FILED IN OPEN COURT
ON 6/23/22 BRH
Peter A. Moore, Jr., Clerk
US District Court
Eastern District of NC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:22-CR-139-1

UNITED STATES OF AMERICA	)	
	)	
v.	)	**INDICTMENT**
	)	
ABHISHEK KRISHNAN	)	

The Grand Jury charges that:

Introduction

1. The defendant, **ABHISHEK KRISHNAN** (hereinafter referred to as "**KRISHNAN**"), was a citizen of the Republic of India.

2. Since on or about October 30, 2018, **KRISHNAN** resided outside the United States.

3. American Pure Whey, LLC ("APW") was a North Carolina limited liability company formed on or about January 7, 2009. From at least 2012 through on or about August 5, 2019, APW sold protein powders from its processing plant, in New Bern, North Carolina, to other dietary supplement manufacturers and retail customers throughout the United States. **KRISHNAN** was APW's owner and reported APW's income on his Individual Income Tax Returns (Forms 1040) as a Schedule C sole proprietorship.

4. On or about July 31, 2019, a federal grand jury sitting in the Eastern District of North Carolina returned a forty-one count Indictment against **KRISHNAN** for mail fraud, adulteration of food products, false labeling of food

products, and money laundering. The Indictment alleged that APW's products had significantly less protein content and significantly higher carbohydrate content than the label indicated. Further, the Indictment alleged **KRISHNAN** used fraud proceeds to engage in monetary transactions valued at more than $10,000.

5. On or about August 5, 2019, federal search warrants were executed at APW's processing facility, located at 3302 U.S. Highway 70E, New Bern, North Carolina, and **KRISHNAN**'s former residence, located at 1421 Ballyclare Court, Raleigh, North Carolina.

6. On or about August 28, 2019, the grand jury returned a Superseding Indictment, retaining the original forty-one counts and charging **KRISHNAN** with engaging in two additional monetary transactions with fraud proceeds.

7. On or about October 4, 2019, the United States filed a civil complaint in the United States District Court for the Eastern District of North Carolina, seeking forfeiture of certain real and personal property, including 1421 Ballyclare Court, Raleigh, North Carolina, based upon the fraud alleged in the Superseding Indictment.

8. On or about June 29, 2020, United States District Judge Louise W. Flanagan issued an order, in 5:19-CV-441-FL, finding that, as of December 2019, **KRISHNAN** had notice of the criminal charges against him and had thereafter declined to re-enter the United States to submit to its jurisdiction with the specific intent to avoid prosecution.

Unemployment Insurance Benefits

9. Unemployment Insurance (UI) is a state-federal program that provides monetary benefits to eligible lawful workers. Although state workforce agencies (SWAs) administer their respective UI programs, they must do so in accordance with federal laws and regulations. UI payments (benefits) are intended to provide temporary financial assistance to lawful workers who are unemployed through no fault of their own. Each state sets its own additional requirements for eligibility, benefit amounts, and length of time benefits can be paid. Generally, UI weekly benefit amounts are based on a percentage of your earnings over a base period. In the State of North Carolina, the North Carolina Department of Commerce, Division of Employment Security (DES), administered the UI program.

10. On March 13, 2020, the President declared the ongoing Coronavirus Disease 2019 (COVID-19) pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia.

11. On March 27, 2020, the President signed The Coronavirus Aid, Relief, and Economic Security (CARES) Act into law. It expanded the states' ability to provide UI for many workers impacted by COVID-19, including for workers who were not ordinarily eligible for UI benefits. The CARES Act provided for three new UI programs: Pandemic Unemployment Assistance (PUA); Pandemic Emergency Unemployment Compensation ("PEUC") and Federal Pandemic Unemployment Compensation (FPUC).

12. The first program, PUA, provided for up to 39 weeks of benefits to self-employed individuals if they previously performed such work in North Carolina and were unemployed or unable to work due to a COVID-19 related reason. To be eligible, the claimant's unemployment must have occurred between January 27, 2020, and December 31, 2020.

13. The second program, PEUC, provided for up to 13 weeks of benefits to individuals who had exhausted regular UI under state or federal law, had no rights to regular UI under any other state or federal law, were not receiving UI under the UI laws of Canada, and were able to work, available for work, and actively seeking work. However, states must offer flexibility in meeting the "actively seeking work" requirement if individuals were unable to search for work because of COVID-19, including because of illness, quarantine, or movement restriction.

14. The third program, FPUC, provided individuals, who were collecting regular UI, PEUC, PUA, and several other forms of assistance, with an additional $600 per week. FPUC was available in North Carolina between March 29, 2020, and July 31, 2020. FPUC was reauthorized for an additional $300 per week between December 27, 2020, and September 4, 2021.

15. On August 8, 2020, after the initial FPUC program expired, the President signed a Presidential Memorandum authorizing the Federal Emergency Management Agency (FEMA) to use disaster relief funds, pursuant to Section 408 of the Stafford Act, to provide supplemental payments for lost wages to help ease the financial burden on individuals, who were unemployed due to COVID-19. The "Lost

Wages Assistance Program" (LWAP) served as a temporary measure to provide an additional $300 per week to UI claimants between August 1, 2020, and September 5, 2020.

COUNT ONE

16. Paragraphs 1 through 15 of this Indictment are incorporated herein by reference as factual allegations.

17. From on or about April 24, 2020, to on or about September 9, 2021, in the Eastern District of North Carolina and elsewhere, the Defendant, **ABHISKEK KRISHNAN**, did knowingly steal, purloin and convert to his use property of the United States, to wit pandemic unemployment insurance funding made available to the State of North Carolina, to which he knew he was not entitled to, having a value exceeding $1,000.

All in violation of Title 18, United States Code, Section 641.

COUNT TWO

18. Paragraphs 1 through 15 and 17 of this Indictment are incorporated herein by reference as factual allegations.

19. On or about April 24, 2020, in the Eastern District of North Carolina, and elsewhere, the defendant, **ABHISKEK KRISHNAN**, did knowingly use, without lawful authority, a means of identification of another person, that is, the names and signatures of M.S., J.W. and R.W., during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), that is, theft of government property, in violation of Title 18, United States Code, Section 641, as

charged in Count One of this Indictment and incorporated herein, knowing that said means of identification belonged to another actual person.

All in violation of Title 18, United States Code, Section 1028A.

FORFEITURE NOTICE

The defendant is hereby given notice that all of his interest in all property specified herein is subject to forfeiture.

Upon conviction of the offense set forth in Count One of this Indictment, the Defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461, any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of, or traceable to, such offense.

The forfeitable property includes, but is not limited to, $40,650 in proceeds personally obtained by him.

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

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third party;

(3) has been placed beyond the jurisdiction of the court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be divided without difficulty,

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

A TRUE BILL

REDACTED VERSION
Pursuant to the E-Government Act and the federal rules, the unredacted version of this document has been filed under seal.

FOREPERSON

DATE: 6-22-2022

MICHAEL F. EASLEY, JR.
United States Attorney

BY: SUSAN B. MENZER
Assistant United States Attorney