AFFIDAVIT OF POSTAL INSPECTOR, RYAN T. NOONAN, IN SUPPORT OF CRIMINAL COMPLAINT

I, Ryan T. Noonan, being duly sworn, state that the following is true to the best of my knowledge, information, and belief:

I. INTRODUCTION AND AGENT BACKGROUND

1. I am a United States Postal Inspector with the United States Postal Inspection Service ("USPIS"). I have been a U.S. Postal Inspector since 2010, and I am currently assigned to the Boston, Massachusetts Division Headquarters' Fraud Team. Prior to this, I was employed as a Police Officer at the University of Massachusetts Lowell. I successfully completed the Massachusetts Bay Transit Authority ("MBTA") 26-week Police Academy. As a Postal Inspector my duties include the investigation of various types of white-collar fraud ranging from mail, wire, bank, and unemployment fraud, as well as conspiracy to commit such frauds. I also investigate money laundering and other various methods to conceal ill-gotten gains from the fraud schemes. Since the COVID-19 pandemic I have also investigated numerous pandemic unemployment schemes and paycheck protection program ("PPP") loan fraud schemes.

2. I have participated in numerous fraud related search warrants and arrest warrants executed in New England over the past 13 years as a U.S. Postal Inspector. I have also received specific training during USPIS Basic Inspector Training on the specifics of investigating mail, wire, bank, and unemployment fraud, as well as complex investment fraud schemes. I have a Bachelor of Science degree in Criminal Justice from Salem State University and a Master's Certificate in Security Studies from the University of Massachusetts Lowell. In 2010, I successfully completed a 12-week Basic Inspector Training Course. In addition, I have received training in the investigation of fraud by advanced training at the United States Postal Inspection Service Academy for senior Inspectors at the Bolger Center located in Potomac, Maryland.

3. I make this affidavit in support of a criminal complaint charging Joseph Kerrissey III ("KERRISSEY") acting individually and through his companies JDHE Holding, LLC ("JDHE") and JK Snow Management, LLC ("JK Snow") with wire fraud in violation of 18 U.S.C. § 1343 (the "Target Offense").

4. The facts in this affidavit come from my personal observations and review of records, my training and experience, and information obtained from other agents and witnesses. This affidavit does not set forth all facts developed during the course of this investigation or all of my knowledge about this matter. It is intended only to show that there is probable cause to believe that KERRISSEY has committed the Target Offense.

II. PROBABLE CAUSE

A. Relevant Individuals and Entities

5. KERRISSEY lives in Plymouth, Massachusetts. Financial, Registry of Motor Vehicles, and Internal Revenue Service ("IRS") records all list the same address for KERRISSEY's residence in Plymouth ("Residence").[1]

6. According to filings with the Secretary of the Commonwealth of Massachusetts Corporations Division, JDHE is a limited liability company that was established in Massachusetts on November 6, 2015. KERRISSEY is listed as the resident agent and manager of JDHE with an address in Brockton, Massachusetts (the "Brockton Address").[2] JDHE was

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[1] The full address for Residence is known to law enforcement but withheld here in the interest of public safety and privacy.

[2] The full Brockton Address is known to law enforcement but withheld here in the interest of public safety and privacy.

created with a stated business purpose of "construction equipment rental and leasing and all other lawful business purposes permitted by the act."

7. According to filings with the Secretary of the Commonwealth of Massachusetts Corporations Division, JK Snow is a limited liability company that was established in Massachusetts on November 4, 2015. KERRISSEY is listed as the resident agent and manager of JK Snow at the Brockton Address. JK Snow was created with a stated business purpose of "snow removal and management and any other lawful business purpose permitted by the act."

8. TD Bank is a financial institution based in New Jersey. It was an approved lender of PPP loans, which are described below.

9. Customers Bank ("Customers") is a subsidiary of Customers Bancorp, Inc. and a federally insured financial institution with headquarters in Pennsylvania. It also was an approved PPP lender.

10. Funding Circle U.S. ("Funding Circle") is a commercial lender based in Colorado. It was an approved lender of PPP loans.

B. Overview of the CARES Act and the PPP

11. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to Americans suffering from the economic effects of the COVID-19 pandemic.

