



UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANDREW MARNELL,
aka "Andrew Maxwell,"
aka "Andrew Merrill,"
aka "Tyler Lerman,"

Defendant.

CR No. 20-319(A)-RGK

F I R S T
S U P E R S E D I N G
I N F O R M A T I O N

[18 U.S.C. § 1344(2): Bank Fraud;
18 U.S.C. § 1957: Money
Laundering); 18 U.S.C. § 982:
Criminal Forfeiture]

The Acting United States Attorney charges:

COUNT ONE

[18 U.S.C. §§ 1344(2), 2(b)]

A. INTRODUCTORY ALLEGATIONS

At times relevant to this First Superseding Information:

Defendant MARNELL and the MARNELL-Controlled Entities

1. Defendant ANDREW MARNELL, also known as ("aka") "Andrew Maxwell," aka "Andrew Merrill," aka "Tyler Lerman," was a resident of Los Angeles, California.

2. Defendant MARNELL owned and controlled corporate entities registered in various states under various names, including Shale

1 Creek LLC ("Shale Creek"), Slatestone LLC ("Slatestone"), and
2 Quicksilver LLC ("Quicksilver") (the "MARNELL-controlled entities").

3 The Paycheck Protection Program

4 3. The Coronavirus Aid, Relief, and Economic Security
5 ("CARES") Act was a federal law enacted in or around March 2020 and
6 designed to provide emergency financial assistance to the millions of
7 Americans who were suffering the economic effects caused by the
8 COVID-19 pandemic. One source of relief provided by the CARES Act
9 was the authorization of up to \$349 billion in forgivable loans to
10 small businesses for job retention and certain other expenses,
11 through a program referred to as the Paycheck Protection Program
12 ("PPP"). In or around April 2020, Congress authorized over \$300
13 billion in additional PPP funding.

14 4. In order to obtain a PPP loan, a qualifying business was
15 required to submit a PPP loan application signed by an authorized
16 representative of the business. The PPP loan application required
17 the business (through its authorized representative) to acknowledge
18 the program rules and make certain affirmative certifications in
19 order to be eligible to obtain the PPP loan. In the PPP loan
20 application, the applicant (through its authorized representative)
21 was required to state, among other things, its: (a) average monthly
22 payroll expenses; and (b) number of employees. These figures were
23 used to calculate the amount of money the small business was eligible
24 to receive under the PPP. In addition, the applicant was required to
25 provide documentation showing its payroll expenses.

26 5. A business's PPP loan application was received and
27 processed, in the first instance, by a participating lender. If a
28 PPP loan application was approved, the participating lender funded

1 the PPP loan using its own monies. Data from the application,
2 including information about the borrower, the total amount of the
3 loan, and the listed number of employees, was transmitted by the
4 lender to the Small Business Administration ("SBA") in the course of
5 processing the loan.

6 6. PPP loan proceeds were required to be used by the business
7 on certain permissible expenses: payroll costs, interest on
8 mortgages, rent, and utilities. The PPP allowed the interest and
9 principal on the PPP loan to be entirely forgiven if the business
10 spent the loan proceeds on these expense items within a designated
11 period of time after receiving the proceeds and used a certain amount
12 of the PPP loan proceeds on payroll expenses.

13 Financial Institutions & Bank Account Controlled By Defendant MARNELL

14 7. Lender A was a financial institution based in Texas and was
15 an SBA approved lender of PPP loans.

16 8. Casino 1 was a casino and gaming establishment with an
17 annual gaming revenue of more than \$1,000,000 and was licensed under
18 the laws of the State of Nevada, and qualified as a "financial
19 institution" for the purpose of 31 U.S.C. § 5312 and 18 U.S.C.
20 § 1957.

21 9. Bank A was a financial institution based in San Francisco,
22 California.

23 10. Defendant MARNELL controlled and was a signatory to
24 multiple accounts at an affiliate of Bank A, which was a broker
25 registered with the Securities and Exchange Commission under the
26 Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), and
27 qualified as a "financial institution" for the purpose of 31 U.S.C.
28 § 5312 and 18 U.S.C. § 1957. Among the accounts that defendant

1 MARNELL controlled at the Bank A affiliate was an individual
2 brokerage account in the name of "Andrew Justin Marnell," account
3 number ending in 2627 (the "2627 account").

