UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 23-CR-80141-DMM

UNITED STATES OF AMERICA,

v.

EMMANUEL BULLY, JR.,

Defendant.
_______________________________/

FACTUAL PROFFER

The United States and Defendant Emmanuel Bully, Jr. ("Defendant" or "Bully") agree that had this case gone to trial, the Government would have proved the following facts, among others, beyond a reasonable doubt, and that these facts establish Defendant's guilt of the charged offense.

The Paycheck Protection Program

The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in March 2020, to provide financial assistance to Americans suffering economic harm from the COVID-19 pandemic. One source of relief provided through the CARES Act was the authorization of forgivable loans to businesses for job retention and certain other expenses, through a program called the Paycheck Protection Program ("PPP").

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

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, the small business (through its authorized representative) was required to state, among other things, its average monthly payroll expenses and 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.

A PPP loan application was processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own funds. While a participating lender issued the PPP loan, the loan was 100% guaranteed by the United States Small Business Administration ("SBA"), an executive branch agency of the United States government. Bank of America was a financial institution that was headquartered in Charlotte, North Carolina. Bank of America was an approved SBA lender of PPP loans.

Economic Injury Disaster Loan

Another source of relief provided by the CARES Act was the authorization for the SBA to provide Economic Injury Disaster Loans ("EIDLs") of up to $2 million to eligible small businesses experiencing substantial financial disruption due to the COVID-19 pandemic. In order to obtain an EIDL, a qualifying business was required to submit an application to the SBA and provide information about its operations, 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. The applicant was further required to certify that all of the information in the application was true and correct to the best of the applicant's knowledge.

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.

The Offense

During the COVID-19 pandemic, the Defendant became aware of the opportunity to obtain funds through the CARES Act relief programs. The Defendant learned how to apply for PPP loans and EIDLs. On April 29, 2020, the Defendant submitted a PPP loan application on behalf of MB Tax Services Consultants (the "April 2020 Loan"), claiming that he controlled that corporation and that it had a principal place of business in Delray Beach, Florida. In reality, MB Tax Services Consultants was not an active business with an office in Delray Beach. In the PPP application, the Defendant also falsely and fraudulently represented the corporation's average monthly payroll and the number of employees, both of which were material to the size of the loan received. IP address records confirm that the application was submitted electronically from the Southern District of Florida. The application was a communication transmitted over interstate wire to Bank of America's servers, which are located outside the state of Florida.

As a result of the false and fraudulent PPP application, Bank of America approved and funded the PPP loan for MB Tax Services Consultants. On or about May 13, 2020, Bank of America transferred approximately $20,835.00 to a bank account controlled by the Defendant.

The Defendant spent these PPP loan proceeds on personal expenses, including jewelry and travel, and not on any legitimate business expenses for MB Tax Services Consultants.

In addition to the April 2020 Loan, the Defendant applied for multiple other PPP loans or EIDLs using his various corporations or as a sole proprietor. Just as with the April 2020 Loan, these applications contained false and fraudulent information. Many of these loan applications were denied; however, some were funded. Ultimately, the Defendant attempted to obtain $1,394,427 and succeeded in receiving $503,335 in CARES Act funds. The Defendant spent these fraudulently-obtained funds on personal expenses and not on legitimate business expenses like payroll.

The foregoing facts do not describe all the facts known to the Government in this matter, nor fully describe all of the acts the defendant and his co-conspirators engaged in, but are offered for the limited purpose of establishing a sufficient factual basis to support the defendant's plea of guilty to the charge of wire fraud.

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

DATE: 9/19/23 BY: SZ SZ
SHANNON SHAW
ASSISTANT U.S. ATTORNEY

DATE: 9/19/23 BY: __________
JASON BRAVO
ATTORNEY FOR DEFENDANT

DATE: ~~[illegible]~~ 9/19/23 BY: __________
EMMANUEL BULLY, JR.
DEFENDANT