UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

UNITED STATES OF AMERICA	)	
	)	No. 1:22-cr- 54
v.	)	**Judge** Atchley
	)	**Magistrate Judge** Steger
GEORGE THACKER	)	

PLEA AGREEMENT

The United States of America, by the United States Attorney for the Eastern District of Tennessee, and the defendant, George Thacker ("the defendant" or "Thacker"), and the defendant's attorney, Lee Davis, have agreed upon the following:

1. Defendant will waive indictment by the Grand Jury and plead guilty to a bill of information charging him with the following offense:

(a) **Count One: Wire Fraud, 18 U.S.C. § 1343.**

The punishment for this offense is a term of imprisonment of not more than 20 years; a term of supervised release of not more than three years; a fine of not more than $250,000; a special assessment of $100; forfeiture, if applicable; and restitution to the victims of the offense as set forth below.

2. There are no remaining counts to be dismissed.

3. The defendant has read the Information, discussed the charges and possible defenses with defense counsel, and understands the crime charged. The defendant is pleading guilty because the defendant is in fact guilty.

In order to be guilty, the defendant agrees that each of the following elements of the crime(s) must be proved beyond a reasonable doubt:

<u>Count One</u>: Wire Fraud, 18 U.S.C. § 1343:

(1) The defendant knowingly devised a scheme to defraud in order to obtain money or property;

(2) The scheme included a material misrepresentation or concealment of a material fact;

(3) The defendant had the intent to defraud; and

(4) The defendant used wire, radio, or television communications in interstate commerce in furtherance of the scheme.

4. In support of the defendant's guilty plea, the defendant agrees and stipulates to the following facts, which the defendant admits satisfy the offense elements. These are the facts submitted for purposes of the defendant's guilty plea. They do not necessarily constitute all of the facts in the case. Other facts may be relevant to sentencing. Both the defendant and the United States retain the right to present additional facts to the Court to ensure a fair and appropriate sentence in this case.

<u>Paycheck Protection Program</u>

(a) The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") was a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects 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. The purpose of loans issued under the PPP was to enable small businesses suffering from the economic downturn to continue to pay salaries or wages to their employees.

(b) The PPP was administered by the Small Business Administration ("SBA"), which promulgated regulations concerning eligibility for a PPP loan. Eligible businesses seeking a loan under the PPP could apply for such a loan through a federally insured depository institution.

(c) 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 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 include documentation showing their payroll expenses and other information as part of the application.

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

(e) 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.

(f) The proceeds of a PPP loan are not permitted to be used to purchase consumer goods, personal investments, or to fund the borrower's ordinary day-to-day living expenses unrelated to the specified authorized expenses.

Economic Injury Disaster Loans

(g) The Economic Injury Disaster Loan ("EIDL") program was an SBA program that provided low-interest loans to small businesses, renters, and homeowners in regions affected by declared disasters.

(h) The CARES Act also authorized the SBA to provide EIDLs of up to $2 million to eligible small businesses experiencing substantial financial disruptions due to the COVID-19 pandemic. In addition, the CARES Act authorized the SBA to issue advances of up to $10,000 to small businesses within three days of applying for an EIDL.

(i) In order to obtain an EIDL and advance, a qualifying business was required to submit an application to the SBA and provide information about its operations, such as the number of employees, gross revenue for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. In the case of EIDLs for COVID-19 relief, the 12-month period was the period preceding January 31, 2020. For a business to be eligible for an EIDL, the business must have been in operation before February 1, 2020. The applicant was also required to certify that all the information in the application was true and correct to the best of the applicant's knowledge.

(j) EIDL applications were submitted directly to the SBA and processed by the agency with support from a government contractor. Approval of a loan application and the amount of a loan was based, in part, on the information provided on the application about the number of employees, gross revenue, and cost of goods, as described above. Upon approval of an application for an EIDL or advance, SBA will disburse the funds. EIDL loan proceeds were permitted to be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rent, and mortgage payments.

The Defendant's Conduct

(h) Defendant George Thacker is a resident of Rhea County, Tennessee. He is the owner and sole proprietor of Thacker Corporation ("Thacker Corp."). Thacker Corp. is headquartered in Rhea County, Tennessee, which is located in the Eastern District of Tennessee. With the intent to defraud, the defendant knowingly, willfully, and intentionally devised a scheme and artifice to defraud, and to obtain money and property, by means of materially false and fraudulent pretenses, representations, and promises concerning the receipt and use of PPP and EIDL loan proceeds.

(j) As charged in the Information, the defendant applied for and received the following PPP and EIDL loans:

APPLICATION DATE	LOAN TYPE	LENDING INSTITUTION	LOAN AMOUNT
On or about May 4, 2020	PPP	Regions Bank	$257,800.00
On or about May 16, 2020	EIDL	SBA	$150,000.00
On or about February 5, 2021	PPP	Regions Bank	$257,800.00

(i) The defendant made certain representations on which the above-referenced PPP and EIDL loan proceeds were predicated – i.e., that loan proceeds would be used to further the business operations of Thacker Corp. in the wake of the coronavirus pandemic. These representations were false.

