

PAR: 2022R00689

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

03 UNITED STATES OF AMERICA

v.

TOMEKA GLENN and
KEVIN DAVIS,

Defendants.

CRIMINAL NO. 23-cr-27-RDB

(Wire Fraud Conspiracy, 18
U.S.C. § 1349; Forfeiture, 18
U.S.C. § 981(a)(1)(C), 21 U.S.C.
§ 853(p), 28 U.S.C. § 2461(c))

INDICTMENT

COUNT ONE – WIRE FRAUD CONSPIRACY

Background

The Grand Jury for the District of Maryland charges that:

At all times material to the Indictment:

1. Defendant **TOMEKA GLENN** (“GLENN”) and **KEVIN DAVIS** (“DAVIS”) were residents of Baltimore County, Maryland.

2. First Electronic Bank, Eastern Savings Bank, and Cross River Bank were financial institutions headquartered in Salt Lake City, Utah; Cockeysville, Maryland; and Fort Lee, New Jersey, respectively, which were participating lenders in the U.S. Small Business Administration (“SBA”) Paycheck Protection Program (“PPP”).

3. Fundbox, which was headquartered in San Francisco, California, was authorized to receive online applications for loans in connection with the PPP. Fundbox received online PPP applications for participating lenders, including First Electronic Bank.

The Paycheck Protection Program

4. The PPP was a COVID-19 pandemic relief program administered by the SBA that provided forgivable loans to small businesses for job retention and certain other expenses. The

PPP permitted participating third-party lenders to approve and disburse SBA-backed PPP loans to cover payroll, fixed debts, utilities, rent/mortgage, accounts payable and other bills incurred by qualifying businesses during, and resulting from, the COVID-19 pandemic. PPP loans were fully guaranteed by the SBA.

5. To obtain a PPP loan, a qualifying business had to submit a PPP loan application, which was signed by an authorized representative of the business. The PPP loan application required the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications to be eligible to obtain the PPP loan, including that the business was in operation and either had employees for whom it paid salaries and payroll taxes or paid independent contractors. A business applying for a PPP loan was required to provide documentation showing its payroll expenses and substantiating that the borrowing business was in operation before or on February 15, 2020, such as filed federal income tax documents.

6. PPP loan applications were electronically submitted or caused to be submitted by the borrower and received through SBA servers located outside of the District of Maryland. Once approved, the business received the PPP loan proceeds via an electronic funds transfer from the third-party lender to a financial account under the control of the business.

7. The proceeds of a PPP loan could be used for certain specified items, such as payroll costs, costs related to the continuation of group health care benefits, or mortgage interest payments. The proceeds of a PPP loan were not permitted to be used by the borrowers to purchase consumer goods, automobiles, personal residences, clothing, jewelry, to pay the borrower's personal federal income taxes, or to fund the borrower's ordinary day-to-day living expenses unrelated to the specified authorized expenses.

Economic Injury Disaster Loan

8. An Economic Injury Disaster Loan (“EIDL”) was an SBA-administered loan designed for a small business suffering substantial economic injury due to a declared disaster. It was designed so businesses could meet necessary financial obligations. The amount of the loan offered as well as the advance amount were determined by the SBA based on the information provided on the loan application. In or about March 2020, the SBA declared a disaster due to COVID-19, thus making EIDL loans available nationwide.

9. In order to obtain an EIDL, a small business submitted an electronic EIDL application (SBA Form 5) directly to SBA via its website, covid19relief.sba.gov. The EIDL application was certified by an authorized representative of the business. The EIDL application required the business, through its authorized representative, to acknowledge the program rules and to make certain certifications in order to be eligible for the EIDL loan.

10. The authorized representative also submitted Combined Annual Operating Expenses for the 12 months prior to January 31, 2020 as well as Gross Revenues and Costs of Goods Sold for that same period. Loans were calculated based on 6 months of Gross Revenues minus Cost of Goods Sold. Applicants could also receive a Disaster Loan Emergency Advance Grant up to \$10,000 calculated as a \$1,000 grant per employee up to a maximum of \$10,000.

