UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 3:23-cr-68-TJC-MCR

DECONNA BURKE

NOTICE OF MAXIMUM PENALTIES, ELEMENTS OF OFFENSES, 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:

A. MAXIMUM PENALTIES

The defendant has expressed a desire to enter a plea of guilty to the offense charged in Count One of the Indictment. Count One of the Indictment charges the defendant with wire fraud, in violation of 18 U.S.C. § 1343. Count One carries a maximum sentence of up to twenty years of imprisonment, a fine of up to $250,000, or both a term of imprisonment and a fine, a term of supervised release of not more than three years, and a special assessment of $100. A violation of the terms and conditions of supervised release carries a maximum sentence of up to two years imprisonment, as well as the possibility of an additional term of supervised release.

With respect to certain offenses, the Court shall order the defendant to make restitution to any victim of the offense(s), and with respect to the other offense(s), the Court may order the defendant to make restitution payments to any victim of the offense(s), or to the community.

Further, the violation charged in Count One provides for forfeiture pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), of any property, real or personal, which constitutes or is derived from proceeds traceable to the offense. The property to be forfeited includes, but is not limited to, approximately $20,415, which represents the proceeds that defendant obtained as a result of the violation.

B. ELEMENTS OF THE OFFENSES

The essential elements of a violation of 18 U.S.C. § 1343, wire fraud, are as follows:

First: the defendant knowingly devised or participated in a scheme to defraud to obtain money or property by using false or fraudulent pretenses, representations, or promises;

Second: the false pretenses, representations, or promises were about a material fact;

Third: the defendant acted with 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.

C. PERSONALIZATION OF ELEMENTS

1. Do you admit that from a date unknown, but not later than in or about April 2021, and continuing through and including in or about November 2021, in the Middle District of Florida, and elsewhere, that you knowingly devised and participated in a scheme to defraud to obtain money or property by using false pretenses, representations, and promises?

2. Do you admit that the false pretenses, representations, and promises were about a material fact?

3. Do you admit that you acted with an intent to defraud?

4. Do you admit that you caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud, that is, the on-line electronic submission of a Paycheck Protection Program Borrower Application Form, a SBA Form 2483, in the amount of $20,415.00, on or about April 29, 2021, to a third party processor, Blue Acorn?

D. FACTUAL BASIS

In July 2022, the Jacksonville Sheriff's Office ("JSO") Internal Affairs unit received a complaint involving JSO Correctional Officer Deconna Burke ("Burke"). The complaint alleged in substance that Burke fraudulently obtained a Paycheck Protection Program ("PPP") loan for $20,000 and used the money to purchase a motorcycle. Because the conduct was criminal in nature JSO Internal Affairs routed the complaint to the JSO Integrity unit. During follow up investigation conducted by the Integrity unit with assistance from the United States Secret Service ("USSS"), law enforcement determined that Burke applied for a U.S. Small Business Administration ("SBA") PPP loan in April 2021.

Law enforcement determined that on or about April 29, 2021, Blue Acorn, a third party processor for PPP loan applications, received Burke's signed PPP loan application, that is, a SBA Form 2483 - Borrower Application Form ("PPP loan application"). Accompanying the PPP loan application was a color image of Burke's Florida driver's license and a color photo of Burke which Burke submitted, as required by Blue Acorn. In the PPP loan application Burke listed his principal business or profession as "babysitting." He claimed that his babysitting business generated income of $98,000. He certified among other things that his business was in operation on February 15, 2020 and that the funds would be used to maintain payroll. Burke further certified that his application and all supporting documentation he submitted were true and accurate.

Accompanying the PPP loan application was a IRS Form 1040, Schedule C, "Profit or Loss From Business" ("Form 1040") for Burke's purported babysitting business. Investigation determined that the Form 1040 contained among other materially false statements that Burke materially participated in 2020 in this non-existent babysitting business, that the babysitting business generated gross income of $98,000, and incurred multiple business expenditures and fees. The fraudulent PPP loan application and accompanying fraudulent Form 1040 were sent from Florida to one of Blue Acorn's computers servers / data centers outside the state of Florida. After processing it, Blue Acorn forwarded Burke's PPP loan application and accompanying Form 1040 to Prestamos Community Development Financial Institution ("Prestamos"), a SBA Participating Lender authorized by the SBA to lend funds for approved PPP loan applications. In reliance on the materially false statements contained in the PPP loan application and accompanying Form 1040, Burke's PPP loan application was approved. Borrowing off a line of credit from the Federal Reserve, in May 2021, Prestamos funded the PPP loan and deposited into Burke's personal bank account at Navy Federal Credit Union ("NFCU") $20,415, in PPP loan proceeds via an ACH deposit. Burke subsequently used the fraudulently obtained loan proceeds for his own personal enrichment to include paying off a loan with NFCU for a motorcycle.

In November 2021, Burke submitted a signed PPP loan forgiveness application, that is, a SBA Form 3508S - PPP Loan Forgiveness Application ("PPP loan forgiveness application"), that included multiple materially false and fraudulent representations. In the PPP loan forgiveness application Burke certified among other things that the amount of the loan spent on payroll costs was $20,415 and that the PPP loan proceeds were only used for purposes eligible under the terms of the PPP. In reliance on the materially false statements contained in the PPP loan forgiveness application the SBA forgave the entire amount of the principal, plus interest of Burke's PPP loan.

On December 1, 2022, JSO Det. Bodine conducted a video recorded interviewed of Burke at the Integrity Unit. After voluntarily waiving his *Miranda* rights in writing, Burke stated in substance and among other things that when he lived in New Jersey he did volunteer work with kids. When he moved to Florida prior to joining JSO he continued to volunteer with kids. Burke stated he was trying to start a business related to kids, referencing it as a non-profit. When asked by Det. Bodine whether he (Burke) was ever paid money for his work with kids Burke said he spent his own money and time working with kids and was never paid. Det. Bodine then showed Burke the PPP loan application that Burke submitted. Burke acknowledged that he submitted the PPP loan application via a computer. As the interview progressed, Det. Bodine showed him both the Form 1040 and the portion of the PPP loan application that listed a business income of "$98,000". Det. Bodine asked Burke again if Burke was paid any money for his purported non-profit and Burke said "no."

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 26th, 2023, I filed the foregoing with the Clerk of the Court in open court and previously delivered a true and correct copy to the following:

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