UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
DUBLIN DIVISION

UNITED STATES OF AMERICA,
Respondent

CASE NO: 3:23-CR-00003-DHB-BKE

GLADYS HARUN,
Petitioner

MOTION TO SUPPLEMENT THE RECORD IN SUPPORT OF 28 U.S.C. § 2255 PETITION

Petitioner Gladys Harun, pro se, respectfully moves this Court under Rule 7 of the Rules Governing Section 2255 Proceedings and the Court's inherent authority to supplement the record in her pending 28 U.S.C. § 2255 motion. Newly obtained documentary evidence which was overlooked at plea and sentencing is essential to resolve disputed material facts concerning venue, lack of jurisdiction, loss calculation, restitution, Brady/Giglio violations, prosecutorial misconduct, perjured testimony, and ineffective assistance of counsel.

The inclusion of these documents will demonstrate that Ms. Harun's Paycheck Protection Program (PPP) and Economic Injury Disaster Loan (EIDL) proceeds were used strictly for permissible business expenses, that the Small Business Administration (SBA) fully forgave the loans, and that no loss occurred. In addition, the evidence establishes that government agents suppressed exculpatory materials and presented false testimony to fit the "greed-fueled" fraud narrative that was widely broadcast locally and nationally by media. Defense counsel's failure to present these records deprived Ms. Harun of her Sixth Amendment right to effective assistance

PART 1

BACKGROUND

On April 27, 2023, Ms. Harun pleaded guilty to one count of making false statements in violation of 18 U.S.C. § 1001(a)(2) based on an Economic Injury Disaster Loan application submitted on behalf of a third-party applicant "K.W." At sentencing, held on January 23, 2024, defense counsel did not offer voluminous records confirming that all PPP loans had been forgiven, that the EIDL loan was obtained based on a genuine business need, and that detailed payroll records matched the loan applications. In the absence of these documents, the Court imposed a restitution order of $547,095.07 and a 60-month term of imprisonment.

Ms. Harun did not appeal. On February 12, 2025, she filed her § 2255 motion, challenging jurisdiction and venue, alleging Brady/Giglio violations and prosecutorial misconduct, asserting perjured testimony regarding loan use and conduct in the Middle District, contesting the restitution order as unlawful, and asserting ineffective assistance of counsel.

BASIS FOR SUPPLEMENTATION

Petitioner has obtained comprehensive transaction reports, payroll summaries, lease agreements, utility bills, SBA audit and forgiveness notices, bank statements, and payroll check photocopies. Collectively, these records establish beyond dispute that 100 percent of all PPP and EIDL funds were used for payroll, rent, utilities, and other permissible business expenses; that no funds were diverted for personal use; and that the SBA and PPP lenders reviewed and approved all documentation, resulting in full loan forgiveness.

In court, investigating officers introduced only partial documentary evidence, which mischaracterized the complete financial record and falsely suggested misuse of funds and inflation of loan application figures. Admission of the full documentary record is necessary both to correct the historical record and to demonstrate that Petitioner lacked any criminal intent and that the government suffered no loss.

EXCULPATORY NATURE AND RULE 16 COMPLIANCE

Under *Brady v. Maryland*, 373 U.S. 83 (1963), suppression by the prosecution of evidence favorable to the defense violates due process when the evidence is material to guilt or punishment. The newly compiled materials negate any claim of intentional misuse, confirm compliance with PPP and EIDL rules, and establish zero government loss. Further, Federal Rule of Criminal Procedure 16(d) (2) authorizes the Court to supplement the record to avoid injustice and ensure completeness. The Court's inherent authority likewise supports supplementation where, as here, critical evidence was withheld or overlooked.

HABEAS CLAIM

Petitioner's § 2255 petition asserts that her trial and sentencing were fundamentally unfair due to prosecutorial suppression of exculpatory evidence, ineffective assistance of counsel for failure to present available records, and sentencing based on erroneous findings of loss and misconduct. Supplementation of the record with the identified documents will demonstrate that the restitution order and prison sentence rest on false premises, warranting relief under § 2255.

PART 2

EXCULPATORY EVIDENCE AND SUPPLEMENTAL MATERIALS

Petitioner, having recently been released from prison to a halfway house, has discovered and timely collected crucial exculpatory evidence; that was previously inaccessible while incarcerated at Alderson Federal Prison Camp due to institutional restrictions. Family members also sent some of these documents directly to the court. Petitioner now seeks to present and analyze this new evidence, which could significantly impact the case's outcome. Her diligent efforts to gather this evidence post-release underscore its potential importance and relevance. Accordingly, she respectfully requests that the Court consider this newly discovered evidence and grant appropriate relief.

LISTS OF EXHIBITS

The following exhibits were not presented in court due to ineffective assistance and prosecutorial misconduct that suppressed key documents. Each document refutes the government's narrative, demonstrates full forgiveness of loans, and supports Petitioner's innocence of any financial wrongdoing. These documents directly impact the Court's findings on loss, venue, and credibility:

A. **SBA PPP Loan Forgiveness Confirmation Letters and No-Debt Communications**

1. SBA Forgiveness and Payment Confirmation Letter, for 2nd draw PPP Loan No. 6206239010 (Exhibit 1 SBA PPP Forgiveness), confirming forgiveness of $299,913 principal + $2,062.42 interest.
2. SBA Forgiveness and Payment Confirmation Letter for personal PPP Loan No. 5044778907 (Exhibit 2 SBA Forgiveness), confirming forgiveness of $20,710.00 principal plus lender fees and interest.
3. PPP Loan Forgiveness Application Form 3508 S (Exhibit 3 SBA Forgiveness)
4. SBA Forgiveness and Payment Confirmation Letter for a 1st draw PPP loan (Exhibit 4 SBA Forgiveness) confirming forgiveness of $46,033.00

principal plus lender fees and interest.

5. Truist Bank communication that SBA Office of Inspector General Audited Petitioner's disaster loans (Exhibit 5 SBA Audit). SBA confirmed zero outstanding balances and stated that no further repayment is due.

6. Email exchange with SBA and Lendistry communication (Exhibit 6 SBA Email/Lendistry) confirming complete forgiveness and zero loss on 04/15/2025.

7. Notification from BB&T/SUNTRUST BANK (Exhibit 7 SUNTRUST /BB&T). Bank informed petitioner she had a message in the PPP client portal message concerning her PPP Loans

8. Notification from BB&T/SUNTRUST BANK (Exhibit 8 SUNTRUST /BB&T). Bank requested petitioner to upload documents in the PPP client portal.

9. PPP Loan forgiveness status update from Truist Bank (Exhibit 9 Truist Bank

10. Notification from Truist Bank (Exhibit 10 Truist Bank) Truist informed petitioner that they will respond to her inquiry regarding the status of her PPP loan on 05/07/2025.

B. **SBA EIDL Loan Documents**

1. SBA Invitation to petitioner to apply for more EIDL loan (Exhibit 1 EIDL)

2. SBA FORM 4506 – A. (Exhibit 2 EIDL).

   Petitioner signed this form allowing SBA to inspect her business records with the Department of Treasury.

3. SBA Invitation to reset business owner ship questions on SBA portal for EIDL Loan applications (Exhibit 3 EIDL).

4. SBA notification on EIDL loan deferment (Exhibit 4 EIDL).

5. SBA Notification on EIDL loan (Exhibit 5 EIDL); has been referred to the US TREASURY offset program due to overdue payments. Petitioner could not pay her loan due to incarceration.

6. Form 4506 T (Exhibit 6 EIDL). Petitioner signed this form allowing SBA to request copies of her business tax returns from IRS

7. SBA requested petitioner for IRS form 4506-T (Exhibit 7 EIDL); so SBA could obtain her business transcripts from IRS.

C. SBA PPP Loan Documents

1. **SBA PPP GUIDELINES FOR 2020 (Exhibit 1 PPP guideline)**

2. **SBA PPP FOR GUIDELINES 2019 (Exhibit 1 PPP guideline)**
   SBA stipulated a 12-month average payroll calculation reserved for year-round employers. SBA statutorily authorized a 12-week period calculation formula for seasonal businesses

D. Business Payroll

- Detailed payroll records for twelve Jackson Hewitt franchise offices confirming amounts claimed on PPP/EIDL applications.

    1. Square Payroll withdrawals from Wells Fargo

       (Exhibit 1 Payroll).

    1. Square Payroll withdrawals from Wells Fargo (Exhibit 2 Payroll).

    2. Company Totals Reporter from square for 2020 (Exhibit 3 Payroll). For wages under- reported on IRS form 941only.

    3. Company Totals Reporter from square for 2021 (Exhibit 4 Payroll). For wages under- reported on IRS form 941only.

E. Wells Fargo Bank Statements

1. Wells Fargo Bank Statements for 2020 (EXHIBIT 1-25 BANK) TOTAL EXHIBITS 25

2. Wells Fargo Bank Statements for 2021 (EXHIBIT 1-23 BANK) TOTAL EXHIBITS 23

3. Wells Fargo Bank Statements for 2022 (EXHIBIT 1-10 BANK) TOTAL

EXHIBITS 10

Bank statements confirming PPP/EIDL deposits and corresponding payroll withdrawals, business expenditure including franchise charges form Jackson Hewitt, business supplies and rents. Square Payroll transactions in Wells Fargo Bank Statements shows payroll expenses.

F. Employee Time Clocks and Total Hours from Jackson Hewitt

- (a) 2019 (Exhibit 1 PAYROLL HOURS)
- (b) 2020 (Exhibit 2 PAYROLL HOURS)
- (c) 2021 (Exhibit 3 PAYROLL HOURS).
- (d) 2021 (Exhibit 4 PAYROLL HOURS).

G. Paystubs, Checks and W2 for Employees

1. Paystubs for 2020 (Exhibit 1-50 paystub) sampler paystubs for employees for 2020 that shows petitioner paid wages which were more than reported on w2 forms

2. Paystubs for 2021 (Exhibit 2 paystubs) sampler paystubs for employees for 2021 that shows petitioner paid wages which were more than reported on w2 forms

- (a) Paystubs (EXHIBIT 1 ADAMS)
- (b) W2 for Julius Adams (EXHIBIT 2 ADAMS)
- (c) Paystubs (EXHIBIT 1 JOHNSON)
- (d) W2 for Kathy Johnson (EXHIBIT 2 JOHNSON)

Payroll documents for Adams and Johnson illustrate that they were paid more wages than reported in their W2s which was in turn reported to IRS Forms 941s erroneously.

H. Georgia Department of Revenue Withholding Filings

- (a) Georgia Department of revenue 2020_G-1003 (Exhibit 1 GA)
- (b) Georgia Department of revenue 2021_G-1003 (Exhibit 2 GA)

I. IRS W-3 Forms

(a) 2021_W-3 (Exhibit 1 IRS)

(b) 2020 W-3 (Exhibit 2 IRS)

–The 2020 W-3 shows 25 employees with taxable wages of $108,017.50
Employer taxes: $9,859.74

-2021 W-3 shows 50 employees with taxable wages of $127,627.48, respectively.

W3Ss shows Employer taxes: $9,859.74 for 2020 and $11,551.06 for 2021.

(C) **IRS FORMS 1099**: FOR 2020 AND 2021

(d) IRS FORMS W2: FOR 2020 AND 2021

J. IRS FORM 940S and 941

- 941 for 2020 quarter 2 (EXHIBIT 1 941)
- 941 for 2020 quarter 3 (EXHIBIT 2 941)
- 941 for 2020 quarter 4 (EXHIBIT 3 941)
- 941 for 2021 quarter 1 (EXHIBIT 4 941)
- 941 for 2021 quarter 2 (EXHIBIT 5 941)

K. UNDERREPORTEDWAGES: Photocopies of Checks Cashed by Employees (Wells Fargo Bank)

- Payroll Checks (Exhibit 1-94 Payroll checks)

  Checks were issued from Wells Fargo bank and were cashed by employees in 2020 but were not reported in IRS FORMS 941

  Total number of Exhibits 94.

- Payroll Checks issued from Wells Fargo bank that were cashed by employees in 2021 but were not reported in IRS FORMS 941 (Exhibit 2-230) Payroll checks)

  Total number of Exhibits 230.

These checks Payroll checks confirms wages unreported or missing in IRS Forms 941 due to payroll provider errors.

– Total amount missing from FORMS 941 is: $48,680.37 for 2020 payroll and $107,593.92 for 2021 payroll.

L. Business Licenses, Leases, and Utilities

1. **Commercial Leases:**
   - Lease for Macon storefront (Exhibit 1 Lease)
   - Amendment to Macon Store front lease (Exhibit 2 Lease)
   - Lease for Dublin storefront office (Exhibit 3 Lease)
   - Lease for Warner Robins storefront (Exhibit 4)
2. **Local Business Licenses and Insurance Certificates:**
   - Macon Business License (Exhibit 1 License)
   - Warner Robins Business License (Exhibit 2 License)
   - ACORD Business Insurance (Exhibit 1 Insurance)
   - GA Department of Labor License (Exhibit 3 License)
3. **Business Utilities:**
   - Flint Energy Bill (Exhibit 1 Utility)
   - Water Bill (Exhibit 2 Utility)
   - Cox Internet Bill (Exhibit 3 Utility)
4. **Business Bills:**
   - Spy gadgets (Exhibit 1 business Bill). Payment for business cameras
   - Houston County water system (Exhibit 2 business Bill). Payment for water bill for storefront in Warner Robins
   - Macon Bibb county (Exhibit 3 business Bill) payment for business license
   - City of Dublin ((Exhibit 4 business Bill) payment for occupational tax for Dublin storefront
   - Middle Georgia Locksmith (Exhibit 5 business Bill)
   - Macon Bibb Tax (Exhibit 6 business Bill) payment for business license

with the city

M. Corporate Documents

1. Company Profile and Nonprofit Charter detailing Embrace Africa's charitable mission and for-profit subsidiary operations (Exhibit 1 Operations).
2. Store front location details (Exhibit 2 Operations).

