

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 21-60229-CR-RAR

UNITED STATES OF AMERICA

v.

DAMARA HOLNESS,

Defendant.

_____ /

Stipulated Statements of Fact

The United States of America and DAMARA HOLNESS (hereinafter referred to as “HOLNESS”) enter into the following stipulated statements of fact in support of the defendant’s plea of guilty:

Had this case proceeded to trial, the government would have presented evidence by way of testimony of co-conspirators and other witnesses, bank records, and other business records, and other evidence, which would establish that beginning at least in or about June 2020 and continuing through in or about September 2020, the defendant engaged in a Conspiracy to Commit Wire Fraud, in violation of 18 U.S.C. § 1349, as charged in Count 1 of the Information.

Background

In or about September 2020, the FBI began an investigation of a Payroll Protection Program (PPP) loan for \$300,000 obtained by HOLNESS. The PPP was created to help certain businesses continue paying their workers during the COVID-19 pandemic. The Paycheck Protection Program allowed entities to apply for low-interest private loans to pay for their payroll and certain other costs. The amount of the PPP loan is based on the average monthly payroll costs of a business between January 1, 2019, and December 31, 2019. The amount of a PPP loan is

approximately equal to 2.5 times the applicant's average monthly payroll costs. The loan could be partially or fully forgiven if the business kept its employee counts and employee wages stable.

On or about June 29, 2020, a loan application was filed online, by interstate wire communication, with Kabbage, Inc., ("Kabbage") requesting a PPP loan of \$300,000 for HOLNESS Consulting, Inc. Kabbage was an online bank that provided funding directly to small businesses and consumers. Kabbage was an approved SBA lender of PPP loans. The loan application was caused to be signed electronically by Damara HOLNESS who was listed on an attachment to the application as the 100% owner of HOLNESS Consulting.

The loan application for HOLNESS Consulting stated that during 2019 HOLNESS Consulting had 18 employees and had an average monthly payroll of \$120,000 a month. In support of the loan application defendant HOLNESS caused to be submitted online to Kabbage Bank, by interstate wire communication, an IRS Form W-3 reflecting that during 2019 HOLNESS Consulting paid wages of \$1,440,000 and had withheld from those wages federal income tax of \$532,800, social security tax of \$178,560, and Medicare tax of \$41,760 (An IRS Form W-3 is filed at the end of each year summarizing the information submitted in all the Form W-2s prepared by a company).

On or about July 2, 2020, based on the information provided in the loan application and supporting documents, Kabbage approved the loan to HOLNESS Consulting and wire transferred \$300,000, via interstate wire communication, to the HOLNESS Consulting bank account at Chase Bank.

The government obtained the bank records of HOLNESS Consulting for 2019. The bank records reflect that, at best, HOLNESS Consulting paid approximately \$10,000 in wages during 2019. The HOLNESS Consulting bank account showed very little income for 2019 and did not

show an ability to pay wages of \$1,440,000 during 2019. The government also obtained the tax records of HOLNESS Consulting. The tax records show that the Form W-3 for 2019 submitted to Kabbage was never submitted to the IRS. The tax records show that there were no wages or W-2 forms filed for HOLNESS Consulting. The tax records show that there were no Form 941 quarterly income tax returns filed for any quarter in 2019 reflecting any wages or withholdings for any employees of HOLNESS Consulting. Further, there was no record of any federal income tax withholdings of \$532,800 being paid to the IRS as reflected in the Form W-3 submitted in support of the PPP loan. Thus, there was no evidence to support the information provided to Kabbage in the PPP loan.

The HOLNESS Consulting bank account records reflect that after receiving the PPP loan, checks were issued approximately every two weeks to approximately two dozen individuals. The checks were endorsed on the back and were cashed at Chase Bank. A representative from Chase Bank would testify that the checks were cashed at Chase Bank and that the checks would have been cashed by the account holder HOLNESS. The IRS records reflect that the one and only quarter for which a Form 941 was filed by HOLNESS Consulting was the third quarter of 2020 from July through September 2020.

FBI agents interviewed some of the people who received the checks. They would testify that in or about July or August 2020 they were asked by HOLNESS to "work" for her. The individuals did little, if any, work. The individuals were issued a check for approximately \$1,300 approximately every two weeks and told by HOLNESS to sign the check. A couple of the individuals went with HOLNESS to Chase Bank where HOLNESS cashed the checks. HOLNESS would pay the individuals approximately \$300 and keep the remaining \$1,000. Many of the

individuals would admit that they did not do anything to earn the amount of the check issued or knew what they were getting paid for.

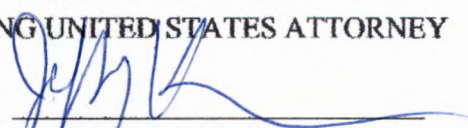
This is some of the evidence the government would present if this matter were to proceed to trial. The above-described acts in Count 1 occurred from in or about June 2020 and continuing through in or about September 2020, in Broward County in the Southern District of Florida and elsewhere.

Date:

11/3/21

JUAN ANTONIO GONZALEZ
ACTING UNITED STATES ATTORNEY

By:

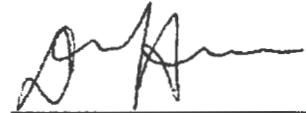

Jeffrey Kaplan
Assistant United States Attorney

I have read the Stipulated Statements of Fact set forth above. I believe that the above-stated facts set forth all the elements for the offense of Conspiracy to Commit Wire Fraud, in violation of Title 18, United States Code, Section 1349, as charged in Count 1 of the Information. I believe that all the facts set forth in the Stipulated Statements of Fact are true and correct.

Date:

08/17/21

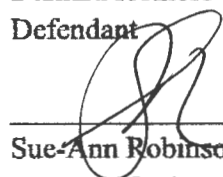
By:


Damara Holness
Defendant

Date:

11/03/21

By:


Sue-Ann Robinson
Attorney for Damara Holness