12. The CARES Act authorized forgivable loans to small businesses and non-profits for job retention and certain other expenses through the PPP.

13. To obtain a PPP loan, a qualifying business had to submit a PPP loan application 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. In the PPP loan application, the small business, through its authorized representative, had to state, among other things, its number of employees and its average monthly payroll expenses. These figures were used to calculate the amount of a PPP loan that the business was eligible to receive; typically, a business was eligible to receive a loan equal to two-and-a-half times its average monthly payroll expenses. In addition, businesses applying for a PPP loan had to provide documentation of their payroll expenses.

14. Question 5 on the standard PPP loan application ("Question 5") asked the following: "Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole?"

15. Question 6 on the standard PPP loan application ("Question 6") asked the following: "Within the last 5 years, for any felony involving fraud, bribery, embezzlement, or a false statement in a loan application or an application for federal financial assistance, or within the last year, for any other felony, has the Applicant (if an individual) or any owner of the Applicant 1) been convicted; 2) pleaded guilty; 3) pleaded nolo contendere; or 4) been placed on any form of parole or probation (including probation before judgment)?"

16. The standard PPP application also states: "If questions (5) or (6) are answered 'Yes', the loan will not be approved."

17. A PPP loan application had to be processed by a lender authorized by the U.S. Small Business Administration ("SBA"). If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies, which were 100 percent

guaranteed by the SBA. Data from the loan application was transmitted regularly by the lender to the SBA in the course of processing the loan.

18. PPP loan proceeds had to be used by the recipient business on certain permissible expenses, including payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be forgiven entirely if the business spent the loan proceeds on these permissible expenses within a designated period of time and used a certain percentage of the PPP loan proceeds on payroll expenses.

19. Beginning in January 2021, the SBA offered a "Second Draw" of PPP loans, which allowed eligible borrowers who had previously received a PPP loan to apply for a "Second Draw" PPP loan with the same general loan terms as their first PPP loan. Funds from Second Draw PPP loans could be used to fund payroll costs, mortgage interest, rent, utilities, uninsured property damage costs relating to looting or vandalism, as well as worker protection costs related to COVID-19.

20. The PPP ended on May 31, 2021.

C. KERRISSEY Pled Guilty to Crimes Involving Fraud and KERRISSEY was Sentenced to Probation

21. On June 5, 2018, KERRISSEY, and his construction companies—J. Kerrissey LLC and Sunrise Equipment and Excavation—pled guilty in Suffolk County Superior Court to 107 charges including larceny by check over $250.00, willful wage and hour violations, and failure to pay prevailing wage (Docket 1684CR00751). Larceny by check over $250.00 involves obtaining goods or services by writing a check with knowledge of insufficient funds and with the intent to defraud.

22. As a result of his guilty plea, KERRISSEY was sentenced to 36 months of probation beginning on June 5, 2018, and expiring on June 4, 2021. KERRISSEY was also

ordered to pay $91,743 in restitution to 37 former employees. The Massachusetts Office of the Attorney General also imposed a five-year statutory debarment from public works projects on KERRISSEY and his companies, from June 5, 2018, to June 4, 2023.

D. Overview of Fraudulent Scheme of PPP Loan Applications

23. Between April 2020 and April 2021, KERRISSEY submitted six fraudulent PPP loan applications that, among other things, failed to disclose that KERRISSEY was on probation for crimes involving fraud and relied on fraudulent supporting tax documents. As a result of these six fraudulent PPP loan applications, KERRISSEY obtained approximately $155,578.00 in PPP funds. A chart summarizing those applications is below:

Entity Name	**Approximate Date of Submitting Application**	**Loan Amount**	**Approximate Date of Loan Approval**	**Loan Originator**
JDHE Holding LLC	6/30/2020	$20,833	7/2/2020	Kabbage
JDHE Holding LLC	7/30/2020	$15,385	8/6/2020	Funding Circle
JK Snow Management LLC	7/20/2020	$13,400	8/11/2020	TD Bank
JK Snow Management LLC	4/14/2021	$14,720	4/29/2021	Customers Bank
Sunrise Equipment and Excavation Inc.	4/27/2020	$66,955	5/7/2020	TD Bank
Sunrise Equipment and Excavation Inc.	1/25/2021	$24,285	3/25/2021	TD Bank

24. For the purpose of this Complaint, I will detail just three of KERRISSEY's fraudulent PPP loan applications: (1) July 30, 2020 JDHE Second Draw Application; (2) July 20, 2020 JK Snow First Draw Application; (3) April 14, 2021 JK Snow Second Draw Application.