(k) With respect to each of the PPP and EIDL loans referenced above, the defendant directed that they be disbursed to a Regions Bank checking account maintained under the name "Tennessee Thacker Enterprises" (the "Business Account"), which was to be used for the benefit of Thacker Corp. After receiving each loan payment, the defendant transferred the PPP and EIDL loan funds to a Regions Checking account maintained under his own name and used for his own personal purposes (the "Personal Account"). Subsequently, and over the course of the scheme referenced herein, the defendant unlawfully used the PPP and EIDL loan proceeds for improper personal enrichment.

(l) Among other things, the defendant transferred PPP and EIDL loan into a personal investment account he maintained with E*trade, an online investment company. The defendant also transferred in excess of $200,000 of PPP and EIDL loan proceeds to a personal account maintained with Coinbase, Inc., an online cryptocurrency exchange platform. He used the loan proceeds to purchase Bitcoin, Ether, and other cryptocurrencies. Such transfers were made for his own personal enrichment and gain and – contrary to the representations he made on the loan application forms – were not used for Thacker Corp.'s business and operating expenses.

(m) The defendant admits that he used interstate wire communications in furtherance of the scheme to defraud described herein. Such communications include, but are not limited to, the communication identified as Count One in the Information: i.e., his EIDL application, submitted via wire communication originating from an electronic device in the Eastern District of Tennessee to the SBA's computer servers located outside the state of Tennessee.

5. The defendant understands that by pleading guilty the defendant is giving up several rights, including:

(a) the right to plead not guilty;

(b) the right to a speedy and public trial by jury;

(c) ~~the right to assistance of counsel at trial;~~ NOT APPLICABLE – L.D. 4/13/22

(d) the right to be presumed innocent and to have the burden of proof placed on the United States to prove the defendant guilty beyond a reasonable doubt;

(e) the right to confront and cross-examine witnesses against the defendant;

(f) the right to testify on one's own behalf, to present evidence in opposition to the charges and to compel the attendance of witnesses; and

(g) the right not to testify and to have that choice not used against the defendant.

6. The parties agree that the appropriate disposition of this case would be the following as to each count:

(a) The Court may impose any lawful term(s) of imprisonment, any lawful fine(s), and any lawful term(s) of supervised release up to the statutory maximum(s);

(b) The Court will impose special assessment fees as required by law; and

(c) The Court may order forfeiture as applicable and restitution as appropriate.

No promises have been made by any representative of the United States to the defendant as to what the sentence will be in this case. Any estimates or predictions made to the defendant by defense counsel or any other person regarding any potential sentence in this case are not binding on the Court and may not be used as a basis to rescind this plea agreement or withdraw the defendant's guilty plea(s). The defendant understands that the sentence in this case will be determined by the Court after it receives the presentence investigation report from the United States Probation Office and any information presented by the parties. The defendant acknowledges that the sentencing determination will be based upon the entire scope of the defendant's criminal conduct, the defendant's criminal history, and pursuant to other factors and guidelines as set forth in the Sentencing Guidelines and the factors set forth in 18 U.S.C. § 3553.

7. The defendant agrees to pay the special assessment in this case prior to sentencing.

8. Given the defendant's agreement to plead guilty, the United States will not oppose a two-level reduction for acceptance of responsibility under the provisions of Section 3E1.1(a) of the Sentencing Guidelines. Further, if the defendant's offense level is 16 or greater, and the defendant

is awarded the two-level reduction pursuant to Section 3E1.1(a), the United States agrees to move, at or before the time of sentencing, the Court to decrease the offense level by one additional level pursuant to Section 3E1.1(b) of the Sentencing Guidelines. Should the defendant engage in any conduct or make any statements that are inconsistent with accepting responsibility for the defendant's offense(s), including violations of conditions of release or the commission of any additional offense(s) prior to sentencing, the United States will be free to decline to make such motion, to withdraw that motion if already made, and to recommend to the Court that the defendant not receive any reduction for acceptance of responsibility under Section 3E1.1 of the Sentencing Guidelines.

9. Unless otherwise limited by an agreed preliminary order of forfeiture, the defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, which are in the possession or control of the defendant or the defendant's nominees that constitutes or is derived from, any proceeds obtained, directly or indirectly, as a result of the offense in violation of 18 U.S.C. § 1343. The properties to be forfeited include, but are not limited to, the following:

CRYPTOCURRENCY:

All contents, coins, funds, and wallets associated with the Coinbase account affiliated with User ID: 5a26b56dd82ae300ef44cd0d

MONEY JUDGMENT:

A personal money judgment for at least $665,600 in U.S. currency, which represents the minimum amount of proceeds the defendant personally obtained as a result of an offense in violation of 18 U.S.C. § 1343.