11. An EIDL application was processed by the SBA. If an EIDL application was approved, the SBA directly funded the loan through a deposit to a bank account of the business borrower.

12. EIDL proceeds were required to be used by the business on certain permissible expenses—fixed debts including rent and utilities, payroll, accounts payable and other bills resulting from the pandemic. The EIDL program lent the money at a fixed annual percentage rate.

The Conspiracy and the Scheme to Defraud

13. Beginning in or around June 2020 and continuing through in or around August 2021, in the District of Maryland and elsewhere, the defendants,

**TOMEKA GLENN and
KEVIN DAVIS,**

knowingly and willfully, conspired with each other, and with others known and unknown to the Grand Jury, to knowingly and willfully execute and attempt to execute a scheme and artifice to defraud the SBA, Fundbox, First Electronic Bank, Eastern Savings Bank, and Cross River Bank, and to obtain and attempt to obtain money by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing and attempting to execute the scheme to defraud, did knowingly and willfully transmit and cause to be transmitted by means of wire communications, in interstate and foreign commerce, writings, signs, signals, pictures, and sounds (the “scheme to defraud”), in violation of 18 U.S.C. § 1343.

The Object of the Scheme to Defraud

14. It was the object of the conspiracy and scheme to defraud for **GLENN** and **DAVIS** to personally enrich themselves by fraudulently obtaining and attempting to obtain EIDLs, PPP loans and money for their own personal use and benefit, and for the personal benefit and use of their associates.

Manner and Means of the Scheme to Defraud

15. It was part of the conspiracy and scheme to defraud that on or about June 13, 2017, **DAVIS** incorporated a business in the State of Maryland called For Keepsake Investment Realty LLC (“For Keepsake Investment Realty”). **DAVIS** was listed as the business’s Registered Agent.

16. It was a further part of the conspiracy and scheme to defraud that on or about June 16, 2017, **DAVIS** opened an account at Bank of America (“BoA”), a financial institution insured

by the Federal Deposit Insurance Corporation (“FDIC”), and doing business throughout the United States, with an account number ending in 3093 (the “3093 Account”) for For Keepsake Investment Realty. **DAVIS** was the sole signatory on the account.

17. It was a further part of the conspiracy and scheme to defraud that on or about September 12, 2019, **GLENN** incorporated a business in the State of Maryland called Epoxy By S.H.E. LLC (“Epoxy By S.H.E.”). **GLENN** was listed as the business’s Registered Agent.

18. It was a further part of the conspiracy and scheme to defraud that on or about February 23, 2021, **GLENN** opened an account at BB&T, a financial institution insured by the FDIC and doing business throughout the United States, with an account number in 9989 (the “9989 account”) for Epoxy By S.H.E. **GLENN** was the sole signatory on the account.

19. It was a further part of the conspiracy and scheme to defraud that on or about December 17, 2019, **GLENN** incorporated a business in the State of Maryland called K’Dons Vanity Décor LLC (“K’Dons”). **GLENN** was listed as the business’s Registered Agent.

20. It was a further part of the conspiracy and scheme to defraud that on or about December 17, 2019, **GLENN** opened two accounts at BoA, one with an account number ending in 7688 (the “7688 Account”) and one with an account number ending in 8483 (the “8483 Account”) for K’Dons. **GLENN** was the sole signatory on the accounts.

21. It was a further part of the conspiracy and scheme to defraud that on or about September 7, 2020, **GLENN** incorporated a business in the State of Maryland called TD Innovative Consulting LLC (“TD Innovative”). **GLENN** was listed as the business’s Registered Agent.

22. It was a further part of the conspiracy and scheme to defraud that on or about August 8, 2020, **GLENN** opened two accounts at BoA, one with an account number ending in 1439 (the

“1439 Account”) and one with an account number ending in 1442 (the “1442 Account”) for TD Innovative. **GLENN** was the sole signatory on the accounts.

