UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

UNITED STATES OF AMERICA v. MARK X. HALEY II	No.

INFORMATION

The United States Attorney charges:

General Allegations

At all times relevant to this Information:

1. The defendant resided in Rockport, Maine, in the District of Maine.

2. The Paycheck Protection Program ("PPP") was a COVID-19 pandemic relief program administered by the Small Business Administration ("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.

3. 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, such as filed federal tax documents.

4. PPP loan applications were electronically submitted or caused to be submitted by the borrower and received through SBA servers located in Virginia or Oregon. 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.

5. 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, make speculative investments or to fund the borrower's ordinary day-to-day living expenses unrelated to the specified authorized expenses.

6. Bank A was a third-party participating lender in the PPP and a federally insured financial institution as defined in 18 U.S.C. § 20.

7. Bank B was a third-party participating lender in the PPP and a federally insured financial institution as defined in 18 U.S.C. § 20.

8. Burntcoat Capital LLC was a limited liability company formed in Delaware. Mark X. Haley II was its only member. On about August 5, 2019, the defendant opened a checking account for Burntcoat Capital LLC with Bank A. On about January 29, 2021, the defendant opened a checking account for Burntcoat Capital LLC with Bank B.

9. Boyaca Trading Company LLC was a limited liability company formed in Delaware. Mark X. Haley II and Burntcoat Capital LLC were its only members. The company was purportedly created to import agricultural goods from Colombia to the

United States. On about August 5, 2019, the defendant opened a checking account for Boyaca Trading Company LLC at Bank A.

10. Burntcoat – MIA LLC was a limited liability company formed in Delaware. The company was controlled by Mark X. Haley II. On about July 15, 2020, the defendant opened a checking account for Burntcoat – MIA LLC at Bank B.

11. Eastern Investment Advisors LLC was a limited liability company formed in Delaware. Mark X. Haley II was its only member. On about August 4, 2020, the defendant opened a checking account for Eastern Investment Advisors LLC at Bank B.

12. Secure Capital Management Inc. was a Delaware corporation controlled by Mark X. Haley II. On about August 4, 2020 the defendant opened a checking account for Secure Capital Management at Bank B.

The Scheme and Artifice

13. Beginning at an unknown time, but no later than on about April 30, 2020, and continuing until at least March 4, 2021, in the District of Maine and elsewhere, the Defendant,

MARK X. HALEY II,

knowingly and willfully devised and intended to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretense, representations and promises.

Manner and Means

14. The manner and means by which the defendant sought to accomplish the scheme and artifice included, among others, the following:

a. The defendant created limited liability companies and other

businesses and exercised control of existing limited liability companies and other businesses and used those businesses' identities to fraudulently apply for and claim PPP loan proceeds to which neither he nor the businesses were entitled;

b. The defendant prepared and submitted, and caused to be prepared and submitted, false and fraudulent applications to financial institutions and the SBA that included materially false and fraudulent representations and pretenses, such as:

   i. Providing false numbers of employees purportedly employed by the businesses;

   ii. Providing false average monthly payrolls for the businesses;

   iii. Falsely stating that the loan proceeds were necessary to support the businesses' payrolls and would be used for payroll;

   iv. Affirming under penalty of perjury that the statements in the application were true and correct.

c. The defendant prepared and submitted, and caused to be prepared and submitted, false and fraudulent documents in support of the PPP applications, such as:

   i. False quarterly employment tax returns (IRS Forms 941) for the businesses. The forms listed false numbers of employees, false amounts of wages paid, and false amounts of tax withheld from wages. None of the employment tax returns submitted to the financial institutions and SBA in support of the PPP

applications was actually filed with the Internal Revenue Service (IRS);

ii. False payroll records that falsely identified third parties as having worked for the businesses and received wages from the businesses when the defendant knew that the individuals identified were not employees and had not received any wages;

iii. False bank statements that listed nonexistent transactions for the businesses' bank accounts.

d. The defendant opened and caused to be opened bank accounts into which the fraudulently obtained PPP proceeds would be transferred via interstate wire;

e. The defendant caused the SBA and financial institutions to transfer the fraud proceeds to bank accounts under his control;

f. The defendant used some of the fraud proceeds to promote and perpetuate the scheme and retained other fraud proceeds for his personal enrichment.

15. As part of the scheme, the defendant filed, or caused to be filed, the following PPP loan applications:

APPROXIMATE DATE	APPLICANT	LENDER	APPROXIMATE APPLICATION AMOUNT
April 30, 2020	Burntcoat Capital LLC	Bank A	$62,500
March 3, 2021	Burntcoat Capital LLC	Bank B	$101,582
April 27, 2020	Boyaca Trading Company LLC	Bank A	$41,666.67

January 25, 2021	Boyaca Trading Company LLC	Bank A	$136,805.20
July 16, 2020	Burntcoat – MIA LLC	Bank B	$134,375
March 3, 2021	Burntcoat – MIA LLC	Bank B	$134,375
August 6, 2020	Eastern Investment Advisors LLC	Bank B	$133,333.35
March 3, 2021	Eastern Investment Advisors LLC	Bank B	$133,333.34
February 13, 2021	Secure Capital Management, Inc.	Bank B	$137,500

16. As a result of the scheme, the defendant fraudulently obtained approximately $1,010,581 in PPP loan proceeds.

COUNT ONE
Bank Fraud

17. Paragraphs 1 – 16 and all subparts are incorporated herein.

18. On about July 16, 2020, in the District of Maine and elsewhere, the Defendant,

MARK X. HALEY II,

knowingly and willfully executed and attempted to execute a scheme and artifice to defraud Bank B, which was a federally insured financial institution, and to obtain money, funds and property under the custody of Bank B by means of false and fraudulent representations and promises; specifically, the defendant filed, and caused to be filed, a false and fraudulent application and supporting documents for a PPP loan in the approximate amount of $134,375.

Thus, the defendant violated Title 18, United States Code, Sections 1344 and 2.

COUNT TWO
Money Laundering

19. Paragraphs 1 – 16 and all subparts are incorporated herein.

20. On about July 23, 2020, in the District of Maine and elsewhere, the Defendant,

MARK X. HALEY II,

knowing that the funds involved represented the proceeds of some form of unlawful activity, engaged in and willfully caused others to engage in a monetary transaction, in and affecting interstate commerce, in criminally derived property of a value greater than $10,000, which property, in fact, was derived from specified unlawful activity, namely, bank fraud, committed in violation of Title 18 United States Code, Section 1344, as charged in Count One of this Information.

Thus, the defendant violated Title 18, United States Code, Sections 1957 and 2.

FORFEITURE ALLEGATION

20. Upon conviction of Count One, in violation of 18 U.S.C. §§ 1344 and 2, the defendant,

MARK X. HALEY II,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2) any property constituting or derived from proceeds the person obtained, directly or indirectly, as a result of the offense, including, but not limited to, the following assets:

a. a money judgment in the amount of $1,010,581 ; and

b. a 2006 J/100 Sailboat with the hull identification number PCX10129L607.

Dated: January 13, 2023

Respectfully submitted,

DARCIE N. MCELWEE
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