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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

NOV 21 2022

AT 8:30 _____ M
WILLIAM T. WALSH
CLERK

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Crim. No. 22-783 (PGS)
	:	
BUTHERDE DARIUS	:	18 U.S.C. § 1349
	:	18 U.S.C. § 1957
	:	

INFORMATION

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

COUNT ONE
(Conspiracy to Commit Bank Fraud)

Background

Individuals and Entities

1. At all times relevant to this Information:
 - a. Defendant BUTHERDE DARIUS ("DARIUS") resided in New Jersey.
 - b. DARIUS owned and controlled a purported business ("Business 1") through which he submitted an application for federal COVID-19 emergency relief funds.
 - c. CC-1 was a co-conspirator not charged in this Information who agreed with DARIUS to submit a fraudulent loan application for federal COVID-19 emergency relief funds.

d. Victim-Lender 1 was a financial institution and a member bank of the Federal Home Loan Bank system headquartered in Utah.

e. Bank 1 was a financial institution and a member bank of the Federal Home Loan Bank system headquartered in San Francisco, California.

f. Bank 2 was a financial institution and a member bank of the Federal Home Loan Bank system headquartered in McLean, Virginia.

Paycheck Protection Program

g. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law enacted in or about March 2020 and 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 up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”). In or about April 2020, Congress authorized over \$300 billion in additional PPP funding. The PPP ended on May 31, 2021.

h. To obtain a PPP loan, a qualifying business was required to submit a PPP loan application, 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 in order to be eligible to obtain the PPP loan. In the loan application, the small business was required to state, among other things, its: (a) average monthly payroll expenses; 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. In addition, businesses applying for a PPP loan had to provide documentation showing their payroll expenses.

i. A PPP loan application had to be processed by a participating lender. If the PPP loan application was approved, the participating lender funded the PPP loan using its own money, which was 100% guaranteed by the U.S. Small Business Administration (“SBA”). Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, was transmitted by the lender to the SBA while processing the loan.

j. PPP loan proceeds could only be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be forgiven if the business spent the loan proceeds on these eligible expense items within a designated period of time after receiving the proceeds and used a certain amount of the PPP loan proceeds on payroll expenses.

The Bank Fraud Conspiracy

2. From at least in or around April 2020 through in or around June 2020, for the purpose of executing and attempting to execute the scheme and artifice to defraud, in the District of New Jersey and elsewhere, defendant

BUTHERDE DARIUS

did knowingly and intentionally conspire and agree with others, including CC-1, to execute and attempt to execute a scheme and artifice to defraud one or more financial institutions, as defined by 18 U.S.C. § 20, namely, Victim-Lender 1, the deposits of

which are insured by the Federal Deposit Insurance Corporation, and to obtain any of the moneys, funds, credits, assets, securities, and other property owned by, and under the control of, such financial institution by means of false and fraudulent pretenses, representations, and promises, contrary to Title 18, United States Code, Section 1344.

Goal of the Conspiracy

3. The goal of the conspiracy was for DARIUS and CC-1 to profit by fraudulently obtaining federal COVID-19 emergency relief funds from Victim-Lender 1 and the SBA by submitting a fraudulent loan application and then diverting the money for personal use and other business ventures.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that:

a. On or about June 2, 2020, DARIUS and CC-1 submitted a PPP application to Victim-Lender 1 for Business 1 seeking a loan for approximately \$852,205 (the "Business 1 PPP Application"). The Business 1 PPP Application was submitted in DARIUS's name and listed DARIUS as the owner of Business 1.

b. The Business 1 PPP Application and supporting documentation contained materially false and fraudulent information, including false tax documents and false claims about the number of employees and the monthly payroll of Business 1.

c. The fraudulent Business 1 PPP Application caused Victim-Lender 1 to disburse approximately \$852,205 in PPP funds on or about June 3, 2020

to an account that DARIUS controlled at Bank 1. DARIUS and CC-1 then caused the transfer of approximately \$85,221 from Bank 1 to an account controlled by CC-1.

All in violation of Title 18, United States Code, Section 1349.

COUNT TWO
(Transacting in Criminal Proceeds)

5. The allegations set forth in Paragraphs 1, 2, and 4 of Count One of this Information are realleged here.

6. On or about October 19, 2020, in the District of New Jersey and elsewhere, defendant

BUTHERDE DARIUS

knowingly engaged in a monetary transaction by, through, and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a greater value than \$10,000, that is the transfer of approximately \$26,575 from a bank account at Bank 1 to a bank account at Bank 2, such property having been derived from a specified unlawful activity, that is bank fraud.

In violation of Title 18, United States Code, Section 1957.

FORFEITURE ALLEGATION AS TO COUNT ONE

1. As a result of committing the offense charged in Count One of this Information, defendant BUTHERDE DARIUS shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of the offense charged in Count One of this Information, the value of which totaled \$852,205.

FORFEITURE ALLEGATION AS TO COUNT TWO

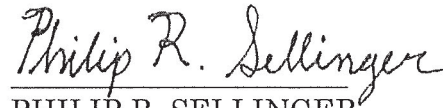
2. As a result of committing the money laundering offense charged in Count Two of this Information, defendant BUTHERDE DARIUS shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), all property, real or personal, involved in such money laundering offense, and all property traceable to such property.

SUBSTITUTE ASSET PROVISION
(Applicable to All Forfeiture Allegations)

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

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(a)(1) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such defendant up to the value of the forfeitable property described above.


PHILIP R. SELLINGER
United States Attorney

CASE NUMBER: 22-

United States District Court
District of New Jersey

UNITED STATES OF AMERICA

v.

BUTHERDE DARIUS

INFORMATION FOR

18 U.S.C. § 1349
18 U.S.C. § 1957

PHILIP R. SELLINGER
UNITED STATES ATTORNEY
FOR THE DISTRICT OF NEW JERSEY

DAVID E. DAUENHEIMER
KATHERINE M. ROMANO
ASSISTANT U.S. ATTORNEYS
NEWARK, NEW JERSEY
(973) 353-6095