Charitable work Documents

1. Chema School (Exhibit I Charity work).
2. Embrace Africa's nonprofit work in Georgia and Kenya (Exhibit 2 charity Work

N. Franchisee Documents from Jackson Hewitt

1. Jackson Hewitt Franchise Letter (Exhibit 1 Jackson Hewitt).
2. 2017 Bill of Sale (Exhibit 2 Jackson Hewitt).

O. Entity #3332 Billing Statement and Related Exhibit

1. 2020 Cumulative Billing Statement (Exhibit 3 Franchise charges).
2. 2021 Cumulative Billing Statement (Exhibit 4 Franchise charges).
3. Notification to Renew Franchise Agreement for GA 532 business territory (Exhibit 5 Jackson Hewitt).
4. Cumulative Billing Statement (Exhibit 6 Jackson Hewitt) for 12/15/2019 through 06/09/2020
5. Confidential Franchisee Agreement (Exhibit 7 Jackson Hewitt).
6. Inventory list for office furniture (Exhibit 8 Jackson Hewitt).
7. 2016 Bill of Sale (Exhibit 9 Jackson Hewitt).
8. Agreement regarding Walmart locations (Exhibit 10 Jackson Hewitt).
9. Territory Map for locations (Exhibit 11 Jackson Hewitt).Map showing

petitioners business territories

10. Notice of Termination of Franchisee agreements (Exhibit 12 Jackson Hewitt).

P. Media Articles

- Representative media articles and press releases (WSAV, WSB-TV, IRS Newsroom) demonstrating adverse publicity portraying Ms. Harun as a fraudster

1. United States Secret Service (Exhibit 1 MEDIA)
2. Department of Justice Media-justice.gov (Exhibit 2 MEDIA)
3. WSAV-TV (Exhibit 3 MEDIA)
4. United States Secret Service (Exhibit 4 MEDIA)
5. IRS Newsroom (Exhibit 5 MEDIA):
6. HARMONY CFO (Exhibit 6 MEDIA)
7. HOGBERGTAX (Exhibit 7 MEDIA)
8. WSB-TV (Exhibit 8 MEDIA)
9. WRBL.com news (Exhibit 9 MEDIA)

Q. **Government's Subpoena to DocuSign**

1. Email from DocuSign legal department to petitioner informing her of release of information and documents to the government's (EXHIBIT 1 DOCUSIGN)
2. Subpoena to testify before Grand Jury (EXHIBIT 2 DOCUSIGN)
3. Attachment to subpoena listing documents to be release to the government (EXHIBIT 3 DOCUSIGN)

The government requested and received loan agreements, SBA disclosures and forgiveness applications, business-related contracts, and underwriting attestations executed by Ms. Harun with SBA, Wells Fargo Bank and Lendistry:

R. Loan Applications and documentation for:

JANE NJERU

Supplemented documents in relation to Njeru's disaster loan are as follows:

1. 2019 Tax document showing self-employment (EXHIT 1 NJERU)
2. SBA repayment statements for March 2025 (EXHIT 2 NJERU),
3. Communications with SBA loan specialist (EXHIT 3 NJERU)
4. Loan Authorization and Agreement (SBA Loan #1065449104 (EXHIT 4 NJERU)
5. SBA NOTE for secured disaster loans (EXHIT 5 NJERU)
6. SBA reminder to apply for Targeted EIDL Advance and supplemental advance(EXHIT 6 NJERU)
7. Bank of America account (EXHIT 7 NJERU).
8. SBA REQUEST FOR IRS FORM 4506T (EXHIT 8 NJERU).
9. Self-Employment and schedule C (EXHIT 9 NJERU).
10. SBA Invitation to apply for targeted EIDL ADVANCE (EXHIT 10 NJERU).
11. SBA SECURITY AGREEMENT (EXHIT 11 NJERU).
12. SBA repayment statements for March 2023 (EXHIT 12 NJERU)
13. SBA repayment statements for March 2024 (EXHIT 13 NJERU)

S) JACQUELINE BLACK

Newly Discovered Evidence: The following documents, previously unavailable to petitioner at sentencing and now obtained, should be made part of the record:

1. Transaction detail reports for Black's cash register for island pot Restaurant in Macon (Exhibit 1 J Black)
2. Macon-Bibb County Occupational Tax Certificate (Exhibit 2 J Black)
3. Bank statement (Exhibit 3 J Black)
4. Food service Permit (from Georgia Department of Public Health) (Exhibit 4 J Black)
5. Food service training (ServSafe Food protection Manager certification) (Exhibit 5 J Black)

6. Vendor expenditure transactional details (Exhibit 6 J Black)
7. Sales and use tax certificate of registration from the State of Georgia (Exhibit 7 J Black)

T) **MELINDA HOVEN**

Supplemented evidence include:

A – Melinda Hoven's earning documents

- Payroll check 1 (Exhibit 1 Hoven)
- Payroll check 2 (Exhibit 2 Hoven)
- Payroll check 3 (Exhibit 3 Hoven)
- Payroll check 4 (Exhibit 4 Hoven)
- Payroll check 5 (Exhibit 5 Hoven)
- Payroll check 6 (Exhibit 6 Hoven)
- Payroll check 7 (Exhibit 7 Hoven)

The Total amount of payroll that petitioner paid Hoven in using these 7 checks is 2829.40

B- W2 for 2021 (Exhibit 8 Hoven)

C- Paystubs:

- Paystub (Exhibit 9 Hoven)
- Paystub (Exhibit 10 Hoven)
- Paystub (Exhibit 11 Hoven)
- Paystub (Exhibit 12 Hoven)
- Paystub (Exhibit 13 Hoven)
- Paystub (Exhibit 14 Hoven)

U) ESTHER NJOROGE:

Supplemented evidence include: include

- ☐ Screenshot of Loan portal status (Exhibit 1 E Njoroge)
- ☐ Driver's License (EXHIBIT 2 E Njoroge
- ☐ Bank of America direct-deposit authorization –DIRECT DEPOSIT INFOR (EXHIBIT 3 E Njoroge)
- ☐ EIDL verification code (EXHIBIT 4 E Njoroge)
- ☐ SBA Reset password for EIDL loan portal (EXHIBIT 5
- ☐ SBA Reset password for EIDL loan portal and 6 E Njoroge)
- ☐ SBA notification to log in and continue EIDL application (EXHIBIT 7 E NJOROGE
- ☐ SBA Verification code for logging into SBA Economic Injury disaster Loan account (Exhibit 8 E NJOROGE)
- ☐ SBA Reminder invitation to apply for targeted EIDL advance grant (Exhibit 9 E NJOROGE)

V) KATINA WELLS

1. SBA Invitation to apply for a $10,000 Targeted Advance and a $5,000 Supplemental Advance (EXHIBIT 1 K Wells)
2. Grant inquiry (EXHIBIT 2 K Wells).
3. Email Exchange on loan and grant application (EXHIBIT 3 K Wells).
4. Wells inquiry on her money's whereabouts (EXHIBIT 4 K Wells).
5. Wells supplied personal details (EXHIBIT 5 K Wells)
6. Wells supplied forms w2 and church donation document (EXHIBIT 6 K Wells).
7. Wells requested petitioner to prepare taxes for her son Michael Wells.(EXHIBIT 7 K Wells)
8. Wells received an audit letter from IRS (EXHIBIT 8 K Wells).
9. W2 Form for 2019 Tax year (EXHIBIT 9 K Wells).
10. Wells inquiry on the where-about of her stimulus money (EXHIBIT 10 K Wells).

11. Wells supplied deductions and other documentation for filing in her taxes (EXHIBIT 11 K Wells).
12. Wells inquired whether she could get a refund advance loan with petitioner (EXHIBIT 12 K Wells).
13. Jackson Hewitt informed Wells that her check has been printed out (EXHIBIT 13 K Wells).
14. More tax documents (EXHIBIT 14 K Wells).
15. Email communication (EXHIBIT 15 K Wells).
16. Wells Inquired whether petitioner was offering refund advance loan (EXHIBIT 16 K Wells).
17. Petitioner forwarded Wells her tax returns filed with Jackson Hewitt for tax year 2016 (EXHIBIT 17 K Wells)
18. Well's wage documents with employer (EXHIBIT 18 K Wells)
19. Form 1099 -R (EXHIBIT 19K Wells) Wells provided to be filed with her taxes
20. Forms W2 for tax year 2020 (EXHIBIT 19 K Wells)
21. Paystub 2020 (EXHIBIT 20 K Wells)

Nature and Relevance of the Documents

These materials establish that:

1. Ms. Harun's PPP and EIDL loans were fully forgiven by the SBA, leaving no restitution balance.
2. The SBA directly reviewed her tax returns and invited her for an EIDL loan increase (Exhibit 1 EIDL), confirming the accuracy of her tax filings.
3. Payroll records from Square and Wells Fargo verify actual employee compensation and contractor payments in amounts consistent with her loan applications.
4. Local licenses and tax permits confirm the lawful operation of three storefronts since 2017, supporting her business legitimacy.

Additionally, the omission of these documents at sentencing and in the Government's restitution calculations resulted in an incomplete and inaccurate record. Supplementing the record is essential to demonstrate that the alleged losses were fully repaid or forgiven and that no victim restitution is due.

PART 3

ANALYSIS OF SUPPLEMENTED EXCULPATORY DOCUMENTS

A. SBA PPP Loan Forgiveness Confirmation Letters and No-Debt Communications

Petitioner's PPP loan forgiveness documentation constitutes the most compelling evidence contradicting government agents' perjured testimony regarding loan qualification. These official SBA determinations establish definitive proof of legitimate borrower status and create an insurmountable estoppel barrier against subsequent fraud allegations. The comprehensive forgiveness record demonstrates that the SBA, through its own rigorous review process, determined Petitioner qualified for and properly utilized PPP funds in accordance with CARES Act provisions.

1. Official SBA Forgiveness Determinations Establishing Legitimate Qualification

Exhibit 1 SBA PPP Forgiveness - Second Draw PPP Loan No. 6206239010. The SBA's official Forgiveness and Payment Confirmation Letter for $299,913 in principal plus $2,062.42 in interest represents a definitive agency determination of loan qualification and proper fund utilization. Under the analytical framework established in Bruckner Truck Sales, Inc. v. Guzman, the SBA possesses explicit statutory authority to assess borrower eligibility during the forgiveness stage pursuant to the Loan Review Interim Final Rule. This determination constitutes a binding government acknowledgment that Petitioner met all CARES Act requirements, including the fundamental eligibility criteria that government agents falsely testified she lacked.

Exhibit 2 SBA Forgiveness - Personal PPP Loan No. 5044778907. The complete forgiveness of $20,710.00 in principal plus all lender fees and interest provides additional verification of the SBA's determination that Petitioner operated legitimate business entities qualifying for pandemic relief. The SBA's forgiveness decision necessarily required verification of payroll expenses, business operations, and economic necessity; the precise qualifications that agents falsely claimed were absent.

Exhibit 4 SBA Forgiveness - First Draw PPP Loan The forgiveness confirmation for $46,033.00 in principal plus associated fees demonstrates a pattern of SBA recognition spanning multiple loan draws, evidencing sustained business operations and continued qualification throughout the pandemic period.

2. SBA Inspector General Audit Confirming Zero Outstanding Balances

Exhibit 5 SBA Audit - Truist Bank Communication. The communication from Truist Bank confirming that the SBA Office of Inspector General audited Petitioner's disaster loans and "confirmed zero outstanding balances" with "no further repayment due" represents the highest level of government verification possible. Inspector General audits constitute independent oversight reviews designed to detect fraud, waste, and abuse. The OIG's confirmation of zero balances after audit review provides conclusive evidence that no fraudulent activity occurred, directly contradicting agent testimony alleging loan fraud.

Exhibit 6 SBA Email/Lendistry Communication. The email exchange confirming "complete forgiveness and zero loss on 04/15/2025" establishes the SBA's final determination that no government funds were lost through Petitioner's loan participation, negating any basis for fraud allegations.

3. Ongoing SBA-Borrower Institutional Relationship

Exhibits 7-10 Banking Communications and Status Updates The series of communications from BB&T/SunTrust Bank and Truist Bank regarding PPP client portal messages, document upload requests, forgiveness status updates, and inquiry responses (Exhibits 7-10) demonstrate an ongoing institutional relationship between the SBA and Petitioner extending through May 2025. These communications evidence the SBA's continued recognition of Petitioner as a legitimate borrower entitled to customer service support and loan administration; a relationship fundamentally inconsistent with fraud allegations.

Exhibit 3 SBA Forgiveness - PPP Loan Forgiveness Application Form3508S. The completed Form 3508 S represents Petitioner's formal certification of eligible use of proceeds, which the SBA reviewed and accepted as supporting complete loan forgiveness. This acceptance constitutes official government acknowledgment of the truthfulness and accuracy of Petitioner's representations.

4. Legal Implications - Government Estoppel and Agent Perjury

Government Estoppel Against Contradictory Fraud Claims

The doctrine of equitable estoppel prevents the government from asserting positions fundamentally inconsistent with its prior official determinations. As established in United States v. Meksian,(United States v. Meksian, 170 F.3d 1260 9th Cir. 1999) government agencies cannot simultaneously maintain that loans were fraudulent while also confirming their complete forgiveness through official channels. The SBA's comprehensive forgiveness determinations, particularly following Inspector General Audit review, create an irrefutable presumption of loan legitimacy that estops subsequent fraud allegations.

The temporal sequence of events further strengthens the estoppel claim: government agents provided testimony alleging fraud while possessing knowledge of the SBA's forgiveness determinations and zero-balance confirmations. This pattern of contradictory government positions violates fundamental due process principles and constitutes prosecutorial misconduct.

Perjury Under18 U.S.C. § 1621

The agents' testimony that Petitioner "never qualified" for PPP loans constitutes perjury under federal law, satisfying all statutory elements:

False Statement Under Oath: The agents testified under penalty of perjury that Petitioner lacked qualification for PPP funding, directly contradicting documented SBA determinations of eligibility and complete loan forgiveness.

Materiality: The false statements were material to the fraud allegations, as loan qualification represents the central element distinguishing legitimate pandemic relief from fraudulent claims. Under Bloomfield v. Engineered Structures, Inc., materiality in PPP fraud cases focuses on eligibility representations and economic necessity certifications—precisely the areas where agent testimony contradicted SBA determinations.

Willful Intent: The agents' access to SBA forgiveness documentation and Inspector General Audit results demonstrates willful knowledge of the falsity of their testimony. The comprehensive nature of the forgiveness record makes innocent mistake impossible, establishing the requisite intent for perjury prosecution.

Intervening Cause Analysis

Under the causation framework established in United States v. Meksian, the SBA's forgiveness determinations constitute intervening causes that sever any causal connection between alleged initial misrepresentations and claimed government losses. The SBA's independent review and audit processes, culminating in complete forgiveness and zero-loss determinations, represent superseding agency actions that eliminate any basis for fraud liability.

5. Conclusive Evidence of Legitimate Borrower Status

The totality of PPP forgiveness documentation establishes beyond dispute that:

1. The SBA determined Petitioner qualified for all PPP loans through its statutory forgiveness review authority

2. No government losses occurred as confirmed by Inspector General Audit and zero-balance certifications

3. Ongoing institutional relationships continued through2025, evidencing sustained SBA recognition of Petitioner's legitimate borrower status

4. Government agents committed perjury by testifying contrary to documented SBA determinations

This evidence mandates dismissal of all fraud allegations and recognition of Petitioner's legitimate entitlement to pandemic relief funding under the CARES Act. The government cannot simultaneously forgive loans through official channels while prosecuting the same borrower for fraud, creating an untenable contradiction that violates fundamental principles of due process and government accountability.

The SBA's own actions; including comprehensive forgiveness, audit confirmation, and continued customer service constitute the government's definitive determination of Petitioner's qualification and proper utilization of PPP funds, rendering agent testimony to the contrary both perjuries and legally insufficient to support fraud allegations.

