additionally, the Brueys used fraudulently obtained loan proceeds to purchase a 2021 Chevrolet Spark LS and a 2020 Polaris RZR side by side UTV.

Illegal Monetary Transactions

On June 5, 2020, a $29,214.93 check (Count Fifteen) was issued from a bank account controlled and maintained by the Brueys to Sun Sports Cycle, located in Fort Myers, Florida, for the purchase of a Honda Talon and Yamaha dirt bike. Sales records from Sun Sport Cycle revealed the defendant's husband, Anthony James Bruey, was the registered owner and purchaser of the Honda Talon and Yamaha dirt bike. The funds used for the purchase were proceeds from the Brueys' PPP and EIDL fraud scheme.

On July 22, 2020, the defendant had her bank issue a $23,566 cashier's check to JPay (Count Seventeen) for the payment of restitution in a case (2018CF000164) the defendant was on probation for in the State of Florida. The funds used for the cashier's check were proceeds from the Brueys' PPP and EIDL fraud scheme.

On August 11, 2020, the defendant submitted a $49,688.55 ACH payment (Count Eighteen) to Carvana for the purchase of a 2019 GMC Yukon XL. The funds used for the purchase of the GMC Yukon were proceeds from the Brueys' PPP and EIDL fraud scheme.

On August 27, 2020, $211,457.57 was wired (Count Sixteen) from a bank account controlled and maintained by the defendant to a law firm for the purchase of a residence located at 114 Kemp Lane, Hertford, North Carolina. A review of the property's purchase records and deed revealed the defendant was the co-purchaser and owner of the property. The funds used for the property's purchase were proceeds from the Brueys' PPP and EIDL fraud scheme.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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