1. The Fraudulent JDHE Second Draw Application

25. On or about July 30, 2020, KERRISSEY submitted an application to Funding Circle for a Second Draw PPP loan for JDHE. The application listed the business's average monthly payroll as $23,037.31 and its staff as one employee. The application sought a PPP loan in the amount of $57,593.28. KERRISSEY is listed as the 100% owner and manager and signed the application as JDHE's authorized representative.

26. The JDHE Second Draw Application was completed through Funding Circle electronically. The application was signed via Docusign from IP Address 75.67.192.234 on July 31, 2020. Records obtained from Comcast show that IP Address 75.67.192.234 was registered to Joseph Kerrissey at the Residence, however, Comcast records only go back to July 2021.

27. Despite having pled guilty to a felony involving fraud on June 5, 2018, and being on probation through June 4, 2021, KERRISSEY answered "No" to Question 5 and Question 6 on the application and initialed next to both questions to confirm his answers.

28. In support of the JDHE Second Draw Application, KERRISSEY submitted a 2019 Form 1040 U.S. Individual Income Tax Return in his name dated June 26, 2020. A Form 1040 is used by taxpayers to file an annual income tax return. The Form 1040 submitted in support of the JDHE First Draw Application listed $58,001 in taxable income for KERRISSEY.

29. KERRISSEY appears to have failed to file any 2019 Form 1040 U.S. Individual Income Tax Return with the IRS. The only 2019 Form 1040 U.S. Individual Income Tax Return present in IRS records for KERRISSEY shows $1.00 of Adjusted Gross Income. This record was likely created by an IRS stimulus tracker tool that was available at the time for taxpayers with a non-filing history to establish their residency for the purpose of receiving an economic stimulus payment, and not a complete Form 1040 completed and submitted by KERRISSEY.

But even if this were an actual 1040 filed by KERRISSEY, the listed income of $1.00 is vastly different than the 1040 submitted in support of the JDHE First Draw Application claiming KERRISSEY earned over $58,000 in income.

30. The Form 1040 that KERRISSEY submitted in connection with the JDHE Second Draw Application included a Schedule C for JDHE showing gross receipts of $189,005.00 and a net profit of $120,973.00. Schedule C is a tax form annexed to Form 1040 that is used to report income or loss from a business operated or profession practiced as sole proprietor.

31. The IRS has no record of any 2019 Schedule C for JDHE.

32. KERRISSEY also submitted a fraudulent Form 941 Employer's Quarterly Federal Tax Return for Q1 2020 in the name of JDHE as support for the JDHE Second Draw Application. The fraudulent Form 941 submitted in support of the JDHE Second Draw Application indicates that JDHE had one employee and wages of $32,499.99 for the first quarter of 2020. IRS records do not show that this Form 941 was filed with the IRS. Accordingly, the Form 941 submitted in support of the JDHE Second Draw Application appears to be fraudulent.

33. Loan documents from Funding Circle signed by KERRISSEY state that the borrower must provide books and records, governmental tax returns, and records of payment of taxes. These furnished materials must be certified by the borrower as being true and correct. This document also includes a provision that states the borrower agrees that they have filed all tax returns and reports required to be filed and paid all taxes, assessments, or other government charges including but not limited to taxes and liens.

34. As a result of the JDHE Second Draw Application, on August 7, 2020, Funding

Circle electronically deposited $15,385[3] in the JDHE TD Bank account number ending in 6528. According to TD Bank records, KERRISSEY is the sole signatory on this account.

35. The JDHE Second Draw Application was funded by Funding Circle via a wire originating from its wholly-owned subsidiary, FC Marketplace LLC's bank account with an originating address in Denver, Colorado. To effectuate the wire from this Colorado bank account, Funding Circle utilizes Amazon servers and data centers located in northern Virginia. Thus, the wire was transmitted through interstate commerce.