4 B. THE SCHEME TO DEFRAUD

5 11. Beginning in or about March 2020, and continuing until on
6 or about July 16, 2020, in Los Angeles County, within the Central
7 District of California, and elsewhere, defendant MARNELL, together
8 with others known and unknown to the Acting United States Attorney,
9 knowingly and with intent to defraud, devised, participated in,
10 executed, and attempted to execute a scheme to obtain moneys, funds,
11 credits, assets, and other property owned by and in the custody and
12 control of Lender A by means of materially false and fraudulent
13 pretenses, representations, and promises, and the concealment of
14 material facts.

15 12. The fraudulent scheme operated and was carried out, in
16 substance, as follows:

17 a. Defendant MARNELL submitted, and caused to be
18 submitted, false and fraudulent applications to Lender A for PPP
19 loans purportedly on behalf of the MARNELL-controlled entities
20 (collectively, the "PPP Applications"). Specifically:

21 i. On or about April 14, 2020, defendant MARNELL
22 submitted, and caused to be submitted, an application for a PPP loan
23 in the amount of \$439,000 for borrower Shale Creek, which was
24 represented to be a Montana-headquartered firm, owned and controlled
25 by "Tyler Lerman," having 26 employees and average monthly payroll
26 expenses of \$175,600;

27 ii. On or about April 29, 2020, defendant MARNELL
28 submitted, and caused to be submitted, an application for a PPP loan

1 in the amount of \$1,341,700 for borrower Slatestone, which was
2 represented to be a Wyoming-headquartered firm, owned and controlled
3 by "Andrew Merrill," having 75 employees and average monthly payroll
4 expenses of \$536,680; and

5 iii. On or about May 11, 2020, defendant MARNELL
6 submitted, and caused to be submitted, an application for a PPP loan
7 in the amount of \$1,818,000 for borrower Quicksilver, which was
8 represented to be a Montana-headquartered firm, owned and controlled
9 by "Andrew Maxwell," having 129 employees and average monthly payroll
10 expenses of \$727,200.

11 b. Defendant MARNELL submitted, and caused to be
12 submitted, false documents and information to Lender A to obtain and
13 to try to obtain PPP loans in the names of the MARNELL-controlled
14 entities, including the following:

15 i. A false identification document concerning the
16 ownership and control of Quicksilver, namely, a photograph of a fake
17 United States passport in the name of "Andrew Maxwell," with
18 defendant MARNELL's picture;

19 ii. False Internal Revenue Service ("IRS") Form 940
20 tax forms for Shale Creek, Slatestone, and Quicksilver, purporting to
21 be Employer's Annual Federal Unemployment Tax Act Returns filed with
22 the IRS for those entities; and

23 iii. False payroll data and documentation for Shale
24 Creek, Slatestone, and Quicksilver, including documents purporting to
25 be payroll registers for 2019 and 2020, purporting to show wages paid
26 to employees of those entities.

1 c. Defendant MARNELL made, and caused to be made, false
2 statements in the PPP Applications, which defendant MARNELL knew were
3 false when he made them and caused them to be made. For example:

4 i. Defendant MARNELL falsely represented that the
5 funds sought through the PPP Applications would be used to pay
6 payroll and other business expenses of the MARNELL-controlled
7 entities, when, in fact, defendant MARNELL intended to use and did
8 use the PPP loan proceeds to fund options and futures trading
9 activities, to engage in gambling and entertainment activities, and
10 to pay other personal expenses;

11 ii. Defendant MARNELL falsely represented that "the
12 Applicant has not and will not receive another loan under the
13 Paycheck Protection Program," and that the applicant did not own any
14 other business or have common management with any other business,
15 when, in fact, defendant MARNELL intended to and did obtain other
16 loans under the Paycheck Protection Program for the MARNELL-
17 controlled entities and all the MARNELL-controlled entities had
18 common management; and

19 iii. Defendant MARNELL falsely represented that "Tyler
20 Lerman," "Andrew Merrill," and "Andrew Maxwell" were the owners of
21 the MARNELL-controlled entities, when, in fact, as defendant MARNELL
22 then knew, he owned and controlled those entities.

