

FILED IN OPEN COURT
U.S.D.C. - Atlanta

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By:  JAMES N. HATTEN, Clerk
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

ANTONIO D. HOSEY

Criminal Information

No. 1:20-CR-396

THE UNITED STATES ATTORNEY CHARGES THAT:

Count One

Conspiracy
18 U.S.C. § 371

1. From in or about April 2020 to in or about June 2020, in the Northern District of Georgia and elsewhere, the defendant, ANTONIO D. HOSEY, did knowingly and willfully combine, conspire, confederate, agree, and have a tacit understanding with Co-Conspirators 1 and 2 and others, known and unknown, to commit offenses against the United States, that is:

a. To devise and intend to devise a scheme and artifice to defraud the United States and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by omission of material facts, and, with the intent to defraud, cause to be transmitted certain wire communications in interstate and foreign commerce for the purposes of executing the scheme, in violation of Title 18, United States Code, Section 1343;

b. To knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, which involved the proceeds of a

specified unlawful activity, that is, wire fraud, knowing the transaction was designed in whole and in part to conceal and disguise the nature, source, ownership, and control of the proceeds of said specified unlawful activity and, while conducting and attempting to conduct such a financial transaction, knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

Background

The Paycheck Protection Program

2. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”). In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

3. In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business (through its authorized representative) must state, among other things, its: (a) average monthly payroll expenses; and (b)

number of employees. These figures are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation showing their payroll expenses.

4. A PPP loan application must be processed by a participating financial institution (the lender). If a PPP loan application is approved, the participating financial institution funds the PPP loan using its own monies, which are 100% guaranteed by Small Business Administration (“SBA”). Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, are transmitted by the lender to the SBA in the course of processing the loan.

5. PPP loan proceeds must be used by the business on certain permissible expenses – payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

6. The PPP is overseen by the SBA, which is headquartered at 409 3rd Street SW, Washington, D.C. 20416, and has authority over all loans. Individual PPP loans, however, are issued by private approved lenders (most commonly, banks and credit unions), which receive and process PPP applications and supporting documentation, and then make loans using the lenders’ own funds.

The Co-Conspirators

7. HOSEY was a citizen of the United States and resident of the Northern District of Georgia.

8. Co-conspirator 1 (“CC-1”) was a citizen of the United States and resident of the Northern District of Georgia.

9. Co-conspirator 2 (“CC-2”) was a citizen of the United States and resident of the Northern District of Georgia.

Object of the Conspiracy

10. The object of the conspiracy was for HOSEY, CC-1, CC-2, and others to fraudulently obtain PPP loan funds for themselves, and to conceal the conspiracy.

Manner and Means of the Conspiracy

11. The manner and means by which HOSEY, CC-1, CC-2, and others, sought to accomplish the objects of the conspiracy included, among others, the following:

a. In or about April 2020, HOSEY was contacted by CC-1 and asked to recruit individuals to cash checks from small businesses at banks in the Northern District of Georgia. CC-1 explained that he would give HOSEY checks from the small businesses made out to individuals whom HOSEY recruited (“check cashers”). HOSEY would then aid the check cashers in cashing the checks, and would give the cash back to CC-1. CC-1 told HOSEY that cashing the checks would help the small business owners who were in financial trouble. CC-1 offered to pay HOSEY approximately \$30,000 for six months of check-cashing work.

b. The checks were the proceeds of approximately \$2.1 million in PPP loans that CC-1 and the small business owners had obtained by fraud.

c. In or about April and May 2020, on CC-1's instructions, HOSEY recruited approximately 13 check cashers whom he trusted, and supplied their names to CC-1.

d. In or about May and June 2020, on multiple occasions, CC-1 provided HOSEY with checks from small businesses made out to HOSEY's check cashers. Initially, HOSEY personally took the check cashers to banks in the Northern District of Georgia to cash the checks. Later, HOSEY gave checks to the check cashers, and allowed them to cash the checks on their own. Because at least one of the checks was drawn against a bank account located outside the Northern District of Georgia, the check cashing caused at least one interstate wire communication to occur.

e. HOSEY allowed his check cashers to keep approximately \$500 of each cashed check. HOSEY delivered the rest of the cash to CC-1 in bags. HOSEY delivered bags of cash to CC-1 approximately 10 times at different locations in the Northern District of Georgia.

f. HOSEY's check cashers cashed approximately 56 checks and cashier's checks from approximately 7 small businesses, totaling approximately \$463,777.79.

g. In or about May and June 2020, CC-1 gave HOSEY approximately three checks made out to him for approximately \$8,333.33 each. HOSEY cashed these checks and kept the money for himself.

h. In or about April or May 2020, HOSEY referred CC-2 to CC-1. CC-1 subsequently aided CC-2 in obtaining a \$300,000 PPP loan using fraudulent documentation.

All in violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATION

12. Upon conviction of the offense alleged in Count One of this Criminal Information, the defendant, ANTONIO D. HOSEY, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, constituting and derived from proceeds traceable to the scheme to defraud, including but not limited to the following:

(a) MONEY JUDGMENT: A sum of money in United States currency equal to the amount of proceeds the defendant obtained as a result of the offense for which the defendant is convicted.

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

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

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

BYUNG J. PAK
United States Attorney



DIANE C. SCHULMAN
Special Assistant United States Attorney
Georgia Bar No. 497764

DANIEL S. KAHN
Acting Chief, Fraud Section
Criminal Division
U.S. Department of Justice
New York Bar No. 4196143

MICHAEL P. MCCARTHY
Trial Attorney
DC Bar No. 1020231

600 U.S. Courthouse
75 Ted Turner Drive SW
Atlanta, GA 30303
404-581-6000; Fax: 404-581-6181