36. At least $12,000 of this money was transferred to KERRISSEY's personal TD Bank account ending 6586. According to TD Bank records, KERRISSEY is the sole signatory on the personal account ending 6586. From the personal account ending 6586, KERRISSEY transferred the majority of the funds to his brokerage accounts with Robinhood and TD Ameritrade.

2. The Fraudulent JK Snow First Draw Application

37. On July 20, 2020, KERRISSEY submitted a PPP loan application to TD Bank on behalf of JK Snow. The application listed the business's average monthly payroll as $5,359.83 and requested a PPP loan totaling $13,399.58 for one employee. KERRISSEY listed himself as the 100% owner and manager and signed the application as JK Snow's authorized representative.

38. Despite having pled guilty to a felony involving fraud on June 5, 2018, and being on probation through June 4, 2021, KERRISSEY answered "No" to Question 5 and Question 6 on the application and initialed next to both questions to confirm his answers.

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[3] While Kerrissey applied for a $57,593.28 loan, the maximum allowable loan under the PPP rules based on the net profit reported by Kerrissey was $15,385—the amount given to Kerrissey.

39. KERRISSEY submitted an electronically signed 2019 Form 1040 U.S. Individual Income Tax Return in his own name as support for the JK Snow First Draw Application. This 2019 Form 1040 U.S. Individual Tax Return reports a total taxable income of $62,266. This is notably different from the 2019 Form 1040 that KERRISSEY submitted along with the JDHE Second Draw application, which reports a total taxable income of $58,001 for KERRISSEY.

40. As discussed above, KERRISSEY appears to have not filed any 2019 Form 1040 U.S. Individual Income Tax Return with the IRS. The only 2019 Form 1040 for KERRISSEY in IRS' records shows $1.00 of Adjusted Gross Income, which was likely created by an IRS stimulus tracker tool that was available at the time for taxpayers with a non-filing history to establish their residency for the purpose of receiving an economic stimulus payment. But, even if the 1040 on file were an actual submission by KERRISSEY, the $1.00 of income is vastly different than the 1040 submitted in support of the JK Snow First Draw Application claiming KERRISSEY earned over $62,000 in income.

41. The 2019 Form 1040 U.S. Individual Income Tax Return KERRISSEY submitted in support of the JK Snow First Draw Application also includes a Schedule C in the name of JK Snow showing gross receipts of $70,654 and a net profit of $5,336.

42. IRS has no record of any 2019 Schedule C for JK Snow.

43. Accordingly, I believe the 1040 and accompanying Schedule C submitted by KERRISSEY in support of the JK Snow First Draw Application to be false.

44. On August 14, 2020, TD Bank wired $13,400 to an account in the name of JK Snow with account number ending in 7439. This wire was for payment of the loan issued upon approval of the July 20, 2020 JK Snow First Draw Application. According to TD Bank records, KERRISSEY is the sole signatory on this TD Bank account.

45. TD Bank utilized Salesforce to process loans from the PPP program. Salesforce is a cloud-based software designed to help financial institutions work with borrowers, maintain sales leads, process loan applications, and store information regarding loans. Salesforce maintains servers in Washington, D.C. and Phoenix, Arizona. Salesforce is a partner with nCino, a cloud-based bank operating system built on the Salesforce platform. nCino technology is utilized by TD Bank and Salesforce to aid in commercial lending. Payments for PPP loans are processed using nCino which used Salesforce servers located in Washington, DC or Phoenix, Arizona. Ultimately, payment of the PPP loans was then posted through its banking system, Fidelity, to the customer account through a server located in Toronto, Canada. Thus, the wire was transmitted through interstate or foreign commerce.

46. Over $4,000 of this money was withdrawn as cash and approximately $4,700 of this money was transferred to KERRISSEY's personal TD Bank account ending 6586. From the personal account ending 6586, KERRISSEY transferred the majority of the funds to his brokerage accounts with Robinhood and TD Ameritrade.