23 d. In reliance on defendant MARNELL's materially false
24 statements and his concealment of material facts, Lender A approved
25 and funded the PPP loans sought by defendant MARNELL in the names of
26 the MARNELL-controlled entities. Specifically, on or about the
27 following dates, Lender A sent the following funding wires:

1 i. On or about April 16, 2020, Lender A wired, via
2 ACH transfer, approximately \$439,000 to an account ending 2842 at
3 Interactive Brokers LLC, maintained in defendant MARNELL's name;

4 ii. On or about May 11, 2020, Lender A wired, via ACH
5 transfer, approximately \$1,341,700 to the 2627 account; and

6 iii. On or about May 12, 2020, Lender A wired, via ACH
7 transfer, approximately \$1,818,000 to an account ending 6279 at Live
8 Oak Banking Company, which was a business account in Quicksilver's
9 name on which defendant MARNELL was the sole signer.

10 e. From on or about April 16, 2020, through on or about
11 July 16, 2020, in contravention of defendant MARNELL's
12 representations to Lender A and PPP rules, defendant MARNELL used PPP
13 loan proceeds from Lender A to, among other things, fund options and
14 futures trading activities, to engage in gambling and entertainment
15 activities, and to pay other personal expenses.

16 C. EXECUTION OF THE SCHEME

17 13. On or about April 29, 2020, in Los Angeles County, within
18 the Central District of California, and elsewhere, defendant MARNELL
19 committed and willfully caused others to commit an act which
20 constituted an execution of the fraudulent scheme, namely, the
21 submission of an application to Lender A for a PPP loan in the name
22 of Slatestone.

COUNT TWO

[18 U.S.C. §§ 1957, 2(b)]

14. On or about June 5, 2020, in Los Angeles County, within the Central District of California, and elsewhere, defendant ANDREW MARSELL, aka "Andrew Maxwell," aka "Andrew Merrill," aka "Tyler Lerman," 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, namely, the transfer of \$150,000 from the 2627 Account to Casino 1, which property, in fact, was derived from specified unlawful activity, namely, bank fraud, in violation of Title 18, United States Code, Section 1344(2), as charged in Count One of this First Superseding Information.

FORFEITURE ALLEGATION ONE

[18 U.S.C. § 982(a)(2)]

15. Pursuant to Rule 32.2(a) of the Federal Rules of Criminal Procedure, notice is hereby given that the United States of America will seek forfeiture as part of any sentence, pursuant to Title 18, United States Code, Section 982(a)(2), in the event of the conviction of defendant ANDREW MARNELL, aka "Andrew Maxwell," aka "Andrew Merrill," aka "Tyler Lerman," of the offense set forth in Count One of this First Superseding Information.

16. Defendant MARNELL, if so convicted, shall forfeit to the United States of America the following:

(a) All right, title and interest in any and all property, real or personal, constituting, or derived from, any proceeds obtained, directly or indirectly, as a result of the offense; and

(b) To the extent such property is not available for forfeiture, a sum of money equal to the total value of the property described in subparagraph (a).

17. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), defendant MARNELL, if so convicted, shall forfeit substitute property, up to the total value of the property described in the preceding paragraph if, as the result of any act or omission of defendant MARNELL, the property described in the preceding paragraph, or any portion thereof: (a) cannot be located upon the exercise of due diligence; (b) has been transferred, 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

1 been commingled with other property that cannot be divided without
2 difficulty.

FORFEITURE ALLEGATION TWO

[18 U.S.C. § 982(a)(1)]

18. Pursuant to Rule 32.2(a) of the Federal Rules of Criminal Procedure, notice is hereby given that the United States will seek forfeiture as part of any sentence, pursuant to Title 18, United States Code, Section 982(a)(1), in the event of the conviction of defendant ANDREW MARNELL, aka "Andrew Maxwell," aka "Andrew Merrill," aka "Tyler Lerman," of the offense set forth in Count Two of this First Superseding Information.

19. Defendant MARNELL, if so convicted, shall forfeit to the United States of America the following:

(a) Any property, real or personal, involved in such offense, and any property traceable to such property; and

(b) To the extent such property is not available for forfeiture, a sum of money equal to the total value of the property described in subparagraph (a).

20. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), and Title 18, United States Code, Section 982(b)(2), the defendant, if so convicted, shall forfeit substitute property, if, by any act or omission of the defendant, the property described in the preceding paragraph, or any portion thereof: (a) cannot be located upon the exercise of due diligence; (b) has been transferred, 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 that cannot be divided without difficulty. Substitution of assets shall not be ordered, however, where the convicted defendant acted merely as an

1 intermediary who handled but did not retain the property in the
2 course of the money laundering offense unless the defendant, in
3 committing the offense giving rise to the forfeiture, conducted three
4 or more separate transactions involving a total of \$100,000.00 or
5 more in any twelve-month period.

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