UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-mj-03470-AOR

IN RE SEALED COMPLAINT
Latoya Stanley and Johnny Philus
_____/

CRIMINAL COVER SHEET

1. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to August 9, 2013 (Mag. Judge Alicia Valle)? __ Yes X No

2. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard)? __ Yes X No

3. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to October 3, 2019 (Mag. Judge Jared Strauss)? __ Yes X No

Respectfully submitted,

ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY

BY: Louis Manzo

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AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America v. Latoya Stanley and Johnny Philus	)	Case No. 20-mj-03470-AOR

Defendant(s)

CRIMINAL COMPLAINT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 2020 through July 2020 in the county of Miami-Dade in the Southern District of Florida, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. § 1343	Wire Fraud
18 U.S.C. § 1001	False Statements

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT.

☑ Continued on the attached sheet.

Complainant's signature

Antonio Soto, Special Agent TIGTA

Printed name and title

Attested to by the Applicant in accordance with the requirements of Fed.R.Crim.P. 4.1 by Face Time

Date: 8/25/20

Judge's signature

City and state: Miami, Florida

Hon. Alicia M. Otazo-Reyes, United States Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Antonio Soto, being first duly sworn, state:

AGENT BACKGROUND AND INTRODUCTION

1. I am a Special Agent ("SA") with the United States Treasury Inspector General for Tax Administration ("TIGTA") and have been so employed since September 2007. I have been employed in law enforcement for approximately eighteen (18) years. I am a graduate of the Criminal Investigator Training Program at the Federal Law Enforcement Training Center. I am currently assigned to the Southern Field Division ("SFD"), Miami, Florida, office. In the course of my law enforcement duties, I have investigated crimes involving wire fraud relating to Internal Revenue Service schemes. I also have experience investigating and making arrests in cases involving fraud.

2. This affidavit is made in support of a criminal complaint charging **LATOYA STANLEY** and **JOHNNY PHILUS** with wire fraud, in violation of 18 U.S.C. § 1343 and false statements, in violation of 18 U.S.C. § 1001.

3. This affidavit is based on my personal investigation and investigation by others, including federal and local law enforcement officials whom I know to be reliable and trustworthy. The facts contained herein have been obtained by examining documents obtained in the course of the investigation, as well as through other means. This affidavit does not include every fact known to me about this investigation, but rather only those facts sufficient to establish probable cause.

OVERVIEW OF CRIMINAL CONDUCT

4. In or around March 2020, the Coronavirus Aid, Relief, and Economic Security ("CARES") was enacted. It was designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. In or

around May and June of 2020, **STANLEY** and **PHILUS** falsely and fraudulently applied for Paycheck Protection Program ("PPP") and Economic Injury Disaster Loan ("EIDL") relief, as described in further detail below.

Overview of Defendants and Relevant Entities

5. **STANLEY** is a resident of Miami-Dade County, Florida.

6. **PHILUS** is a resident of Miami-Dade County, Florida.

7. Dream Gurl Beauty Supply, LLC (hereinafter, "Dream Gurl") is a Florida corporation that was first registered with the Secretary of State of Florida in 2011. According to Florida corporate records, Dream Gurl is registered at 1275 NE 118st, Miami, Florida, and **STANLEY** and **PHILUS** are both listed as CEOs of the company. Florida corporate records show the business was in inactive status until it filed for reinstatement on or about May 3, 2020.

8. Elegance Auto Boutique, LLC (hereinafter, "Elegance Auto") is a Florida corporation that was first registered with the Secretary of State of Florida in 2011. According to Florida corporate records, **PHILUS** is the listed CEO. The same records show the business is located at 1277 NE 118th St, Miami, Florida, which is the same address as **PHILUS**'s residence. The business was in inactive status until it filed for reinstatement on or about May 1, 2020.

9. Bank 1 was a federally insured national bank based in Utah. Bank 1 is a Small Business Administration ("SBA") approved lender and participated in the PPP as a lender to small businesses.

10. Bank 2 was a federally insured national bank based in North Carolina with branches nationwide. Bank 2 is an SBA-approved lender and participated in the PPP as a lender to small businesses.

11. Company 1 participates in the PPP as a non-bank lender as well as an entity that connects applicants with other lenders. Small businesses seeking PPP loans could apply through Company 1 for the loans. Company 1 subsequently partners with various banks, including Bank 1, to disburse the loans.

Overview of the Paycheck Protection Program

12. As noted above, the CARES Act is a federal law enacted in or around March 2020 designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to $349 billion in forgivable loans to small businesses for job retention and certain other expenses, through the PPP. In or around April 2020, Congress authorized over $300 billion in additional PPP funding.

13. In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business (through its authorized representative) must state, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation to the lending institution showing their payroll expenses; typically, businesses would supply documents showing the amount of payroll taxes reported to the Internal Revenue Service ("IRS").