3. The Fraudulent JK Snow Second Draw Application

47. On or about April 14, 2021,[4] KERRISSEY submitted a second draw PPP loan application to Customers Bank for JK Snow. KERRISSEY stated in the application that JK Snow had one employee, was 100% owned by KERRISSEY, and had $70,654 of gross income

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[4] This date is not reflected in the loan application documents, but other Customers Bank records show that the user Jksnowmanagement@gmail.com was "first seen" on April 14, 2021, at the initial landing page https://www.smartbizloans.com/apply. Therefore, I am inferring that the loan application described in this section was submitted on or about this date.

in 2019. The application requested a loan in the amount of $14,720. KERRISSEY electronically signed the application as JK Snow's authorized representative.

48. Customers Bank records indicate that the IP address utilized to apply for the loan was 75.67.192.234. Records obtained from Comcast show that IP Address 75.67.192.234 was registered to Joseph Kerrissey at the Residence, however Comcast records only go back to July 2021.

49. Despite having pled guilty to a felony involving fraud on June 5, 2018, and being on probation through June 4, 2021, KERRISSEY answered "No" to Question 4 and Question 5 on the application. Questions 4 and 5 on this JK Snow Second Draw Application are substantially the same as standard Questions 5 and 6 described above.[5] KERRISSEY did not initial beside either answer on this application. The loan application states that if either Question 4 or Question 5 is answered "Yes," the loan will not be approved.

50. In support of the JK Snow Second Draw Application, KERRISSEY submitted the same false 2019 Form 1040 U.S. Individual Tax Return that was submitted in support of the JK Snow First Draw PPP loan application. As described above, this false 2019 Form 1040 U.S. Individual Tax Return differed from the false 2019 Form 1040 KERRISSEY submitted in connection with the JDHE Second Draw application. And both the false 2019 Form 1040s

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[5] Question 5 on this JK Snow Second Draw Application is identical to standard Question 6 described above. Question 4 on this JK Snow Second Draw Application is largely the same as standard Question 5 described above. Question 4 on this application asks: "Is the Applicant (if an individual) or any owner of the Applicant presently incarcerated or, for any felony, presently subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction?" Unlike standard Question 5, it does not inquire as to whether an Applicant or owner of the Applicant is presently on probation or parole.

submitted in support of the PPP loan applications for both JDHE and JK Snow differ from the only 2019 Form 1040 U.S. Individual Tax Return for KERRISSEY in IRS' records.

51. Further, the 2019 Form 1040 U.S. Individual Tax Return that was submitted in support of the JK Snow Second Draw application included a Schedule C. The IRS has no record of any 2019 Schedule C for JK Snow.

52. On April 29, 2021, Customers Bank wired $14,720 to TD Bank account ending 7439 to fund the JK Snow Second Draw Loan Application. TD Bank records show that KERRISSEY is the sole signatory on this TD Bank account.

53. Customers Bank maintains servers in Wisconsin and data centers in Florida and Arizona. Wires issued by Customers Bank originate from Pennsylvania. Smart Biz, a California-based company, was utilized by Customers Bank to process the JK Snow Application. Smart Biz received, reviewed, and processed the application before ultimately wiring the funds to KERRISSEY on behalf of the lender, Customers Bank. To process PPP loan applications, SmartBiz utilizes servers in Oregon with backup servers located in Ohio. Customers Bank then wired funds to Smart Biz to repay them for processing this loan. Thus, the wire was transmitted through interstate commerce.

54. Approximately $10,000 of the funds received for the JK Snow Second Draw Loan Application was transferred to KERRISSEY's personal TD Bank account ending 6586. From the personal account ending 6586, KERRISSEY transferred the majority of the funds to his brokerage accounts with Robinhood and TD Ameritrade.

III. CONCLUSION

55. Based on the evidence described above, and my training and experience there is probable cause that KERRISSEY knowingly and with the intent to defraud, executed a scheme

to obtain money, funds, and property from the SBA by means of materially false and fraudulent representations, pretenses, and promises made in connection with the submission of three fraudulent PPP loan applications in violation of 18 U.S.C. § 1343.

RYAN T. NOONAN
Postal Inspector, United States Postal Inspection Service

SWORN to before me by telephone in accordance with Fed. Rule Crim. P. 4.1
this 5 day of April, 2024

HONORABLE JENNIFER C. BOAL
United States Magistrate Judge