23. It was a further part of the conspiracy and scheme to defraud that **GLENN** and **DAVIS** used For Keepsake Investment Realty, Epoxy By S.H.E., TD Innovative, and K'Dons for the purpose of applying for COVID-19 related benefits, such as PPP loans and EIDLs.

24. It was a further part of the scheme to defraud that when **GLENN** and **DAVIS** applied for EIDL and PPP loans, **GLENN** and **DAVIS** caused interstate wire communications, including from Maryland to other states.

25. It was further part of the conspiracy and scheme to defraud that, in order to obtain PPP benefits, **GLENN** and **DAVIS** made and caused to be made materially false and fraudulent pretenses, representations, and promises to Fundbox, First Electronic Bank, Eastern Savings Bank, and Cross River Bank, including false representations regarding the number of employees of purported businesses, average monthly payroll of purported businesses, and whether—within the last five years—**GLENN** and **DAVIS** had been convicted of any felony or placed on any form of parole or probation.

26. It was a further part of the conspiracy and scheme to defraud that, in order to obtain PPP benefits, **GLENN** and **DAVIS** caused to be submitted fictitious tax forms to Fundbox, First Electronic Bank, Eastern Savings Bank, and Cross River Bank which had never been filed with the Internal Revenue Service (IRS).

27. It was further part of the conspiracy and scheme to defraud that, in order to obtain PPP benefits, **GLENN** and **DAVIS** caused to be submitted fictitious bank statements to Eastern Savings Bank and Cross River Bank.

28. It was further part of the conspiracy and scheme to defraud that **GLENN** and **DAVIS** made and caused to be made materially false and fraudulent pretenses, representations, and promises in order to obtain EIDLs, including falsely representing the gross revenues and employees of purported businesses, and falsely representing whether **GLENN** or **DAVIS** had within the last five years been convicted of any felony or placed on any form of parole or probation.

29. It was a further part of the conspiracy and scheme to defraud that **GLENN** and **DAVIS** engaged and attempted to engage in financial transactions in accounts at various financial institutions that received fraudulent PPP and EIDL funds, including the 3093 Account, the 7688 Account, the 8483 Account, the 1439 Account, the 1442 Account, and the 9989 Account.

30. It was a further part of the conspiracy and scheme to defraud that **GLENN** and **DAVIS** falsely promised to spend PPP funds on allowable expenses such as payroll, business rent and business utilities when they intended to spend the funds on personal expenses, such as the purchase of various luxury goods, travel to various resorts, and other personal expenses.

31. It was a further part of the conspiracy and scheme to defraud that **GLENN** and **DAVIS** obtained and attempted to obtain more than \$800,000 in the aggregate through materially false and fraudulent pretenses, representations, and promises in the PPP and EIDL applications.

18 U.S.C. § 1349

FORFEITURE ALLEGATION

The Grand Jury for the District of Maryland further finds that:

1. Pursuant to Federal Rule of Criminal Procedure 32.2, notice is hereby given to the defendants that the United States will seek forfeiture as part of any sentence in accordance with 18 U.S.C. § 981(a)(1)(C), 21 U.S.C. § 853(p), and 28 U.S.C. § 2461(c), as a result of the defendants' conviction under the offense in Count One of this Indictment.

Wire Fraud Forfeiture

2. Upon conviction under the offense in Count One of the Indictment, the defendants,

**TOMEKA GLENN and
KEVIN DAVIS,**

shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the scheme to defraud, including money judgments in the amount each defendant obtained.

Substitute Assets

5. If any of the property described above, as a result of any act or omission of the defendants, any of the property described above as being subject to forfeiture:

- 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
- e. has been commingled with other property which cannot be divided without difficulty,

the United States shall be entitled to forfeiture of substitute property pursuant to 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c).

18 U.S.C. § 981(a)(1)(C)
21 U.S.C. § 853(p)
28 U.S.C. § 2461(c)


Erik L. Barron
United States Attorney

A TRUE BILL

SIGNATURE REDACTED

Foreperson

Date: 1/25/2023