UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 3:22-cr-134-HLA-MCR

DESMOND DONDRE WILLIAMS

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 offenses charged in Counts One through Three of the Indictment. Count One of the Indictment charges the defendant with conspiracy to commit wire fraud, in violation of 18 U.S.C. § 1349. Count One carries a maximum sentence of up to twenty years of imprisonment, a fine of $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.

Counts Two and Three of the Indictment charge the defendant with wire fraud, in violation of 18 U.S.C. §§ 1343 and 2. Counts Two and Three carry a maximum sentence of up to twenty years of imprisonment, a fine of $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. At this time, the United States will be seeking restitution in this case in the sum of $39,327.

Further, the violation charged in Counts One through Three 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, including but not limited to the sum of $39,327, representing the amount of proceeds the defendant obtained as a result of the offenses charged in Counts One through Three of the Indictment.

B. ELEMENTS OF THE OFFENSES

Count One

The essential elements of a violation of 18 U.S.C. § 1349, conspiracy to commit wire fraud, 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;

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

Counts Two and Three

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

Count One: Conspiracy to Commit Wire Fraud

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 June 2021, in the Middle District of Florida, and elsewhere, that you, along with other individuals, agreed to try to accomplish a common and unlawful plan, that is, to commit wire fraud as charged in Count One of the Indictment?

2. Do you admit that you knew the unlawful purpose of the plan and willfully joined in it?

Count Two: Wire Fraud

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 June 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, for Tastebudz in the amount of $16,386, on April 14, 2021, to a third party processor, Womply?

Count Three: Wire Fraud

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 June 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, for Tastebudz in the amount of $22,941, on April 17, 2021, to a third party processor, Womply?

D. FACTUAL BASIS

In May 2021, Homeland Security Investigations Special Agent (SA) Kraich began investigating two Small Business Administration (SBA) Paycheck Protection Program (PPP) loan applications for a business, Tastebudz, associated with Desmond Dondre Williams (Williams). SA Kraich determined that on April 4, 2021, Womply, a third party processor for PPP loan applications, received Williams' signed PPP loan application, that is, a SBA Form 2483 - Borrower Application Form, for Tastebudz. On April 17, 2021, Womply, received Williams' second signed PPP loan application, that is, a SBA Form 2483 – Borrower Application Form, signed by Williams for Tastebudz. Accompanying each PPP loan application was a IRS Form 1040, Schedule C, "Profit or Loss From Business" (Form 1040) for Tastebudz. SA Kraich determined that the business, Tastebudz, did not exist. He further determined that the Form 1040 contained among other materially false statements that Williams materially participated in 2020 in this non-existent business, Tastebudz generated gross income of $78,655, and incurred multiple business and wage expenditures. Both fraudulent PPP loan applications and accompanying fraudulent Form 1040 were sent from Florida to one of Womply's computers servers / data centers in Virginia or Oregon.

Womply forwarded Williams' first PPP loan application and accompanying Form 1040 to Fountainhead, a SBA Participating Lender authorized by the SBA to lend funds for approved PPP loan applications. Fountainhead submitted the PPP loan application and accompanying Form 1040 to the SBA. In reliance on the materially false statements contained in Williams' PPP loan application and accompanying Form 1040 for Tastebudz, the SBA approved the PPP loan application. Borrowing off a line of credit from the Federal Reserve, on April 28, 2021, Fountainhead funded the PPP loan for Tastebudz and deposited into

Williams' personal bank account $16,386.00, in PPP loan proceeds via an ACH deposit.

Womply forwarded Williams' second PPP loan application and accompanying Form 1040 to Benworth Capital, a SBA Participating Lender authorized by the SBA to lend funds for approved PPP loan applications. Benworth Capital submitted the PPP loan application and accompanying Form 1040 to the SBA. In reliance on the materially false statements contained in Williams' PPP loan application and accompanying Form 1040 for Tastebudz, the SBA approved the PPP loan application. Borrowing off a line of credit from the Federal Reserve, on May 26, 2021, Benworth Capital funded the PPP loan for Tastebudz and deposited into Williams' personal bank account $22,941.00, in PPP loan proceeds via an ACH deposit.

On August 4, 2022, SA Kraich and HSI Task Force Officer O'Keefe met Williams for an interview at a gas station in Live Oak, Florida. During a voluntary interview Williams stated in substance and among other things that he obtained PPP loans. A female named "Diamond" whom he only knew through the internet on Facebook helped him obtain the two PPP loans. The money was deposited into his bank account. He didn't own a business called "Tastebudz."

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 2nd, 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:

Lisa Call, Esquire
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