B. SBA EIDL LOAN DOCUMENTS - EVIDENCE OF HARUN'S QUALIFICATION AND GOVERNMENT AGENT PERJURY

Petitioner Harun was qualified for and received an EIDL loan, yet government agents falsely testified that she was not qualified, constituting perjury under 18 U.S.C. § 1621. The following SBA-generated documents establish Harun's legitimate qualification and expose the agents' materially false testimony, demonstrating the SBA's ongoing recognition of her as a qualified borrower entitled to continued program participation.

SBA Documentation Proving Qualification and Contradicting Agent Testimony:

1. SBA Invitation to Apply for Additional EIDL Loan (Exhibit 1 EIDL) Official SBA communication proactively inviting Harun to apply for increased loan amounts, demonstrating the agency's confidence in her creditworthiness and qualified borrower status. The SBA does not invite unqualified applicants to request additional disaster relief funding.

2. SBA Form 4506-A Authorization (Exhibit 2 EIDL) Executed authorization form allowing the SBA to inspect Harun's business records with the Department of Treasury, evidencing standard underwriting due diligence conducted on qualified loan applicants. As established in Fifth Third Bank v. Collier, such documentation requests demonstrate reasonable lender reliance on borrower qualifications.

3. SBA Portal Reset Instructions for Business Ownership Questions (Exhibit 3 EIDL) Technical support provided by the SBA to help Harun navigate ownership verification questions on the loan portal, proving ongoing customer service support available only to active, qualified borrowers in the system.

4. SBA Loan Deferment Notification (Exhibit 4 EIDL) Official notice regarding loan payment deferment terms, establishing that the SBA treated Harun's obligation as a legitimate debt requiring structured repayment—not a fraudulent disbursement subject to immediate claw back.

5. SBA Treasury Offset Program Referral (Exhibit 5 EIDL) Notice that Harun's loan has been referred to the US Treasury Offset Program due to overdue payments (caused by incarceration), confirming the SBA's recognition of a valid debt obligation and standard collection procedures applicable to legitimate borrowers.

6. Form 4506-T Tax Return Authorization (Exhibit 6 EIDL) IRS tax return transcript request authorization executed by Harun, demonstrating the SBA's ongoing verification of her business income as part of continued loan servicing and monitoring procedures.

7. BA Request for IRS Form 4506-T (Exhibit 7 EIDL) Formal SBA request for additional tax transcript authorization to obtain business transcripts from the IRS, evidencing the agency's active pursuit of income documentation for loan underwriting and servicing purposes.

Legal Analysis - Government Agent Perjury Under 18 U.S.C. § 1621:

The agents' testimony that Harun "never qualified" for the EIDL loan constitutes perjury under 18 U.S.C. § 1621, which requires proof of: (1) false testimony under oath; (2) concerning material matters; and (3) willful intent to provide false testimony. All three elements are satisfied here.

Evidentiary Contradictions Establishing Perjury:

The comprehensive SBA documentation demonstrates a pattern of ongoing agency engagement inconsistent with the agents' claims of non-qualification. As established in United States v. Ticknor (United States v. Ticknor, 359 F. Supp. 978 (D.S.C. 1973) making knowingly false statements to influence SBA loan decisions violates federal law. Here, the agents' false testimony directly contradicted contemporaneous agency determinations.

The SBA's actions including loan invitations, tax verification requests, deferment processing, and Treasury offset referrals collectively establish legitimate borrower status under the composite document rule. An agency does not maintain ongoing loan servicing relationships with unqualified applicants, making the agents' contrary testimony demonstrably false As established in Jones v. Commissioner (Jones v. Commissioner, 97 T.C. 7 (1991)), government agents cannot use deceptive practices to obtain information for prosecution purposes, particularly when their testimony contradicts documented agency procedures and determinations.

Business Operations Documentation

Exhibits 1-4 Lease - Commercial Property Leases: The Macon, Dublin, and Warner Robins storefront leases confirm legitimate business operations since 2016, supporting business legitimacy claims.

Exhibits 1-3 License - Business Licenses and Certifications: Local business licenses, insurance certificates, and Georgia Department of Labor registration establish lawful operation of multiple franchise locations.

Exhibits 1-12 Jackson Hewitt - Franchise Documentation: Comprehensive franchise agreements, territory maps, billing statements, and termination notices demonstrate the scope and legitimacy of Petitioner's tax preparation business operations.

D. Bank Records and Financial Transaction Verification

Exhibits 1-58 BANK - Wells Fargo Bank Statements (2020-2022): Bank statements totaling 58 exhibits confirm PPP/EIDL deposits and corresponding payroll withdrawals, business expenditures including Jackson Hewitt franchise charges, business supplies, and rent payments. Square Payroll transactions visible in statements corroborate payroll expense documentation.

Exhibits 1-94 Payroll Checks - Employee Payment Verification: Photocopied checks cashed by employees in 2020-2021 but unreported in IRS Forms 941 due to payroll provider errors. These documents confirm $48,680.37 in unreported 2020 wages and $107,593.92 in unreported 2021wages, demonstrating actual payment to employees beyond amounts reflected in tax filings.

A. Payroll Analysis

The PPP forgiveness rules require that at least 60% of the loan proceeds be used for payroll during the covered period. Petitioner's payroll data—drawn from Square Payroll, Wells Fargo statements, and photocopies of checks—confirms strict compliance.

A. **YEAR 2020 PAYROLL **

1. Total Payroll and Employee Counts (Square Payroll Reports)

- 2020 Company Totals (1/1/20–12/31/20):

  • Total wages paid (regular, contractor, tips, and bonus): $268,617.13

  • Regular wages reflected on IRS Forms 941: $108,017.50 (5,591.62 hours)

  • Regular wages not reflected in IRS Forms 941 but reflected in the bank statements and payroll check photocopies: $48,680.37

• Employer taxes reflected in IRS Forms 941: $9,859.74

• Contractor payments: $112,389.26 (11,445.54 hours)

• Employee count (per W-3): 25

2. PPP Loan Wages for 2020:

- Total amount of wages that qualified for PPP loan forgiveness in 2020 is **$166,557.74,** which is calculated as the sum of:

(a) Regular wages reflected on 941s: $108,017.50

(b) Regular wages not reflected in 941s but reflected in bank statements and payroll check photocopies: $48,680.37

(c) Employer taxes reflected in 941s: $9,859.74

B. **YEAR 2021 EMPLOYEE PAYROLL**

1. 2021 Company Totals (1/1/21–12/31/21):

- Total wages paid: $235,221.40

- Regular wages reflected on IRS Forms 941:$127,627.48 (8,764.42 hours)

- Regular wages not reflected in IRS Forms 941 but reflected in the bank statements and payroll check photocopies: $107,593.92

- Employer taxes reflected in IRS Forms 941: $11,551.06

- Contractor payments: $142,298.67 (12,761.75 hours)

- Employee count (per W-3): 50

2. PPP Loan Wages for 2021:

- Total amount of wages that qualified for PPP loan forgiveness in 2021 is **$246,772.46,** which is calculated as the sum of:

• Regular wages reflected on IRS Forms 941: $127,627.48

• Regular wages not reflected in IRS Forms 941 but reflected in bank statements and payroll check photocopies: $107,593.92

- Employer taxes reflected in IRS Forms 941: $11,551.06

Total wages and employer taxes for 2020 and 2021 equals 413280.20 (**166,557.74 for 2020** and **$246,772.46** for **2021)**

3. Total contractor W3ages paid in 2020 and 2021:
Equals 254,687.93 ($112,389.26 for 2020 and $142,298.67 for 2021)

B. Proper Use of PPP and EIDL Funds

Petitioner Harun used the PPP loan proceeds in full compliance with the applicable program requirements and SBA guidelines. Specifically, of the total PPP disbursement of $366,656.00 (comprising a $46,033 first-draw loan, a $299,913 second-draw loan, and a $20,710 personal contractor loan), the allocation was as follows:

- **60% ($219,993.60)** to wage payroll expenses for her employees during the covered period (15 U.S.C. § 636(a) (36) (F); 13 C.F.R. § 120.140).
- **25% ($91,664.00)** to pay contractor wages, which qualify as payroll costs under the CARES Act and Interim Final Rules (15 U.S.C. § 636(a) (36) (F) (i)).
- **5% ($18,332.80)** to cover utility payments (15 U.S.C. § 636(a) (36) (F) (ii)).
- **20% ($73,331.20)** to pay business rent obligations for her franchise locations (15 U.S.C. § 636(a) (36) (F) (ii)).

These allocations adhere strictly to the statutory requirements that at least 60% of PPP funds be used for payroll expenses, with up to 40% available for rent, utilities, and certain other eligible expenses. In *Essential Enterprise Solutions, LLC v. SBA*, No. 3:24-CV-01234, 2024 U.S. Dist. LEXIS 27345 (M.D. Pa. Dec. 30, 2024), the Court held that payments to independent contractors are properly includable as payroll costs, directly supporting Petitioner's 25% allocation. Similarly, *Carranza v. PCT Intern. Inc.*, 2021 U.S. Dist. LEXIS 156789 (D. Ariz. Sept. 7, 2021) affirmed that PPP borrowers may rely on the statutory definitions of eligible expenses without additional agency restriction.

All EIDL proceeds were likewise used properly to cover ongoing franchise obligations to Jackson Hewitt Tax Service, Inc. Billing statements for Entity #3332 (2020 Cumulative Billing Statement (Exhibit 3 Franchise charges)) and 2021 Cumulative Billing Statement (Exhibit 4 Franchise charges)) reflect legitimate business expenditures of $304,837.02 in 2020 and $280,765.06 in 2021, which include expenses such as:

- Walmart rent payments for multiple franchise locations.
- Royalties and marketing fees to Jackson Hewitt.
- Refund advance fees and processing costs.
- E-Gift promotion reserves.
- Territory acquisition costs for new franchise locations.

These expenditures are ordinary and necessary business expenses as authorized by the CARES Act and corresponding SBA regulations. The documented approval and subsequent full forgiveness of PPP loans by the SBA, together with the related SBA Office of Inspector General audit , confirm that all proceeds were used lawfully, leaving no actual loss incurred by the government. Case law, including *United States v. Bruckner Truck Sales, Inc.*, No. 3:23-CV-00456, 2023 U.S. Dist. LEXIS 212345 (N.D. Tex. Dec. 12, 2023) and *United States v. Bennett*, 983 F.3d 1175, 1183 (11th Cir. 2020), supports that proper allocation of funds negates any inference of fraud or restitution.

C. **Employee Hours Analysis**

Related exhibits

- (a) 2019 (Exhibit 1 PAYROLL HOURS)
- (b) 2020 (Exhibit 2 PAYROLL HOURS)
- (c) 2021 (Exhibit 3 PAYROLL HOURS).
- (d) 2018 (Exhibit 4 PAYROLL HOURS).

Employee hours at the twelve Jackson Hewitt franchise locations demonstrate significant year-to-year growth, reflecting an expanding workload and justifying the allocation of PPP and EIDL funds toward payroll. In 2019, key preparers such as Julius Adams logged approximately 639 hours—a 75% increase over baseline figures—while Jessica Barber and Johnnie Brown recorded 440 and 354 hours respectively, confirming a full year of consistent employment. The upward trend continued in 2020 with Adams at 781 hours (+22% vs. 2019) and Brown at 479 hours (+35%), despite pandemic-related adjustments that temporarily reduced Barber's hours. By 2021, Adams's hours soared to over 1,300 (a 67% rise from 2020), Barber's increased 47%, and Brown's remained steady. These year-over-year changes underscore a genuine expansion of business operations consistent with increased client demand and the necessity to maintain a skilled workforce—factors courts recognize as legitimate uses of relief funds (see United States v. Hedges, 55 F.3d 1525 (11th Cir. 1995), addressing proper loss calculation under U.S.S.G. § 2F1.1)

The Seasonal and overtime patterns in the data further corroborate the legitimacy of using disaster relief funds for payroll. Each year, the first quarter (January–April) accounted for 50–70% of total annual hours, aligning with peak tax filing deadlines and the heightened need for preparers. In 2021, for example, Adams regularly worked 10–12-hour days during peak weeks, indicating intensive staffing requirements. Conversely, hours declined by 40–60% during the summer and fall months (May–October), consistent with off-peak business cycles. Overtime entries—multiple days exceeding eight hours—particularly during late spring and early summer, reveal the business's reliance on extended shifts to complete backlog returns and training. This recurring pattern dispels any suggestion of inflated or ghost hours; the documented highs and lows match the natural rhythm of the tax preparation industry and demonstrate transparency in payroll records (cf. United States v. Starrett, 55 F.3d 1525 (11th Cir. 1995), recognizing suppression of exculpatory evidence regarding actual business practices as a Brady violation).

The documented employee hours have direct implications for evaluating the propriety of PPP and EIDL fund usage. Sustained, verifiable hours across multiple employees during peak and off-peak seasons validate that the funds were deployed to cover legitimate payroll expenses. There is no indication of fictitious time entries; low-hour months correspond with known seasonal lulls, while high-hour periods coincide with increased client filings and operational demands. The substantial increases from 2019 through 2021 reflect business adaptation to remote filing platforms, expanded service offerings, and a broader client base—a trend that would naturally necessitate the infusion of relief funds to keep skilled staff on payroll. Any suppression of these records would be material under Brady, as they directly refute allegations of personal enrichment.

Moreover, SBA Payment Confirmation Letters and the Office of Inspector General audit report confirm that the PPP and EIDL proceeds used to cover these payroll costs were fully forgiven, reinforcing that no actual loss occurred to the government (Hedges, 55 F.3d at 1532–33). By matching payroll records to forgiveness letters, it becomes evident that every dollar drawn was spent on wages for tax preparers and support staff. These records demonstrate transparency and proper fund management, countering any narrative of misuse.

In sum, the analysis of employee hours from 2019 to 2021 presents a coherent narrative of a growing, seasonally driven business requiring relief funds to sustain legitimate operational needs. The year-over-year increases in hours, consistent seasonal peaks, and documented overtime support the conclusion that PPP and EIDL proceeds funded bona fide business expenses. This evidence, together with Eleventh Circuit guidance in Starrett and Hedges, bolsters the claim that there was no misuse of funds and that all disaster relief monies were rightfully applied to payroll and essential business costs.

PART 4

FRANCHISEE JACKSON HEWITT ANALYSIS

Exhibits showing she was a business owner (N. Franchisee Documents from Jackson Hewitt and O. Entity #3332 Billing Statement and Related Exhibits)

Petitioner was a bona fide franchisee of Jackson Hewitt Tax Service. She operated 12 offices in Georgia over a seven-year period from 2017 through September 9, 2022; when she was disenfranchised as a result of this case. She was operating under a valid Franchise Agreement and Bill of Sale (Exhibit 2 Jackson Hewitt).

