UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 24-CR-60003-WILLIAMS

UNITED STATES OF AMERICA,

v.

ERNEST BERNARD GONDER JR.,

Defendant.
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FACTUAL PROFFER

Had the United States proceeded to trial, the Government would have proven beyond a reasonable doubt that from in or around April 1, 2021, through in or around July 22, 2021, in Broward and Palm Beach Counties, in the Southern District of Florida, and elsewhere, the defendant, ERNEST BERNARD GONDER JR., did knowingly, and with the intent to defraud, devise, and intend to devise, a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and, for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, certain writings, signs, signals, pictures, and sounds, in violation of Title 18, United States Code, Section 1343.

As alleged, it was the purpose of the scheme and artifice for the defendant to unlawfully enrich herself by, among other things: (a) submitting and causing the submission of a false and fraudulent application for a Paycheck Protection Program (PPP) loan made available through the Small Business Administration (SBA) to provide relief for the economic effects caused by the COVID-19 pandemic; and (b) submitting and causing the submission of a false and fraudulent application for forgiveness of a PPP loan.

The manner and means by which the defendant sought to accomplish the purpose of the scheme and artifice included, among others, the following: ERNEST BERNARD GONDER JR. submitted and caused the submission of materially false and fraudulent applications for PPP loans from the SBA through Cross River Bank based in Fort Lee, New Jersey, on behalf of himself as a Limited Liability Corporation (LLC), which PPP applications included materially false and fraudulent information as to the borrower's average monthly payroll and number of employees, among other things.

ERNEST BERNARD GONDER JR. submitted and caused the submission of materially false and fraudulent information and documentation in support of his applications for the PPP loans, including a falsified 2020 Internal Revenue Service "Employer's Quarterly Federal Tax Return" Form 941, among other things. As a result of false and fraudulent PPP loan applications submitted as part of this scheme, ERNEST BERNARD GONDER JR. caused Cross River Bank to approve PPP loan number 4533458705 for ERNEST BERNARD GONDER JR. and to disburse approximately $106,540.00 to ERNEST BERNARD GONDER JR. at his JP Morgan Chase Bank account number ending in 3725 in the name of EBG PROPERTIES, LLC. Thereafter, in furtherance of the scheme and artifice, ERNEST BERNARD GONDER JR. submitted and caused the submission of materially false and fraudulent application information to Cross River Bank to cause and attempt to cause the forgiveness of PPP loan 4533458705 to ERNEST BERNARD GONDER JR. to which he was not entitled.

Moreover, as a result of an additional false and fraudulent PPP loan application submitted as part of this scheme, ERNEST BERNARD GONDER JR. caused Cross River Bank to approve PPP loan number 7423158701 for ERNEST BERNARD GONDER JR., and to disburse approximately $61,210.00 to ERNEST BERNARD GONDER JR. at his JP Morgan Chase Bank account number ending in 0759 in the name of THE IMPACT CENTER OF BROWARD COUNTY, INC. As before, ERNEST BERNARD GONDER JR. submitted and caused the submission of materially false and fraudulent application information to Cross River Bank to cause and attempt to cause the forgiveness of PPP loan 7423158701 to ERNEST BERNARD GONDER JR., to which he was not entitled. Thereafter, ERNEST BERNARD GONDER JR. used the proceeds of the scheme and artifice to enrich himself.

Specifically, in support of his first application, ERNEST BERNARD GONDER JR. stated that his business, EBG PROPERTIES, LLC., was established in 2018 and that his average monthly payroll was $42,616.00 from 2020, stating that the purpose of his loan was to pay payroll costs, utilities, and covered supplier costs. Along with his application, ERNEST BERNARD GONDER JR. submitted a 2020 IRS Form 941 for Quarters 1-4 that purported to document $143,240 in wages and 11 employees in Q1, $121,502 in wages and 11 employees in Q2, $123,325 in wages and 11 employees in Q3, and $123,325 in wages and 11 employees in Q4. However, according to a tax return transcript for tax year 2020, neither any taxes nor any Form 941's were filed with the IRS for this business.

A second loan application was also submitted by ERNEST BERNARD GONDER JR. In support of this application, ERNEST BERNARD GONDER JR. stated that his second business, THE IMPACT CENTER OF BROWARD COUNTY INC., was established in 2009, and that his average monthly payroll was $24,484.00 from 2020, stating that the purpose of his loan was to pay payroll costs, rent/mortgage Interest, utilities, and covered supplier costs. Along with his application, ERNEST BERNARD GONDER JR. submitted a 2020 IRS Form 941 for Quarters 1-4 that purported to document $73,452 in wages and 4 employees in Q1, $66,828 in wages and 4 employees in Q2, $73,108 in wages and 4 employees in Q3, and $73,108 in wages and 4 employees in Q4. However, according to a tax return transcript for tax year 2020, neither any taxes nor any Form 941's were filed with the IRS for this business.

Bank records were obtained which did not support the business income claimed. Moreover, records indicated that there was a clear attempt from ERNEST BERNARD GONDER JR. to make it appear as if there was payroll by writing checks to family members with the memo line "payroll." However, records also confirmed that the corresponding "payroll" amounts were immediately paid back to GONDER. Both loans were ultimately forgiven and the government suffered an actual loss of $168,248.41.

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

Date: 3/5/2024 By: [signature]
MARC S. ANTON
ASSISTANT U. S. ATTORNEY

Date: 3/5/24 By: Michael B Cohen
MICHAEL COHEN, ESQ.
ATTORNEY FOR DEFENDANT

Date: 3/5/24 By: [signature]
ERNEST BERNARD GONDER JR.
DEFENDANT