The defendant further agrees to assist the United States fully in the identification, recovery, and return to the United States of any other assets or portions thereof subject to forfeiture. The defendant further agrees to make a full and complete disclosure of all assets over which the defendant exercises control and those which are held or controlled by a nominee. The defendant agrees to forfeit all interests in the properties as described above and to take whatever steps are necessary to pass clear title to the United States. These steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and the signing of any other documents necessary to effectuate such transfers. The defendant agrees not to object to any civil or criminal forfeiture brought against these properties. The defendant agrees to take all such steps to locate such property and to pass title to the United States before the defendant's sentencing.

In the event a money judgment forfeiture is ordered, the Defendant agrees to send all money judgment payments to the United States Treasury. Defendant also agrees that the full money judgment amount shall be considered due and payable immediately. If the defendant cannot pay the full amount immediately and is placed in custody, the defendant agrees that the Bureau of Prisons will have the authority to establish payment schedules to ensure payment of the money judgment. The defendant further agrees to cooperate fully in efforts to collect on the money judgment by set-off of federal payments, execution on non-exempt property, and any other means the United States deems appropriate. The defendant and counsel also agree that the defendant may be contacted post-judgment regarding the collection of the money judgment without notifying defendant's counsel and outside the presence of the defendant's counsel.

10. The defendant agrees to pay all fines and restitution imposed by the Court to the Clerk of Court. The defendant also agrees that the full fine and/or restitution amount(s) shall be considered due and payable immediately. If the defendant cannot pay the full amount immediately and is placed in custody or under the supervision of the Probation Office at any time, the defendant agrees that the Bureau of Prisons and the Probation Office will have the authority to establish

payment schedules to ensure payment of the fine and/or restitution. The defendant further agrees to cooperate fully in efforts to collect any financial obligation imposed by the Court by set-off of federal payments, execution on non-exempt property, and any other means the United States deems appropriate. The defendant and counsel also agree that the defendant may be contacted post-judgment regarding the collection of any financial obligation imposed by the Court without notifying the defendant's counsel and outside the presence of the defendant's counsel. In order to facilitate the collection of financial obligations to be imposed with this prosecution, the defendant agrees to disclose fully all assets in which the defendant has any interest or over which the defendant exercises control, directly or indirectly, including those held by a spouse, nominee, or other third party. In furtherance of this agreement, the defendant additionally agrees to the following specific terms and conditions:

(a) If so requested by the United States, the defendant will promptly submit a completed financial statement to the U.S. Attorney's Office, in a form it provides and as it directs. The defendant promises that such financial statement and disclosures will be complete, accurate, and truthful.

(b) The defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report on the defendant in order to evaluate the defendant's ability to satisfy any financial obligation imposed by the Court.

(c) If so requested by the United States, the defendant will promptly execute authorizations on forms provided by the U.S. Attorney's office to permit the U.S. Attorney's Office to obtain financial and tax records of the defendant.

11. The defendant acknowledges that the principal benefits to the United States of a plea agreement include the conservation of limited government resources and bringing a certain end to

the case. Accordingly, in consideration of the concessions made by the United States in this agreement and as a further demonstration of the defendant's acceptance of responsibility for the offense(s) committed, the defendant voluntarily, knowingly, and intentionally agrees to the following: The defendant will not, whether directly or by a representative, request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including, without limitation, any records that may be sought under the Freedom of Information Act, 5 U.S.C. Section 552, or the Privacy Act of 1974, 5 U.S.C. Section 552a.

12. This agreement becomes effective once it is signed by the parties and is not contingent on the defendant's entry of a guilty plea. If the United States violates the terms of this agreement, the defendant will have the right to withdraw from this agreement. If the defendant violates the terms of this agreement in any way (including but not limited to failing to enter guilty plea(s) as agreed herein, moving to withdraw guilty plea(s) after entry, or by violating any court order or any local, state or federal law pending the resolution of this case), then the United States will have the right to void any or all parts of the agreement and may also enforce whatever parts of the agreement it chooses. In addition, the United States may prosecute the defendant for any and all federal crimes that the defendant committed related to this case, including any charges that were dismissed and any other charges which the United States agreed not to pursue. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial or double jeopardy defense to such a prosecution. The defendant also understands that a violation of this plea agreement by the defendant does not entitle the defendant to withdraw the defendant's guilty plea(s) in this case.

13. The United States will file a Supplement in this case, as is routinely done in every case, even though there may or may not be any additional terms. If additional terms are included in the Supplement, they are hereby fully incorporated herein.

14. This plea agreement constitutes the full and complete agreement and understanding between the parties concerning the defendant's guilty plea to the above-referenced charge(s), and there are no other agreements, promises, undertakings, or understandings between the defendant and the United States. The parties understand and agree that the terms of this plea agreement can be modified only in writing signed by all of the parties and that any and all other promises, representations, and statements whether made before, contemporaneous with, or after this agreement, are null and void.

FRANCIS M. HAMILTON III
UNITED STATES ATTORNEY

14 April 2022
Date

By: Kyle J. Wilson
Assistant United States Attorney

4/13/22
Date

George Thacker
Defendant

4/13/22
Date

Lee Davis
Attorney for the Defendant