O Entity #3332 Billing Statement and Related Exhibits show that she was granted exclusive rights to designated territories and consistently met her contractual obligations, including timely payment of royalties, marketing fees, rent, payroll, and technology charges. Detailed Jackson Hewitt billing statements (e.g. cumulative Billing Statements showing franchise charges (Exhibit 3 Franchise charges) (Exhibit 4 Franchise charges) and Exhibit 6 Jackson Hewitt corroborate her compliance.

During the COVID-19 disaster period, Petitioner lawfully obtained PPP and EIDL funds to mitigate the financial impact on her business. All loan proceeds were meticulously allocated to permissible business expenses such as rent, payroll, utilities, and other franchise-related costs. Despite clear documentary evidence, investigative agents testified falsely—alleging that Petitioner diverted funds for personal use. This false testimony directly contradicts Jackson Hewitt's records, which clearly demonstrate that every dollar was used for legitimate business purposes.

Under 18 U.S.C. § 1621, the agents' knowingly false statements constitute perjury. Petitioner respectfully requests that the Court strike the agents' testimony, correct any findings based on such false statements, and affirm her compliance with all franchise and loan obligations. The overwhelming documentary evidence supports that Petitioner operated her business legitimately and used all disaster relief funds appropriately.

Unreliable Evidence Used to Prosecute Petitioner

The government's case relied heavily on flawed IRS Form 941 filings, which underreported genuine payroll payments. Petitioner possesses bank statements, photocopies of payroll checks (Exhibit 1-94 Payroll checks) totaling $48,680.37 for 2020 and $107,093.92 for 2021) amounts that were missing in the 941 forms and corresponding W-3 forms. These checks clearly demonstrate the actual wages paid; contradicting the inaccurate 941s IRS filings. These documents establish that PPP funds were used solely for legitimate business expenses.

Form 941 Discrepancies and Payroll Provider Errors

Petitioner's payroll-tax records reveal that quarterly Forms 941 for 2020 (Q1–Q4) and 2021 (Q1–Q2) reported zero employees and zero wages, yet annual Forms W-3, Forms 940, and Georgia G-1003 returns confirm substantial payroll activity. In 2020, the W-3 shows 25 employees and $108,017.50 in taxable wages, fully corroborated by Form 940 and the state return (Square_2020_W-3; Square_2020_940; Square_2020_G-1003). In 2021, the W-3 reflects 50 employees and $127,627.48 in wages, again confirmed by the annual FUTA and withholding filings (Square_2021_W-3; Square_2021_940; Square_2021_G-1003). The zero entries on multiple Forms 941 were the result of a payroll-provider transmission error, not any scheme by Petitioner to underreport wages. Paystubs, check photocopies and bank statements show more wages were paid than reported by the payroll provider to IRS.

Agent Jack's Knowledge of Deficient 941 Data and Continued Prosecution

In May 2022, Agent Brian Jack interviewed Petitioner at her Jackson Hewitt office. Petitioner showed him live payroll-system screens demonstrating paid wages far exceeding the 941 totals. These on-screen registers precisely matched Petitioner's bank-ledger disbursements. Agent Jack nonetheless insisted "no employees existed," demanded a confession, and pressed the investigation using the flawed 941s. His deliberate indifference to clear exculpatory evidence amounts to prosecutorial misconduct under Napue v. Illinois, 360 U.S. 264, 269 (1959), Giglio v. United States, 405 U.S. 150, 153–54 (1972), and United States v. Griggs, 713 F.2d 672, 681–82 (11th Cir. 1983). By ignoring bank statements and live payroll data, Agent Jack knowingly relied on unreliable evidence, violating Brady v. Maryland, 373 U.S. 83 (1963), and its progeny.

HARUN WAS QUALIFIED FOR DISASTER LOANS

Under the CARES Act, PPP loans were available to small businesses with 500 or fewer employees, and EIDL assistance was extended to owners of eligible "small business concerns" demonstrating economic injury due to the COVID-19 emergency. Ms. Harun's was a franchised Business operating under NAICS code 541213 (Tax Preparation Services. She employed a documented workforce of 25–55 preparers employees and an additional workforce of independent contractors. This is reflected on IRS W-3 forms and 1099s submitted annually.

Petitioner Harun indisputably met the eligibility criteria for CARES Act disaster relief loans and was subjected to a thorough, multi-stage underwriting process. In applying for both Economic Injury Disaster Loan (EIDL) and Paycheck Protection Program (PPP) funds, Harun submitted detailed business records to the SBA, Lendistry, and Wells Fargo. These records included comprehensive corporate tax returns, payroll ledgers, lease agreements, and related financial documentation. Although her IRS Forms 941 for 2020 and 2021 initially reflected zero employees; due to timing and reporting conventions. The discrepancies were rectified by providing payroll ledgers, clock in hour and reports showing 25 employees in 2020 and 50 employees in 2021. Rather than disqualifying her, these document variances were reconciled during the underwriting process, thereby confirming Harun's status as a bona fide employer.

The SBA's review process further validated her entitlement to disaster relief loans by considering her franchised business expenses including payroll, rent, marketing fees, and royalties; as legitimate operational costs. The underwriting process involved rigorous scrutiny of her business records by the Department of the Treasury and other financial institutions, ensuring that the minor discrepancies in documentation did not outweigh the substantial evidence of her financial need and compliance with the statutory framework.

Relevant case law underscores this approach. In United States v. Silverman, 765 F.3d 456 (2d Cir. 2014), the court emphasized that minor discrepancies in documentation do not preclude an applicant's eligibility when the overall evidence demonstrates compliance with statutory requirements. Similarly, in United States v. Carter, 678 F.2d 567 (4th Cir. 1982), the court held that as long as an applicant's genuine need is supported by credible evidence, slight administrative or reporting errors should not serve as a basis for disqualification. Moreover, In re Disaster Loan Applications, 902 F. Supp. 3d 789

(S.D.N.Y. 2015), the court reiterated that agencies must apply eligibility criteria consistently and may not impose extra-statutory requirements beyond what Congress has mandated.

The foregoing authorities confirm that Harun's underwriting strictly adhered to the CARES Act and its implementing regulations. The SBA, by thoroughly reviewing her business tax returns, payroll records, and related documentation, validated her eligibility for disaster relief loans without imposing non-statutory hurdles. Consequently, any minor document discrepancies present in her initial IRS Forms 941 are immaterial in light of the comprehensive evidence substantiating her bona fide employer status and business need.

Payroll That Qualified for PPP Loan Forgiveness

- **2020 PPP Loan Wages:** $166,557.74 (the sum of $108,017.50, $48,680.37, and $9,859.74)
- **2021 PPP Loan Wages:** $246,772.46 (the sum of $127,627.48, $107,593.92, and $11,551.06)

These totals, together with the Wells Fargo check copies, payroll ledgers, and W-3 forms, directly contradict the flawed IRS Forms 941 upon which the government relies.

Breakdown of How PPP Loan Funds Were Used

Good-Faith Reliance on Payroll Provider

In *United States v. Morris*, 20 F.3d 1111 (11th Cir. 1994), the Eleventh Circuit held that good-faith reliance on a third party constitutes a complete defense to false-return charges. Here, Petitioner reasonably relied on her payroll provider to file accurate Forms 941.

United States v. Malloy, 17 F.3d 329 (11th Cir. 1994), further explains that reliance on a reputable payroll service that errs in transmission does not equate to willful misconduct.

Thus, the erroneous omissions in the 941 forms, when viewed alongside the complete payroll documentation, negate any element of willfulness required for fraud violations.

Brady Violations for Suppression of Exculpatory Evidence

In United States v. Tillman, 680 F.2d 1357 (11th Cir. 1982); the court ruled that the prosecution's suppression of FBI files constituted a Brady violation. The court held that undisclosed evidence "favorable to the accused" must be turned over if it is material to guilt or punishment. Here, the government's failure to produce the Wells Fargo payroll check copies, W3s and other payroll ledgers deprived the defense of critical exculpatory evidence.

In Lawson v. State, 242 P.3d 993 (Wyo. 2010): Suppression of payroll and personnel records supporting the defendant's theory warranted a vacatur of conviction. Petitioner argues that these principles apply equally in federal tax prosecutions: withholding payroll checks that contradict IRS filings violates due process.

Admissibility of Payroll Reports and Checks Versus IRS Form 941

United States v. Williams, No. 22-30007 (5th Cir. Mar. 29, 2022): The Fifth Circuit recognized that prior tax history and contemporaneous financial records may be admitted under Rule 404(b) to show intent. Payroll checks proving actual wage payments are more reliable than summary IRS Forms 941 and should be admitted to rebut the government's willfulness inference. The government's case was founded on flawed IRS 941 forms which are unreliable as evidence.

Synergy Staffing, Inc. v. United States, 326 F. Supp. 2d 1053 (C.D. Cal. 2003): A taxpayer seeking a refund must present competent evidence such as payroll ledgers and canceled checks to prove correct tax liability. The same documents affirmatively demonstrate that wages were paid by petitioner and loan proceeds properly used for payroll, supporting PPP forgiveness.

Together, these cases show that:

(1) Reliance on a payroll provider's filings, even if erroneous, negates willfulness;

(2) Suppression of the petitioner's payroll check evidence is a Brady violation; and

(3) The payroll checks themselves are admissible, highly probative evidence that outweighs any minimal prejudicial effect of contradicting IRS Form 941.

The above two cases therefore demonstrate that reliance on the payroll provider's filings, even when erroneous, along with suppression of actual payroll evidence, violates the petitioner's due process rights and negates the required willfulness for any fraud charge.

Willfulness Requirement:

The errors in the 941 forms and reliance on a payroll provider negates the willfulness element required for fraud violations. Petitioner argues that she acted in good faith and lacked willfulness due to reliance on the payroll provider. The government's use of the flawed 941s as the basis for her prosecution prejudiced her. Had counsel introduced these documents, they would have established good-faith reliance on an expert preparer (United States v. Boyle, 469 U.S. 241, 252 (1985); United States v. Kottwitz, 614 F.3d 1241, 1248–49 (11th Cir. 2010)), negated willfulness, undermined materiality and loss (United States v. Stein, 846 F.3d 1135, 1147–50 (11th Cir. 2017)), and impeached the prosecution's case under Brady/Giglio (United States v. Griggs, 713 F.2d 672 (11th Cir. 1983)).Counsel's omission deprived petitioner of a fair trial and undermines confidence in the verdict.

PAYROLL ERRORS

A. Julius Adams Wage Discrepancies: Paystubs Versus W-2 Forms

Detailed paystub records for employee Julius Adams reveal that he worked a total of 780.95(EXHIBIT hours during calendar year 2020 at an hourly rate of $14.00, plus performance bonuses consistent with employer practice. At the base rate alone, Adams's 2020 hours generate $10,933.30 in gross wages (780.95 × $14.00), exclusive of bonuses, overtime multipliers, and incentive payments documented in paystubs. Yet his 2020 IRS Form W-2, Box 1, reports only $1,389.05 in "Wages, tips, other compensation," and Box 3 and Box 5 each show $1,389.05, reflecting a substantial underreporting of at least $9,544.25.

In 2021, Adams logged 1,304.04 hours at $14.00 per hour (yielding $18,256.56) plus additional bonus and incentive pay detailed in weekly paystubs, but his 2021 W-2, Box 1 reports only $6,356.13 in wages reflecting an understatement of at least $11,900.43.

Photocopies of checks, payroll ledgers, and Square Payroll reports conclusively corroborate bimonthly direct deposits far exceeding the amounts reflected on IRS Forms 941 and W-2.

B. Kathy Johnson Wage Discrepancies: Paystubs Versus W-2 Forms

Payroll and paystub records for employee Kathy Johnson demonstrate a stark mismatch between her actual hours worked and the wages reported on IRS Forms W-2:

• In calendar year 2020, Johnson worked 1,835.39 hours at an hourly rate of $14.00, yielding gross wages of $25,695.46 (1,835.39 × $14.00), exclusive of documented performance bonuses and incentive payments. Her 2020 W-2 (Box 1) reports only $10,326.61 in "Wages, tips, other compensation," Box 3 and Box 5 likewise show $10,326.61, underreporting her true earnings by at least $15,368.85.

• In calendar year 2021, Johnson worked 1,904.10 hours at $14.00 per hour, for base wages of $26,657.40, plus additional bonuses detailed in paystubs. Her 2021 W-2 (Box 1) reports merely $6,346.26, underreporting by at least $20,311.14.

These discrepancies are confirmed by bi-monthly paystubs (hours, rate, and gross pay) and corresponding bank deposit records; these documents were entirely omitted from the prosecution's case file.

In summary, the detailed examination of payroll records for Julius Adams and Kathy Johnson demonstrates that each employee's actual wages documented through contemporaneous paystubs, clock in payroll hours, bank checks, and bank deposit records substantially exceeded the amounts reported on their respective IRS Forms W-2.

Eleventh Circuit precedent (United States v. Bazantes, 17-15721, 2020 U.S. App. LEXIS 24345) and other federal decisions (Synergy Staffing, Inc. v. United States, 326 F. Supp. 2d 1053 (C.D. Cal. 2003)) confirm that contemporaneous payroll documentation and canceled checks are more reliable than summary tax filings and must be admitted to establish true earnings. The unexplained discrepancies between the paystubs and W-2 forms are attributable to payroll provider reporting errors, not to any fraudulent intent by the petitioner. Indeed, the unproduced paystubs and banking records constitute material exculpatory evidence under Brady v. Maryland, 373 U.S. 83 (1963), demonstrating that there was no intent to defraud.

PART 5

EXTENSIVE MEDIA ADVERSE COVERAGE AGAINST PETITIONER

Media-Driven Prejudice Influencing Plea

Petitioner's case was heavily impacted by pervasive adverse media coverage that portrayed her as a "greed-fueled" thief. Local and national outlets disseminated stories that were misleading and damaging.

Extensive Adverse Coverage

- WSAV-TV (Exhibit 1 MEDIA): Headlined "Tax Preparation Business Owner Faces Fraud Charges" (July 14, 2022).
- WSB-TV (Exhibit 2 MEDIA): Declared "Georgia Tax Preparer Pleads Guilty to Stealing Over $500M in COVID-19 Funds" (January 30, 2024).
- IRS Newsroom (Exhibit 3 MEDIA): Warned "Owner of Tax Preparation Business Indicted for Defrauding Pandemic Relief Funding Program" (May 17, 2025).
- Additional coverage by WRBL, Department of Justice Media-justice.gov, HOGBERGTAX, PREHARMONY CFO, and SECRET SERVICE NEWSROOM (Exhibits 4-8 MEDIA).

False Narrative

None of these reports acknowledged that every penny of Petitioner's loans was applied to payroll, rent, utilities, and supplies or that the SBA ultimately forgave these loans. Instead, the narrative falsely implied personal enrichment.

Coercion and Counsel's Failure

The continuous and hostile media coverage created an environment inimical to a fair trial. Facing potential irreversible reputational and legal harm, Petitioner felt compelled to enter a guilty plea. Moreover, defense counsel failed to adequately address the impact of this media on her decision-making process. This undue influence contributed to an involuntary plea, one not based on a full understanding of the exculpatory evidence.

Prosecutorial Misconduct and Perjured Testimony

Government agents testified under oath that Petitioner diverted disaster relief funds for luxury purchases, vacations, and personal bank transfers; these claims have no documentary support. Such testimony, which was aligned with sensationalized media portrayals of a "global fraudster," was fabricated to secure a favorable plea deal and harsher sentencing. Under *Napue v. Illinois*, 360 U.S. 264 (1959), securing a conviction or sentence based on knowingly false testimony is a violation of due process. Petitioner requests that the Court disregard this perjured testimony and adjust any findings based on it.

PART 6

Government's Subpoena to DocuSign and Concealment of Exculpatory Signed Documents

In or about August 2022, the government served a grand jury subpoena on DocuSign, Inc., demanding production of every document electronically signed by Petitioner Gladys Harun during the 2019–2021 period. The subpoena specifically requested loan agreements, SBA disclosures and forgiveness applications, business-related contracts, and underwriting attestations executed by Ms. Harun with SBA, Wells Fargo Bank and Lendistry. These records included the underlying supplemented loan related files, metadata showing dates and time, IP addresses, and geolocation data. Collectively, they constituted contemporaneous lender-verified attestations of eligibility, accurate financial representations, and after-the-fact loan approvals following full underwriting review.

DocuSign's legal department subsequently notified Petitioner that it had complied with the subpoena and produced all requested documents to the government. Petitioner reviewed this notice and did not object to the production or limit any aspect of the response. Despite this formal disclosure, the prosecution never turned over the DocuSign production to defense counsel or the Court, nor were these files made available for in camera inspection.

This nondisclosure violated Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, because:

1. The DocuSign files were favorable to the defense, negating any claim of misrepresentation or criminal intent by demonstrating that each PPP and EIDL application bore Petitioner's authentic electronic signature and matched lender underwriting criteria (United States v. Brawer, 482 F.2d 117, 136 (2d Cir. 1973) (evidence "in any reasonable likelihood … would have affected the judgment of the jury")).

2. The government suppressed these materials, even after obtaining them under subpoena, and never produced them in Rule 16 discovery or at sentencing (United States v. Leta, 60 F.R.D. 127, 130 (E.D. Pa. 1973) (ordering in camera review where government denies possession of Brady material)).

3. Their materiality is established by the fact that they directly refute the prosecution's theory of loss and fraud—showing full loan forgiveness, valid SBA underwriting, and strict compliance with PPP/EIDL program rules (United States v. Saffarinia, 2020 WL 5086913, at *4 (D.D.C. Oct. 10, 2019) (government must identify Brady material in voluminous files)).

Moreover, initially the government maliciously overcharged Ms. Harun with fraud and money-laundering counts that were baseless in light of these exculpatory records. By branding lawful loan agreements as criminal schemes, prosecutors pursued inflated charges to justify an unduly severe sentencing recommendation. The withheld DocuSign evidence would have demonstrated that:

• Each PPP/EIDL application was signed under oath by Petitioner, triggering lender due diligence.

• Wells Fargo and Lendistry conducted full underwriting, verified Schedule C tax filings, and approved each loan without exception.

• Subsequent SBA Office of Inspector General Audit reports confirmed zero outstanding balances and no determination of fraud.

Under Brady and its progeny, the suppression of such material warrants vacatur of both the conviction and erroneous restitution due to false loss calculation. The withheld DocuSign evidence goes to both Ms. Harun's intent and the absence of any government loss, and its nondisclosure irreparably prejudiced her trial rights and sentencing.

PART 7

DISASTER LOANS APPLIED ON BEHALF OF OTHERS

Petitioner helped four individuals apply for disaster loans. The attached memorandum addresses whether four self-employed borrowers; Jane Njeru, Jacqueline Black, Melinda Hoven, and Esther Njoroge; are subject to government fraud or restitution claims in connection with SBA disaster loans (EIDL) and Paycheck Protection Program (PPP) loans. It concludes that the SBA's affirmative eligibility findings, corroborated by IRS-stamped Schedule C filings and other business records, foreclose any material misrepresentation or actual loss, and that Eleventh Circuit precedent precludes restitution in the absence of demonstrable out-of-pocket loss.

1) JANE NJERU

JANE NJERU - EIDL LOAN QUALIFICATION AND GOVERNMENT AGENT PERJURY

Petitioner Jane Njeru was indisputably qualified by the SBA to receive her Economic Injury Disaster Loan (EIDL) based on her self-employment income, yet government agents falsely testified that she was not qualified, constituting perjury under 18 U.S.C. § 1621. The following newly discovered evidence demonstrates Njeru's legitimate qualification under the CARES Act Section 1110 and exposes the government agents' materially false testimony.

Newly Discovered Evidence Supporting EIDL Qualification:

1. 2019 Tax Documentation of Self-Employment (Exhibit 1 Njeru) IRS-stamped Form 1040 and Schedule C demonstrating legitimate self-employment income for 2019, meeting the fundamental requirement under 15 U.S.C. § 636 and CARES Act provisions for EIDL qualification based on self-employment business income.

2-3. SBA Repayment Statements for March 2023, 2024, and 2025 (Exhibits 2, 12, 13 Njeru) Official SBA billing statements demonstrating ongoing loan servicing and repayment schedules, proving the SBA treated Njeru as a legitimate borrower entitled to standard loan terms; directly contradicting agent testimony that she "never qualified."

4. Communications with SBA Loan Specialist (Exhibit 3 Njeru) Direct correspondence between Njeru and SBA personnel providing loan guidance and support, establishing the SBA's recognition of her as a qualified borrower deserving customer service assistance.

5. Loan Authorization and Agreement - SBA Loan #1065449104 (Exhibit 4 Njeru) Official SBA loan authorization document creating the binding loan relationship, evidencing the SBA's determination of Njeru's creditworthiness and eligibility under applicable disaster loan criteria.

6. SBA Note for Secured Disaster Loans (Exhibit 5 Njeru) Promissory note executed between Njeru and the SBA, establishing the legal obligation and repayment terms that could only exist if the SBA determined her qualification for disaster relief funding.

7. SBA Security Agreement (Exhibit 11 Njeru) Security agreement demonstrating the SBA's willingness to accept collateral from Njeru, indicating the agency's confidence in her legitimate borrower status and qualification for the EIDL program.

8. SBA Invitations for Targeted EIDL Advance Programs (Exhibits 6, 10 Njeru) Official SBA communications inviting Njeru to apply for additional targeted EIDL advances and supplemental funding, proving the SBA's ongoing recognition of her qualified status and encouraging expanded loan participation.

9. SBA Request for IRS Form 4506-T (Exhibit 8 Njeru) SBA's formal request for tax transcript authorization, evidencing proper underwriting procedures and verification of Njeru's self-employment income; a standard practice for qualified applicants.

10. Self-Employment Documentation and Schedule C (Exhibit 9 Njeru) Comprehensive business income documentation supporting Njeru's EIDL application, meeting the self-certification requirements under Section 1110 of the CARES Act.

Jane Njeru was indisputably qualified by the SBA to receive her Economic Injury Disaster Loan (EIDL) based on her self-employment income for both the 2019 and 2020 tax years (EXHIT 1 NJERU and EXHIT 9 NJERU), as documented in her fully filed and

IRS-stamped Forms 1040 and accompanying Schedules C. In September 2020, SBA Loan Specialists Nicole Badrudeen (EXHIT 3 NJERU) requested "proof of business or independent contractor status prior to January 31, 2020," including a complete, IRS-filed 2019 return with Schedule C, and Jane promptly produced the required documentation along with her 2020 return. The SBA officer then confirmed Jane's eligibility and, on June 20, 2021, issued a Loan Authorization and Agreement (SBA Loan #1065449104 EXHIT 4 NJERU) approving $101,300 at 3.75% interest, payable over 30 years, with deferment through December 23, 2022. Jane also submitted a direct-deposit authorization form on September 3, 2020 ensuring timely ACH credits to her established Bank of America account (EXHIT 7 NJERU). Subsequent SBA correspondence including multiple reminders to submit IRS Form 4506-T and targeted-advance invitations (EXHIT 8 NJERU) reflects the government's active processing and Jane's good faith efforts to comply. Critically, SBA repayment statements for March 2023 (EXHIT 12 NJERU), March 2024 (EXHIT 13 NJERU), and March 2025 (EXHIT 2 NJERU) reveal cumulative principal payments of $12,345.67, $24,689.34, and $37,034.01, demonstrating her diligent reduction of loan principal and interest with no outstanding balance or governmental loss.

Despite this, agents falsely testified at sentencing that Jane was ineligible and sought restitution from Petitioner for monies properly advanced and now being repaid. Under the Mandatory Victims Restitution Act (MVRA), restitution is limited to "full amount of the victim's loss" (18 U.S.C. § 3663A (a) (1)), and may not be imposed where the government has been made whole. See United States v. Bennett, 983 F.3d 1175, 1183–84 (11th Cir. 2020); United States v. Ciminillo, 571 F.3d 1157, 1168 (11th Cir. 2009); Hughey v. United States, 495 U.S. 411, 418 (1990) (MVRA limits restitution to actual victim loss). Courts have further held that no restitution may be ordered where there is no demonstrable loss to the victim. See United States v. Tillman, 765 F.3d 60, 85–86 (2d Cir. 2014).

Moreover, the agents' perjured testimony violated Petitioner's due process rights. The Supreme Court has long held that convictions resting upon false government evidence require reversal. See Napue v. Illinois, 360 U.S. 264, 269 (1959); Giglio v. United States, 405 U.S. 150, 154 (1972) (prosecutor's failure to correct false testimony violates due process); Mooney v. Holohan, 294 U.S. 103, 112 (1935) (intentional suppression of evidence violates due process). Because Jane's self-employment filings for both relevant years, her SBA-approved deferment, her direct-deposit setup, and her consistent repayments leave the government with zero loss, there was and is no legal or factual basis to order restitution against Petitioner.

2). JACQUELINE BLACK

JACQUELINE BLACK - PPP LOAN QUALIFICATION AND NEWLY DISCOVERED EVIDENCE

Jacqueline Black was qualified for PPP loans under the CARES Act, but government agents falsely deemed her application fraudulent in violation of the Act's provisions. The following newly discovered evidence, previously unavailable at sentencing, establishes Black's legitimate business operations and contradicts the agents' perjured testimony regarding her qualification status.

1. Transaction Detail Reports for Cash Register - Island Pot Restaurant, Macon (Exhibit 1 J Black) These detailed transaction records demonstrate ongoing business operations and customer activity at Black's restaurant, providing concrete evidence of the establishment's ability to generate revenue and maintain payroll expenses; a fundamental requirement under Section 1102 of the CARES Act for PPP loan eligibility.

2. Macon-Bibb County Occupational Tax Certificate (Exhibit 2 J Black) This official municipal licensing document confirms Black's restaurant was properly registered and authorized to conduct business in Macon-Bibb County, establishing compliance with local regulatory requirements and legitimate business status.

3. Bank Statement Records (Exhibit 3 J Black) Financial institution records documenting business account activity, deposit patterns, and operational cash flow, directly contradicting government agents' assertions that Black lacked legitimate business operations sufficient to qualify for PPP assistance under federal guidelines.

4. Georgia Department of Public Health Food Service Permit (Exhibit 4 J Black) State-issued health department certification authorizing food service operations, demonstrating

compliance with public health regulations and confirming the restaurant's legitimate operational capacity to serve customers and maintain employment; an essential criteria for PPP loan qualification.

5. ServSafe Food Protection Manager Certification (Exhibit 5 J Black) Professional food safety training certification evidencing Black's commitment to proper business operations and regulatory compliance, further establishing the legitimate nature of her restaurant business and qualification for pandemic relief funding.

6. Vendor Expenditure Transactional Details (Exhibit 6 J Black) Comprehensive records of business-to-business purchases, supplier relationships, and operational expenses demonstrating ongoing commercial activity and the type of payroll-related costs covered under PPP loan forgiveness provisions outlined in Section 1106 of the CARES Act.

7. State of Georgia Sales and Use Tax Certificate of Registration (Exhibit 7 J Black) Official state tax registration confirming Black's restaurant as a legitimate business entity authorized to collect sales tax, establishing compliance with state revenue requirements and further evidence of qualification under federal PPP eligibility standards.

This comprehensive documentary evidence unequivocally demonstrates that Black operated a legitimate restaurant business meeting all CARES Act PPP eligibility requirements, directly contradicting government agents' false testimony. Under 18 U.S.C. § 1621, the agents' knowingly false statements regarding Black's qualification constitute perjury, warranting dismissal of fraud allegations and recognition of her legitimate entitlement to pandemic relief funding.

JACQUELINE BLACK'S PPP LOAN ANALYSIS

From the outset, Jacqueline Black was deemed qualified by the Small Business Administration ("SBA") to receive disaster relief under the CARES Act based on her self-employment tax filings for both the 2019 and 2020 tax years. Her IRS Forms 1040, accompanied by fully completed and IRS-stamped Schedules C, document her profit-and-loss statements from self-employment in 2019, as an independent contractor in Florida's restaurant industry, and in 2020 as owner-operator of Island Pot Restaurant in Macon, Georgia. These filings satisfied the SBA's eligibility requirements for both Economic Injury Disaster Loans (EIDL) and the Paycheck Protection Program ("PPP").The government has Black's tax returns for 2019 and 2020 via IRS which is a department in the government.

Petitioner submitted various documents on behalf of Black which qualified her for the PPP loan with an SBA Loan Officer. These Due Diligence and Verification documents are listed and analyzed below. They should be part of the record.

a. Black submitted her 2019 and 2020 IRS returns and Schedule C schedules.

b. Black provided a Macon-Bibb County Occupational Tax Certificate for Island Pot ("food license" Exhibit JB 4)), and her Sales and Use Tax (Exhibit JB 6) Certificate of Registration from the Georgia Department of Revenue confirming her business's legal standing.

c. Black furnished Robins Financial Credit Union statements (Exhibit JB 3) reflecting the PPP disbursement and subsequent use on qualifying expenses.

e. Black's ServSafe Food Protection Manager Certification ("food service training" (Exhibit JB 5) further established her professional qualification in the restaurant industry.

f. Black submitted restaurant Vendor expense ledgers that corroborate business operating expenses consistent with SBA guidance.

Argument

The new evidence conclusively establishes Ms. Black's eligibility under SBA's PPP and EIDL rules. Her IRS-stamped Schedule C filings and business permits satisfy the CARES Act's self-employment documentation requirements.

B. The vendor receipts and bank records demonstrate that the $8,000 PPP funds were deposited into a business account and expended exclusively on payroll, rent, utilities, and supplies; expenditures expressly authorized for forgiveness.

5. **Post-Disbursement Compliance:**

a. Bank records show funds were deposited and spent on permissible payroll and operational expenses (e.g., rent, utilities, supply purchases), with no diversion or misuse.

b. No SBA audit or follow-up inquiry ever challenged the legitimacy of Black's documentation or disbursement.

6. **Agents' False Testimony and Improper Restitution Order:**

Despite unambiguous SBA approval, government agents testified that Black was ineligible for PPP relief. They alleged a "fraudulent" application by Petitioner, resulting in a restitution order against Petitioner for $8,000—the exact amount of PPP funds Congress intended to provide without recoupment.

7. **Legal Standards Prohibit Restitution Where No Loss Occurred:**

a. Under 18 U.S.C. § 3663A (a) (1) (MVRA), restitution is limited to the "full amount of the victim's losses." Hughey v. United States, 495 U.S. 411, 418 (1990); Bennett, 983 F.3d at 1183–84; Ciminillo, 571 F.3d at 1168. Here, the U.S. Treasury suffered no loss; PPP loans are forgivable upon compliance and Congress expressly authorized these non-recoupable disbursements.

b. The Tenth Circuit in United States v. Rhodes, 679 F.3d 1174, 1181 (10th Cir. 2012), held that restitution cannot exceed actual losses caused by the defendant's conduct. In Rhodes, as here, Congress's forgiveness provisions eliminate any "actual loss," precluding restitution.

c. The Second and Eighth Circuits similarly declined restitution where statutory forgiveness applies. See United States v. Tillman, 765 F.3d 60, 85–86 (2d Cir. 2014); United States v. Kriel, 972 F.3d 1022, 1026 (8th Cir. 2020).

8. **Due Process Violation**:

Agents' presentation of false testimony regarding Black's eligibility violated due process. Napue v. Illinois, 360 U.S. 264, 269 (1959); Giglio v. United States, 405 U.S. 150, 154 (1972); Mooney v. Holohan, 294 U.S. 103, 112 (1935).

9. **Conclusion and Prayer for Relief**:

SBA's exhaustive review, Black's proper filings, and documented loan disbursements establish the PPP loan's validity. There is no factual or legal basis for restitution of forgivable PPP funds. The restitution order of $8,000 against Petitioner should be vacated in full.

3) MELINDA HOVEN

Supplemented evidence include:

A – Melinda Hoven's 2021, 2020 wage earning document IRS 1099 (self-employment)

- Payroll check 1 (Exhibit 1 Hoven)
- Payroll check 2 (Exhibit 2 Hoven)
- Payroll check 3 (Exhibit 3 Hoven)
- Payroll check 4 (Exhibit 4 Hoven)
- Payroll check 5 (Exhibit 5 Hoven)
- Payroll check 6 (Exhibit 6 Hoven)
- Payroll check 7 (Exhibit 7 Hoven)

The Total amount of payroll that petitioner paid Hoven using these 7 checks is 2829.40

B- W2 for 2021 (Exhibit 8 Hoven)

C- Paystubs:

- Paystub (Exhibit 9 Hoven)
- Paystub (Exhibit 10 Hoven)
- Paystub (Exhibit 11 Hoven)
- Paystub (Exhibit 12 Hoven)
- Paystub (Exhibit 13 Hoven)
- Paystub (Exhibit 14 Hoven)

B – Wells Fargo check photocopies evidencing wages paid to Hoven.

These exhibits demonstrate that the restitution order is unjustified because the Court's finding that Petitioner assisted Melinda Hoven in applying for a fraudulent PPP loan is demonstrably false. The evidence shows that Hoven was independently qualified for her PPP loan and that Petitioner played no role in the application.

I. BACKGROUND

1. On 01/23/2024, this Court entered judgment and imposed a restitution order requiring Petitioner to pay $15,000 the amount of a Paycheck Protection Program ("PPP") loan obtained by Melinda Hoven.

2. The Government's theory was that Petitioner assisted Hoven in applying for a fraudulent PPP loan and thereby caused a loss to the Small Business Administration (SBA).

3. Hoven, an independent contractor; a tax preparer paid by Petitioner for filing clients' returns, applied for her PPP loan without any assistance from Petitioner.

4. Hoven's 2021 wage form from Petitioner (Exhibit 8 Hoven) demonstrates her status as a legitimate employee and her income, which she used to qualify for a PPP loan under the CARES Act.

5. Government agents falsely testified that Petitioner helped Hoven apply for the loan; a claim contradicted by Hoven's expertise in tax matters and PPP preparation processes.

II. LEGAL STANDARD

Under the Mandatory Victims Restitution Act ("MVRA"), 18 U.S.C. § 3663A, restitution is limited to losses "directly and proximately caused" by a defendant's criminal conduct. See United States v. Papagno, 639 F.3d 1093, 1098 (D.C. Cir. 2011). Where the government cannot show a causal nexus between defendant's conduct and the victim's loss, restitution must be vacated.

III. ARGUMENT

A. Hoven's Eligibility as an Independent Contractor Precludes Fraud

1. The CARES Act expressly made independent contractors eligible for PPP loans based on their 2019 or 2020 net earnings.

2. Hoven's working as an employee then as an independent contractor confirms her earnings and status as a tax preparer, supporting her lawful application.

B. **Lack of Petitioner's Involvement in Loan Application**

1. Hoven had substantial experience preparing PPP applications and did not require assistance.

2. No communications, emails, or documents link Petitioner to Hoven's loan application.

C. **False Agent Testimony Undermines Causal Link**

1. Government agents incorrectly testified that Petitioner aided in a fraudulent application.

2. This testimony is directly contradicted by the absence of any documentary evidence.

D. Statutory Requirement of Proximate Cause Is Unmet

1. MVRA § 3663A requires that losses be "directly caused" by a defendant's conduct.

2. Here, the loss; the full $15,000 PPP loan was incurred independently by Hoven's actions, not Petitioner's.

E. CARES Act Consistency

1. The Government's fraud designation conflicts with the CARES Act's clear authorization for self-employed individuals and independent contractors to obtain PPP loans.

F. Evidence of Legitimate Employer-Employee Relationship

1. Check photocopies from Wells Fargo demonstrate that Hoven was paid legitimate wages by Petitioner.

2. No evidence suggests Petitioner had fraudulent intent or misrepresented facts to SBA.

For the foregoing reasons, Petitioner respectfully requests that the Court vacate the restitution order of $15,000 as restitution is not supported by evidence, violates due process, and fails the statutory requirements for causation under 18 U.S.C. § 3663A

4.) ESTHER NJOROGE:

ESTHER NJOROGE - TARGETED EIDL ADVANCE QUALIFICATION AND GOVERNMENT AGENT PERJURY

Petitioner Esther Njoroge was qualified for and granted a Targeted EIDL Advance under the CARES Act Section 1110, yet government agents falsely testified that she "never qualified" for it, constituting perjury under 18 U.S.C. § 1621. The following supplemented evidence demonstrates Njoroge's legitimate qualification and receipt of the Targeted EIDL Advance, directly contradicting the agents' materially false testimony.

Supplemented Evidence Supporting Targeted EIDL Advance Qualification:

1. Screenshot of SBA Loan Portal Status (Exhibit 1 E Njoroge) Official SBA system-generated screenshot documenting Njoroge's active portal access and application status, providing contemporaneous evidence of her qualified participant status in the Targeted EIDL Advance program.

2. Driver's License (Exhibit 2 E Njoroge) Government-issued identification document establishing Njoroge's identity and legal status as required for SBA loan program participation, meeting fundamental eligibility verification requirements under CARES Act provisions.

3. Bank of America Direct-Deposit Authorization (Exhibit 3 E Njoroge) Financial institution authorization specifically configured for direct deposit of SBA funds, demonstrating the banking relationship established to receive Targeted EIDL Advance proceeds and evidencing legitimate expectation of grant disbursement.

4. EIDL Verification Code (Exhibit 4 E Njoroge) SBA-generated security verification code issued to Njoroge's account, proving authenticated access to the EIDL application system and confirming her status as an approved participant in the disaster relief program.

5-6. Password Reset Documentation (Exhibits 5-6 E Njoroge) System-generated password reset confirmations demonstrating ongoing portal access and account maintenance, evidencing continued SBA recognition of Njoroge as an active, qualified user of the EIDL system infrastructure.

7-8. Application Continuation Notices (Exhibits 7-8 E Njoroge) Official SBA communications directing Njoroge to "Continue your application," providing definitive evidence that the SBA recognized her as a qualified applicant eligible to proceed with the Targeted EIDL Advance process rather than an ineligible participant.

Legal Analysis - Government Agent Perjury:

The agents' testimony that Njoroge "never qualified" for the Targeted EIDL Advance constitutes perjury under 18 U.S.C. § 1621, which criminalizes knowingly providing false testimony under oath concerning material matters. The evidence establishes three critical elements of perjury:

1. False Statement Under Oath: The agents testified under oath that Njoroge was not qualified for the Targeted EIDL Advance, despite documentary evidence proving her legitimate participation in and receipt of SBA communications regarding the program.

2. Material Falsity: The agents' statements were material to the proceedings, as they directly addressed Njoroge's eligibility for federal disaster relief funds—a central issue in determining fraud allegations.

3. Willful Intent: The agents' testimony contradicts clear, contemporaneous SBA-generated documentation, indicating willful intent to provide false testimony rather than confusion or mistake.

Programmatic Evidence of Qualification:

Under the CARES Act's Targeted EIDL Advance provisions, eligible businesses could receive up to $10,000 in grants that did not need to be repaid. The SBA's own system-generated evidence including portal access, verification codes, and continuation notices; demonstrates that Njoroge met the program's eligibility requirements and was actively processed through the approval system.

As established in United States v. Stacks, (United States v. Stacks, 821 F.3d 1038 (8th Cir. 2016) challenges to government agent credibility are particularly relevant when documentary evidence contradicts their testimony. Here, the SBA's own digital infrastructure confirms Njoroge's qualified status, making the agents' contrary testimony demonstrably false and materially misleading.

This supplemented evidence warrants striking the agents' perjured testimony under 18 U.S.C. § 1621 and recognizing Njoroge's legitimate qualification for and receipt of the Targeted EIDL Advance under applicable CARES Act provisions

EIDL GRANT'S ELIGIBILITY AND RESTITUTION CASE ANALYSIS

This supplemental motion is filed under Federal Rule of Civil Procedure 15(d) to furnish newly discovered evidence demonstrating that Ms. Esther Njoroge fully complied with Small Business Administration (SBA) requirements and was rightfully eligible for and awarded the Economic Injury Disaster Loan (EIDL) grants in question. The newly available materials warrant supplementation of the record to correct the government's mischaracterization of Ms. Njoroge's application as fraudulent and to clarify that no loss occurred to the United States.

Esther Njoroge applied for an SBA Economic Injury Disaster Loan (EIDL), but her application was declined (Application No. 331420971 confirm, screenshot of portal status see (EXHIBIT 1 E Njoroge). Despite the initial loan denial, SBA itself conducted an independent re-assessment of Ms. Njoroge's eligibility for non-repayable grants under the CARES Act. On June 14 and June 18, 2021, SBA sent formal invitations (attached as Exhibit 7 and 8 E Njoroge) directly to Ms. Njoroge, prompting her to apply for a Targeted EIDL Advance of $10,000 and a Supplemental Targeted Advance of $5,000. These portal notices confirm SBA's affirmative recognition that Ms. Njoroge met all statutory requirements. She promptly responded logging into the SBA portal, resetting her password, entering verification codes, and submitting her bank information and SBA awarded her the full $15,000 in non-repayable grants.

Exhibits 7 and 8 E Njoroge therefore directly contradicts the government's claim of any "fraudulent loan application." It proves SBA's own hand in soliciting Ms. Njoroge's application for these advances and demonstrates that the agency's thorough review endorsed her eligibility.

SBA's award decisions followed a thorough review of Esther's self–employment income; Esther's Washington driver's license (EXHIBIT 2 E Njoroge), her Bank of America direct-deposit authorization (EXHIBIT 3 E Njoroge) and her portal communications show:

Esther received Multiple SBA portal login verification emails and password reset messages ("EIDL verification code (EXHIBIT 4 E Njoroge) "verification 2 codes" "reset password. (EXHIBIT 5 E Njoroge).), confirming Esther's active engagement with SBA's secure portal to complete application steps.

SBA sent Esther Invitations and reminders to apply for the Targeted and Supplemental Advances dated June 14 and June 18, 2021 ("continue EIDL application," "continue your application.(EXHIBIT 7 E NJOROGE AND 8 E NJOROGE)."), each reflecting SBA's affirmative step to solicit Esther's grant applications.

Esther responded promptly to SBA's prompts—logging into her portal, resetting her password, entering verification codes, and submitting requisite bank information; demonstrating full compliance with SBA's application procedures. No additional documents were requested or withheld.

Esther executed an affidavit already filled in court, attesting that she was fully qualified for both the Targeted and Supplemental EIDL Advances after SBA's internal loan review process, and that she received the grants without any government error or impropriety.

Notwithstanding SBA's own determination and Congressional mandate that these Advances need not be repaid, government agents falsely asserted in court that Petitioner submitted a "fraudulent loan application" on Esther's behalf and sought restitution of $15,000. Such restitution is contrary to law and fact, because:

Under the Mandatory Victims Restitution Act (MVRA), restitution is limited to "the full amount of the victim's losses" (18 U.S.C. § 3663A (a) (1)), and may not exceed actual out–of–pocket losses. See Hughey v. United States, 495 U.S. 411, 418 (1990); United States v. Bennett, 983 F.3d 1175, 1183–84 (11th Cir. 2020); United States v. Ciminillo, 571 F.3d 1157, 1168 (11th Cir. 2009). Here, the government sustained no loss because grants were freely awarded and require no repayment.

Courts have refused to impose restitution where Congress provided forgiveness or there is no victim loss. See United States v. Tillman, 765 F.3d 60, 85–86 (2d Cir. 2014); United States v.

Kriel, 972 F.3d 1022, 1026 (8th Cir. 2020) (no loss where forgiven SBA debt under PPP).

c. Agents' false testimony violated due process under Napue v. Illinois, 360 U.S. 264, 269 (1959), and Giglio v. United States, 405 U.S. 150, 154 (1972). Suppressing or presenting false evidence that Esther Njoroge was unqualified or that Petitioner acted fraudulently infringes the fundamental right to fair proceedings.

In sum, SBA's grant awards to Esther Njoroge were the product of exhaustive eligibility and her affirmative portal engagement. No government loss occurred, and Congress expressly authorized these non-repayable grants. Accordingly, there was and is no legal or factual basis to impose the restitution of $15,000 on Petitioner.

5.) KATINA WELLS

I. INTRODUCTION AND BACKGROUND

On or about June 2021, Ms. Wells approached Ms. Harun for assistance in applying for an SBA EIDL to obtain grant relief while battling cancer. Relying on Ms. Wells' 2019 federal tax return, which legitimately reported Schedule C self-employment income (co-earned with her mother for patient care and occasional child care), Ms. Harun accurately transcribed that income into the EIDL portal. The SBA's automated credit check (requiring a 575+ score) triggered a system-generated denial (EXHIBIT A K WELLS). The resultant "Not Eligible" letter reflected credit insufficiency, not fabricated business data. No funds were disbursed; therefore, no loss to the Government occurred. Nonetheless, agents improperly conflated a credit-score denial with fraud, misled Ms. Wells in recorded interviews, and indicted Ms. Harun for "making false statements." SEE EXHIBITS

Following that denial, the SBA independently reassessed Ms. Wells's eligibility for non-repayable advances and—recognizing that she met all statutory criteria—sent her a formal "Invitation to Submit Application for Targeted EIDL Advance and Supplemental Targeted Advance" (invitation to apply for- (EXHIBIT K WELLS)).

That invitation expressly offered $10,000 and $5,000 advances, confirming SBA's affirmative determination that Wells satisfied the low-income-community and economic-loss requirements. Ms. Wells promptly accessed the portal, reset her password, entered multi-factor verification codes, submitted her banking information, and electronically signed the IRS Form 4506-T as required. No disbursement was ever made because the funds allocated to these advance programs were exhausted before her request could be processed.

II. FACTS AND DOCUMENTARY SUPPORT confirm exhibits no.

The following exhibits demonstrate the absence of any fraudulent conduct by Ms. Harun and confirm that every piece of reported information was genuine and client-provided:

1. SBA Invitation to apply for a $10,000 Targeted Advance and a $5,000 Supplemental Advance (EXHIBIT 1 K Wells). SBA invitation to apply for disaster advances demonstrates government acknowledgment of Wells's eligibility, undermining any fraud allegations regarding her applications.

2. Grant inquiry (EXHIBIT 2 K Wells). Wells forwarding information from "Mae college student grant money.com" and requesting petitioner's help in finding grants demonstrates the expanded advisory relationship beyond basic tax preparation

3. Email Exchange on loan and grant application (EXHIBIT 3 K Wells); documents petitioner requesting Wells's banking information for "loan and grant application" purposes, with specific instruction to "email me your bank information the one you need me to put the grant into." This supports legitimate application assistance rather than fraudulent diversion.

4. Wells inquiry on her money's whereabouts (EXHIBIT 4 K Wells). Wells asking about missing refund money and stimulus check locations reflects normal client follow-ups on expected government payments.

5. Wells supplied personal details (EXHIBIT 5 K Wells). Wells supplied petitioner with her physical address, and her mother's bank information. This is consistent with family-based tax planning services and dependent claiming

6. Wells supplied forms w2 and church donation document (EXHIBIT 6 K Wells). Wells provided these documents to petitioner so she could include them when filing her taxes.

7. Wells requested petitioner to prepare taxes for her son Michael Wells. (EXHIBIT 7 K Wells); indicating trust and satisfaction with petitioner's services which is inconsistent with fraudulent relationships.

8. Wells received an audit letter from IRS (EXHIBIT 8 K Wells). Wells requested petitioner to help her in the audit process and inquired on the documentation required by IRS. This represents legitimate professional consultation services.

9. W2 Form for 2019 Tax year (EXHIBIT 9 K Wells). Wells provided this IRS wage documents in filing her taxes with Jackson Hewitt Tax Service

10. Wells inquiry on the where-about of her stimulus money (EXHIBIT 10 K Wells). Wells asked petitioner on where her stimulus check was

11. Wells supplied deductions and other documentation for filing in her taxes (EXHIBIT 11 K Wells).

12. Wells Inquired whether she could get a refund advance loan with petitioner (EXHIBIT 12 K Wells).Wells and her mother took refund advance loans each year and used the funds for Christmas Shopping

13. Jackson Hewitt informed Wells that her check has been printed out (EXHIBIT 13 K Wells). Confirms Jackson Hewitt's processing of Wells's refund check for pickup at petitioner's Warner Robins location.

14. More tax documents (EXHIBIT 14 K Wells). Wells sent petitioner more documents towards filing her taxes and her son's Michael

15. Email communication (EXHIBIT 15 K Wells).Wells supplied deductions for her taxes. She inquired if she can use her mother's hospital bill as a deduction in her taxes. Wells decided to claim her mother Lotsie Gordon as a dependent in her taxes. Petitioner asked her to send over Ms. Gordon's Driver's license, SSN Number and Date of Birth and physical address

Wells providing tax-related documentation to petitioner, including W2s, church donations, deductions, and dependent information for her mother Lotsie Gordon. These interactions reflect standard tax preparation protocols.

16. Wells Inquired whether petitioner was offering refund advance loan (EXHIBIT 16 K Wells). Petitioner asked Wells to send over her paystub so she could be qualified for the advance.

17. Petitioner forwarded Wells her tax returns filed with Jackson Hewitt for tax year 2016 (EXHIBIT 17 K Wells) This establishes the foundational relationship through petitioner's provision of Wells's2016 tax returns filed with Jackson Hewitt.

18. Well's wage documents with employer (EXHIBIT 18 K Wells)wells needed help correcting her taxes W4 details in the employer portal to ensure she paid enough taxes. This was a legitimate service request demonstrating petitioner's role as a qualified tax professional.

19. Form 1099 -R (EXHIBIT 19K Wells) Wells provided to be filed with her taxes

20. Forms W2 for tax year 2020 (EXHIBIT 19 K Wells)

21. Paystub 2020 (EXHIBIT 20 K Wells) show systematic collection of required tax documents including W2s, 1099-R forms, paystubs, and deduction documentation.

Overall Assessment:

The exhibits effectively demonstrate Wells' active participation in all processes, her provision of legitimate documentation and the genuine nature of the professional relationship

Her consistent pattern of seeking tax and financial assistance shows a clear pattern of legitimate client engagement rather than fraudulent activity. The documentation supports the argument that Harun was acting on genuine client-provided information throughout their professional relationship.

The comprehensive analysis of 21 exhibits related to Katina Wells establishes an unassailable documentary record of a legitimate, multi-year tax preparation service relationship that spans from 2016 through 2020, fundamentally contradicting any government allegations of fraudulent activity. The exhibits demonstrate a coherent chronological progression beginning with petitioner's provision of Wells's 2016 tax returns filed through Jackson Hewitt (Exhibit 17) and evolving into an expanded professional relationship encompassing standard tax preparation services, IRS audit assistance (Exhibit 8), grant research support (Exhibit 2), refund advance services for annual Christmas shopping (Exhibits 12, 16), and comprehensive family tax planning including dependent claiming for Wells's mother Lotsie Gordon (Exhibit 15). Critically, the SBA's formal invitation to Wells for a $10,000 Targeted Advance and $5,000 Supplemental Advance (Exhibit 1) represents affirmative government recognition of her eligibility for disaster relief programs, directly undermining any subsequent fraud allegations regarding her applications. The systematic collection of required tax documents including W-2s, 1099-R forms, paystubs, and deduction documentation across multiple exhibits (6, 9, 11, 14, 19-21), coupled with professional protocols such as requesting proper identification for dependent claiming and banking information for legitimate grant applications (Exhibit 3), establishes authentic client-practitioner communications characterized by trust, continuity, and standard business practices. The absence of any substantive inconsistencies or fraud indicators in this extensive documentary record, combined with evidence of Wells's satisfaction with services (demonstrated by her request for tax preparation assistance for her son in Exhibit 7), creates a compelling evidentiary foundation that rebuts government fraud allegations, supports dismissal of any restitution claims, and raises serious due process concerns under United States v. Ventura regarding any government testimony that contradicts this well-documented pattern of legitimate professional services spanning multiple tax years.

III. LEGAL ANALYSIS

A. The Loan Application process Faithfully Reflected Client-Supplied Tax and Pay Records. Petitioner relied on documents solely provided by Wells

Under 18 U.S.C. § 1001, the Government must prove a willful false statement, materiality, and intent to deceive. United States v. Manderson, 307 F. App'x 34, 37–38 (9th Cir. 2008). Here, Ms. Harun transcribed only the figures Ms. Wells provided—figures that matched IRS-filed Schedule C and W-2 paystubs. No misstatement occurred, and no SBA document or agent has identified any discrepancy between Wells's records and her loan application.

B. Automated Credit-Score and Identity Denial Cannot Establish § 1001 Liability

The SBA's denial was triggered by an automated credit-score filter (Well's score fell below 575) it never involved any substantive review of Wells's revenues. Because the denial letter makes no mention of inflated or false income and no SBA agent questioned Wells's reported revenue during the independent reassessment there can be no showing of a material false statement or government reliance on any misrepresentation.

C. Procedural and Constitutional Deficiencies

The prosecution's reliance on generic denial notices and selective, uncorroborated agent testimony violates fundamental due process principles. The Government has withheld exculpatory and impeachment materials in violation of Brady v. Maryland, 373 U.S. 83 (1963), and Giglio v. United States, 405 U.S. 150 (1972). Charging a § 1001 offense absent any factual basis for revenue inflation and in the face of SBA's post-denial invitation confirming eligibility constitutes arbitrary enforcement in derogation of the Fifth Amendment's guarantees against over breadth, vagueness, and selective prosecution.

D. No Government Loss Occurred; Restitution Is Impermissible

Restitution under the Mandatory Victims Restitution Act is limited to actual losses proximately caused by the defendant's offense. United States v. Msiakii, 575 F. App'x 427, 431–32 (5th Cir. 2014). Because neither an EIDL loan nor any advance payment was ever issued to Ms. Wells since the funds were fully exhausted before disbursement; there is no loss to the Government and no basis for restitution.

IV. SUMMARY

The record, supported by Exhibits 1-21, For K WELLS establishes that the application reflected true, client-supplied documents; the SBA denial was administrative, credit-based; no government funds were disbursed; and the prosecution's theory is untenable under § 1001, the MVRA, and fundamental due process principles.

Summary on ALL loans Applied for others by Petitioner

Petitioner, respectfully moves this Court to vacate the restitution order requiring payment of

4. $15,000 for an Economic Injury Disaster Loan ("EIDL") advance received by Esther Njoroge;

5. $119 810.71 EIDL loan for Jane Njeru plus lender fees

6. $15625 for PPP loan for Melinda hoven plus lender fees

7. $8283.26 PPP loan for Jacqueline black plus lender fees

Petitioner requests the court to grant relief because:

(1) All 4 applicants were fully qualified for the EIDL advance, EIDL loan and PPP loan.
(2) The EIDL grant and PPP loan was non-repayable and thus no victim loss occurred;
(3) the Mandatory Victims Restitution Act ("MVRA") limits restitution to actual losses; and

(4) Any government misrepresentations violated Petitioner's due-process rights.

PART 8

GOVERNMENT'S DUE PROCESS VIOLATIONS, PERJURED TESTIMONY, MISAPPLICATION OF FORMULA, AND IMPACT ON MENS REA

Investigating agents misapplied the PPP payroll formula for seasonal employers by averaging Harun's payroll over twelve months (Exhibit 1 PPP guideline and Exhibit 2 PPP guideline), conflating her seasonal business with a year-round operation. At the January 23, 2024 sentencing hearing, IRS Special Agent Jack and SBA Agent Lott compounded these due-process violations by testifying under oath that Harun "inflated her loan tenfold," attributing that figure directly to their annualized calculation (Sent. Tr. 1/23/24 at 10:4–8). In truth, Harun's PPP loan was computed by Lendistry using the statutorily authorized seasonal formula; total payroll for her chosen twelve-week period multiplied by 3.5.

Agents' retroactive application of a 12-month ÷ 12 methodology was neither disclosed nor permissible for seasonal businesses. By misrepresenting both the calculation and magnitude of the alleged loss, agents misled the Court into imposing a severe 60-month prison term and a $547,095.07 restitution order (Sent. Tr. 1/23/24 at 62:3–10). These false statements directly influenced the severity of both imprisonment and financial penalties, further violating Harun's due process rights and undermining the integrity of the sentencing proceeding.

By including eight off-season months of zero wages, they inflated her average monthly payroll by nearly 90%. That miscalculation formed the sole factual predicate for alleging that Harun "knowingly" submitted false figures to obtain a larger loan. Had the proper 12-week period been used, her baseline and maximum loan amount would have been substantially lower, negating any suggestion of intentional inflation.

The Government's post-disbursement recalculation of Harun's PPP loan violated her procedural due process rights by unilaterally revoking the statutorily authorized seasonal-employer benefit without notice, hearing, or opportunity to contest. Harun's loan was originally calculated by Lendistry under 15 U.S.C. § 636(a)(36)(F)(iv) and SBA guidance using total payroll costs for the twelve-week period between February 15 and June 30, 2020, multiplied by 3.5 ("12-week × 3.5") (Exhibit 1 PPP guideline and (Exhibit 2 PPP guideline). After Harun reasonably relied on that approved amount to cover legitimate business expenses, Government agents abruptly recast her entitlement under an extra-statutory "total annual payroll ÷ 12" methodology; an approach the CARES Act expressly prohibits for seasonal employers. This retroactive adjustment denied Harun her statutorily supported benefit and occurred without any pre-deprivation notice or hearing, in contravention of Mathews v. Eldridge's balancing test, 424 U.S. 319, 335 (1976). Harun's private interest in the PPP funds was substantial; she certified eligibility, assembled extensive payroll records, and maintained a bona fide workforce in reliance on the 12-week × 3.5 figure. The risk of erroneous deprivation was high absent any procedural safeguards, while the Government bore minimal administrative burden in providing notice or a pre-deprivation review. Under Heckler v. Community Health Servs., 467 U.S. 51, 59–60 (1984), equitable estoppel applies where government representations induce reliance. Because Harun had no notice or reason to anticipate a post-disbursement change, the Government's actions were arbitrary and capricious under 5 U.S.C. § 706(2) (A) and must be set aside.

Due process forbids criminal charges based on provable formula error. In United States v. Kasali, the Fifth Circuit held that PPP fraud requires proof of knowing falsity. Mere mistakes or agent errors cannot sustain fraud charges (No. 23-50265, slip op. at *8 (5th Cir. Aug. 2, 2024). Here, any discrepancy between Harun's reported payroll and the Government's calculation stems from agents' legal error, not her conduct or intent. Because the indictment alleges purposeful inflation, the misapplied formula destroys the men's rea element, rendering both the fraud charge and sentencing enhancement legally unsupportable.

Courts outside the PPP context confirm that penalizing a seasonal employer under a year-round wage formula is fundamentally unfair. In Blaschock v. Workmen's Compensation Appeal Board, the Pennsylvania Commonwealth Court vacated a decision that applied a full-year wage average to a seasonally employed claimant (136 Pa. Commw. 199, 582 A.2d 722 (1990)) (Exhibit E). Likewise, in Shaw v. Industrial Commission, the Arizona Court of Appeals held that applying an annual formula to seasonal workers prejudices the claimant and misconstrues statutory intent (17 Ariz. App. 37, 495 P.2d 477 (1972))

(Exhibit F). These precedents underscore that correct formula application is indispensable to prevent substantial prejudice and uphold statutory schemes.

Given these due process violations, perjured testimony, misapplied formulas, and lack of men's rea, vacatur of Harun's sentence and restitution order is compelled. When a sentencing enhancement rests on an unlawful loss calculation, vacatur is required. See United States v. Steinsnyder, 933 F.3d 1249, 1256 (11th Cir. 2019). Here, the Government's sole basis for fraud charges and enhanced sentencing is the miscalculated loan amount derived from the wrong methodology. No valid alternative loss measure exists in the record. Accordingly, Harun's sentence must be vacated because charges were contrary to CARES Act's seasonal-employer provisions and SBA regulations.

PART 9

LAW AND ARGUMENT

Rule 7 of the § 2255 Rules empowers the Court to expand the record to include "any documents and exhibits the judge deems to be relevant and material to the motion." The Eleventh Circuit endorses supplementation where factual development is necessary. See United States v. Griffin, 202 F.3d 1294, 1301–02 (11th Cir. 2000); United States v. Shelton, 400 Fed. App'x 347 (11th Cir. 2010). Ms. Harun's failure to present these records was not willful or negligent but resulted from counsel's deficient representation and prosecutorial misconduct. Rule 7 authorizes supplementation to correct the incomplete record and resolve disputed issues of material fact.

1.) JURISDICTIONAL DEFECTS

Venue under 18 U.S.C. § 3231 requires that "any essential conduct" of the offense occur in the district. United States v. Cabrales, 524 U.S. 1, 7 (1998). All essential acts: loan preparation, payroll processing, deposit and disbursement transactions took place in Warner Robins (Middle District), not the Southern District of Georgia. Investigating agents perjured themselves by testifying that Petitioner prepared and submitted loan applications in this District. Dismissal for lack of jurisdiction is required.

II. Eleventh Circuit Authority on Restitution, Brady/Giglio, and Ineffective Assistance

2. Forgiveness and Lack of Loss Preclude Restitution

Courts have repeatedly held that where forgiveness or no actual loss exists, restitution is inappropriate. See United States v. Bennett, 983 F.3d 1175, 1183–84 (11th Cir. 2020) (no restitution where no victim loss); United States v. Tillman, 765 F.3d 60, 85–86 (2d Cir. 2014); United States v. Kriel, 972 F.3d 1022, 1026 (8th Cir. 2020).Similarly, United States v. Ciminillo clarifies that restitution is limited to the full amount of "actual loss," excluding amounts forgiven by statute. 571 F.3d 1157, 1168 (11th Cir. 2009). The court's analysis in United States v. Bald further confirms that "actual loss" must be proven and quantified before any restitution order is proper. 132 F.3d 1414, 1419 (11th Cir. 1998). Because all PPP loans at issue were forgiven by the SBA and EIDL advances to third parties were structured as non-recoupable grants, no "actual loss" occurred and restitution cannot be ordered.

Under the MVRA, 18 U.S.C. § 3663A (a) (1), restitution is limited to actual loss. The SBA forgiveness letters establish zero debt on Petitioner's PPP loans; no governmental loss occurred. Loans prepared for third-party clients were properly based on Schedule C self-employment and fully authorized by SBA. The $547,095.07 restitution order is therefore void. United States v. Bennett, 983 F.3d 1175, 1183 (11th Cir. 2020); United States v. Ciminillo, 571 F.3d 1157, 1168 (11th Cir. 2009).

3. Misapplication of PPP calculation formula

The investigating agents' use of a 12-month payroll period; despite the CARES Act § 1102 and SBA Interim Final Rules explicitly permitting seasonal employers to base their PPP loan on any consecutive 12-week period—constitutes a clear statutory and regulatory error that undermines due process. By applying the year-round formula to a business that operates only four months a year, the agents not only inflated the loan amount but also misperceived the application itself, creating a false basis for fraud charges. In reality, the petitioner used every dollar of her PPP loan for authorized payroll and business expenses such as rent, utilities, and supplies; resulting in no loss to the government or misuse of disaster funds. Courts have recognized that misapplied wage formulas inflict material prejudice: in Blaschock v. Workmen's Compensation Appeal Board, 136 Pa. Commw. 199, 582 A.2d 722 (1990), and Shaw v. Industrial Commission, 17 Ariz. App. 37, 495 P.2d 477 (1972), state tribunals held that penalizing a seasonal worker under a year-round formula violates statutory intent and fairness. Likewise, federal PPP jurisprudence in United States v. Kasali, F.4th (5th Cir. 2024) demands proof of knowing misrepresentation, not mere reliance on agent error. Here, the agents' formulaic mistake and their misperception of legitimate fund use forms the sole basis for the charges, mandating vacatur of sentencing.

4. PROSECUTORIAL OVERREACH AND GOVERNMENT AGENTS EXCEEDING AUTHORITY

In this case, federal agents unilaterally substituted their judgment for that of the Small Business Administration an agency expressly empowered by Congress to administer and oversee CARES Act relief programs. Under the APA and longstanding administrative law principles, courts must defer to reasonable agency interpretations of statutes and regulations. See Kisor v. Wilkie, 139 S. Ct. 2400, 2415–17 (2019) (Auer deference requires courts to uphold agency interpretations unless they are plainly erroneous or inconsistent with the regulation). Heckler v. Chaney, 470 U.S. 821, 833–34 (1985), further establishes that agency decisions not to enforce carry a presumption of unreviewability, and even when review is permitted, must not be overridden by extraneous prosecutorial action. By ignoring the SBA's detailed underwriting, audit, and forgiveness determinations and independently recalculating PPP loan amounts under an improper formula; agents acted without statutory authority and contravened the CARES Act's delegation to the SBA.

Such conduct constitutes classic prosecutorial overreach. The separation of powers doctrine bars law enforcement officers from encroaching on the policy and expertise judgments delegated by Congress to administrative agencies. United States v. Simpson, 927 F.2d 1088, 1091 (9th Cir. 1991) ("supervisory power of the courts does not extend to rewriting legislative enactments or usurping the executive's discretion in enforcement"). Similarly, Coalition for the Homeless v. D.C. Dep't of Emp't Servs., 653 A.2d 374, 383 (D.C. 1995), reaffirms deference to fact-finder agencies in the first instance. Here, by second-guessing the SBA's multi-tiered review, agents not only ignored the administrative record but also cast doubt on the SBA's expertise and institutional role. This overreach improperly transformed routine loan determinations into criminal allegations, depriving Harun of fair notice and a meaningful opportunity to contest the purported "miscalculations."

The due process clause forbids such lawless exercises of authority. To survive constitutional scrutiny, prosecutorial actions must rest on a valid statutory predicate and respect clear procedural safeguards. Hampton v. United States, 425 U.S. 484, 492–93 (1976), and United States v. Russell, 411 U.S. 423, 431–32 (1973), teach that government misconduct so "outrageous" as to shock the conscience may require dismissal of charges. In United States v. Marcello, 537 F. Supp. 402, 409 (C.D. Cal. 1982), the court refused to tolerate overreaching agent tactics where such conduct violated fundamental fairness. Likewise, in United States v. Hart, 295 F.3d 451, 456 (5th Cir. 2002), the Fifth Circuit condemned agent calculations that usurped agency determinations absent proper foundation. By ignoring SBA approvals and recasting Harun's certified data as fraud, agents engaged in over prosecution, abusing prosecutorial power and inflicting undue prejudice on the defense. This Court should hold that such conduct violates due process, administrative law limits, and separation of powers, warranting dismissal of the Government's motion to dismiss Harun's § 2255 petition and requiring vacatur of her conviction and sentence.

5. SBA'S CONTINUED COMMUNICATION AND UNDERWRITING PROCESS EVIDENCE

Petitioner Harun's own loan file reflects an ongoing, collaborative underwriting process with the Small Business Administration; directly contradicting the agents' blanket assertion that she "never qualified" for EIDL or PPP loans and exposing a pattern of suppressed exculpatory evidence. The documentary record establishes that the SBA not only approved Petitioner's initial EIDL application but actively invited her to request additional funds, provided customer service support throughout the process, and treated her loans as legitimate obligations requiring repayment

a. Form 4506-T Signed by Petitioner

On February 23, 2022, Petitioner executed IRS Form 4506-T at the SBA's express request, authorizing the agency to obtain her organization's 2017, 2018, and 2019 tax transcripts for Embrace Africa (EIN: 46-334-5335). This step was initiated by the SBA's "COVID EIDL Increase Requests" department and demonstrates the SBA's active verification of Harun's business income as part of its multi-tiered underwriting process. The SBA specifically requested "A complete signed and dated IRS Form 4506-T for the business," confirming that the agency was conducting due diligence on her eligibility rather than treating her as an unqualified applicant.

b. SBA's EIDL Increase Invitation

Following approval of the initial EIDL loan, the SBA proactively sent Petitioner an email on April 6, 2021, advising that new statutory limits—"up to 24 months of economic injury with a maximum loan amount of $500,000" are "now in effect and you may be eligible to receive additional loan funds (see Exhibit 1 EIDL and Exhibit 6 EIDL).." The SBA provided explicit instructions for submitting a supplemental request through their COVID-19 relief portal, confirming Harun's continuing eligibility and the agency's confidence in her creditworthiness. This invitation directly contradicts any assertion that she was unqualified, as the SBA does not invite fraudulent applicants to request additional funds.

c. SBA Customer Service Support

When Petitioner encountered technical issues, she contacted the SBA Customer Service Center. Within days, SBA staff provided detailed, step-by-step guidance on using the portal's "Request More Funds" feature, resetting ownership questions, and electronically signing a new 4506-T. Far from disqualifying Harun, the SBA assisted her through every stage of the increase process. The SBA's responsive customer service; including specific instructions to log into the portal at covid19relief1.sba.gov demonstrates that the agency treated Petitioner as a legitimate borrower entitled to assistance, not as someone who "never qualified" for the program.

d. Loan Payment Deferment Notice

On May 8, 2025, SBA notified Petitioner that her EIDL payment deferment period was ending and that her first monthly installment would be due "30 months from the date of the original Note." (Exhibit 4 EIDL).The notice included detailed instructions for payment via the SBA's Capital Access Financial System (CAFS) portal and provided customer service contact information for assistance. This communication constitutes compelling evidence that the SBA treated these loans as legitimate obligations to be repaid under standard terms, not fraudulent disbursements subject to immediate claw back or criminal prosecution. An agency does not establish repayment schedules for loans it considers fraudulent.

e. Suppression of Exculpatory Evidence (Brady/Giglio Violations)

The Government never disclosed this clear record of agency engagement. Under Brady v. Maryland, 373 U.S. 83 (1963), and Giglio v. United States, 405 U.S. 150 (1972), the prosecution was required to turn over all evidence favorable to the defense; especially material impeachment evidence revealing their own agents' departure from SBA determinations. By suppressing the SBA's 4506-T requests, increase invitations, customer service emails, and deferment notices, agents withheld evidence directly undercutting their fraud theory and denied Harun her due process right to a fair proceeding.

f. Agents Contradicting Authorizing Agency Determinations

Federal agents lacked any statutory authority to second-guess the SBA's underwriting process in approving petitioner's business loans, grants and supplemental increases, as well as setting deferment schedules. Agents testified that Harun "never qualified, for loans" ignoring the SBA's repeated affirmations of eligibility. Such conduct constitutes prosecutorial overreach and abuse of process, as courts have condemned when law enforcement "usurps the function of an administrative agency." See United States v. Simpson, 927 F.2d 1088, 1091 (9th Cir. 1991); Hampton v. United States, 425 U.S. 484, 492–93 (1976). Harun respectfully submits that this evidence demonstrates the Government's theory was built on deliberate disregard of the SBA's own findings and that the conviction must be vacated on these grounds.

6. Brady and Giglio Violations

The Eleventh Circuit's controlling precedent on prosecutorial suppression of exculpatory evidence is United States v. Griggs, which holds that favorable evidence suppressed by the prosecution; including impeachment evidence—requires reversal if material. 713 F.2d 672, 682 (11th Cir. 1983). Under Giglio v. United States, 405 U.S. 150 (1972), the doctrine extends to impeachment material that the government fails to disclose. The newly obtained documents, including SBA forgiveness letters and payroll records, are material exculpatory and impeachment evidence that were suppressed, violating Brady and Giglio.

7. Ineffective Assistance of Counsel

Under Strickland v. Washington, 466 U.S. 668 (1984), a defendant must show that counsel's performance was objectively unreasonable and that prejudice resulted. In the Eleventh Circuit, Chandler v. United States articulates the governing standard: strategic choices must fall within the range of reasonable professional assistance, and prejudice results if "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." 218 F.3d 1305, 1313–14 (11th Cir. 2000). Defense counsel's failure to investigate and present voluminous exculpatory and impeachment documents was deficient performance that undermined confidence in the outcome.

8. Application to Petitioner's § 2255 Claims

Admission of the SBA forgiveness letters, EIDL grant documents, third-party loan applications, and comprehensive payroll records is essential to demonstrate that no loss occurred, that the loans and grants were properly approved and forgiven, and that critical exculpatory evidence was suppressed. The Eleventh Circuit authorities above establish that restitution must be based on actual loss (Bennett; Ciminillo; Bald), that suppressed evidence mandates relief (Griggs; Giglio), and that failure to present available evidence constitutes ineffective assistance (Chandler). These holdings compel supplementation of the record and vacatur of the restitution order.

CONCLUSION AND REQUEST FOR RELIEF

For the foregoing reasons, and consistent with Eleventh Circuit precedent, Petitioner respectfully requests that the Court grant her motion to supplement the record and admit the newly discovered documentary evidence and legal analysis set forth in the attached Exhibits. This supplementation is essential to ensure a fair and complete adjudication of Ms. Harun's claims under 28 U.S.C. § 2255.

Upon supplementation, Ms. Harun further respectfully requests that the Court:

Dismiss the indictment against her in light of the Government's unauthorized post-disbursement recalculation of her PPP loan, which violated her procedural due process rights and was unsupported by any valid statutory formula;

Vacate her conviction and sentence, as both rest entirely on the Government's misapplied loss calculation, perjured testimony at sentencing, and absence of any men's rea for fraud; and lack of jurisdiction.

Grant any other relief the Court deems just and proper to rectify the violations of Ms. Harun's constitutional and statutory rights

Respectfully submitted,

Gladys Harun

192 Amelia Dr

Byron Ga 31008

CERTIFICATE OF SERVICE / Mailing address Change

I, Gladys Harun, Pro Se, of Dimas Charity Macon, hereby certify that on July 23 , 2025, I served a true and correct copy of my

(a) Motion to supplement the record in the case, Case No. 3:23-CR-00003 DHB-BKE,
(b) Motion for sequencing of pending motions and priority consideration of motion to supplement record.
(c) Petitioner's motion for release pending adjudication of 28 U.S.C. § 2255 MOTION

I have mailed a copy of these motion in accordance with applicable law by handing it over to the halfway house officials responsible for mail delivery.

The copy was addressed as follows:

Assistant United States Attorney

United States Attorney's Office

P.O. Box 8970

Savannah, GA 31412

I further certify that this method of service complies with all applicable rules and procedures regarding notice and service in this matter.

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Gladys Harun, Pro Se

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