14. A PPP loan application must be processed by a participating lender. If a PPP loan application is approved, the participating lender funds the PPP loan using its own monies, which

are 100% guaranteed by the SBA. Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, is transmitted by the lender to the SBA in the course of processing the loan.

15. PPP loan proceeds must be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

Overview of the Economic Injury Disaster Loan Program

16. The EIDL program is an SBA program that provides low-interest financing to small businesses, renters, and homeowners in regions affected by declared disasters.

17. The CARES Act also authorizes the SBA to provide EIDLs of up to $2 million to eligible small businesses experiencing substantial financial disruption due to the COVID-19 pandemic. In addition, the CARES Act authorized the SBA to issue advances of up to $10,000 to small businesses within three days of applying for an EIDL. The amount of the advance is determined by the number of employees the applicant certifies having. The advances do not have to be repaid.

18. In order to obtain an EIDL and advance, a qualifying business must submit an application to the SBA and provide information about its operations, such as the number of employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. In the case of EIDLs for COVID-19 relief, the 12-month period was that preceding January 31, 2020. The applicant must also certify that all of the information in the application is true and correct to the best of the applicant's knowledge.

19. EIDL applications are submitted directly to the SBA. The amount of the loan, if the application is approved, is determined based, in part, on the information provided by the application about employment, revenue, and cost of goods, as described above. Any funds issued under an EIDL or advance are issued directly by the SBA. EIDL funds can be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rent, and mortgage payments. If the applicant also obtains a loan under the PPP, the EIDL funds cannot be used for the same purpose as the PPP funds.

PPP Applications Submitted by STANLEY and PHILUS

20. Law enforcement received information regarding potential fraud related to the PPP application submitted by **STANLEY** on behalf of Dream Gurl and **PHILUS** on behalf of Elegance Auto.

21. Through a review of data maintained by the SBA, law enforcement learned that **STANLEY** and **PHILUS** submitted PPP applications via Company 1, which partnered with Bank 1 to process both PPP loan applications. Bank 1 ultimately disbursed approximately $538,325 to **PHILUS** in connection with a PPP application submitted in the name Elegance Auto on or about May 8, 2020. Likewise, on or about May 15, 2020, Bank 1 funded a loan in the amount of approximately $302,860 to **STANLEY** in connection with a PPP application submitted in the name of Dream Gurl.

22. Law enforcement reviewed the applications for the loans that were funded by Bank 1. These records show that the two applications made the following representations regarding the numbers of employees and average monthly payroll:

Name of Business Applicant	Name of Listed Representative	# of Employees Claimed	Average Monthly Payroll
Dream Gurl	Latoya Stanley	18	$121,144
Elegance Auto	Johnny Philus	29	$215,330

23. On each loan application, **STANLEY** and **PHILUS** identified themselves as the owners and authorized representatives of the applicant business. **STANLEY** and **PHILUS** signed and submitted their applications electronically through an online portal operated by Company 1.

24. For each PPP application, **STANLEY** and **PHILUS** respectively certified that the company was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors.

25. For each PPP application, **STANLEY** and **PHILUS** also respectively certified all SBA loan proceeds would be used only for business-related purposes as specified in the loan application and consistent with the PPP rules. They also certified that the funds would be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments; as specified under the PPP Rule.

Other Records Show the Inaccuracy of the PPP Applications Submitted

26. Despite the representations regarding the number of employees, law enforcement obtained and reviewed records from the Florida Department of Revenue, which requires employers to report records of wages paid to employees by Florida corporations. The Florida Department of Revenue had no record of wage information paid to any employees of Elegance Auto or Dream Gurl in 2019 or 2020.

27. In fact, Florida corporate records show that neither company was an active corporation prior to the COVID-19 pandemic.

a. According to the Florida Division of Corporations, Dream Gurl was an inactive Florida corporation until on or about May 3, 2020. At that time, the corporation was reinstated. The same records show that **STANLEY** and **PHILUS** were the company's authorized persons.

b. According to the Florida Division of Corporations, Elegance Auto was an inactive Florida corporation until on or about May 1, 2020. At that time, the corporation was reinstated. The same records show that **PHILUS** was the company's authorized person.

28. In conjunction with both PPP applications and on behalf of their respective businesses, **STANLEY** and **PHILUS** submitted February 2020 account statements from Bank 2. These statements, however, were fraudulent. According to documents received from Bank 2, the accounts for both Elegance Auto and Dream Gurl were only opened in May of 2020.

29. In conjunction with both applications and on behalf of their respective businesses, **STANLEY** and **PHILUS** submitted IRS Form 941s, which are quarterly tax forms. These forms include the total number of employees and compensation paid by a business to its employees by quarter. The Form 941s that **STANLEY** and **PHILUS** submitted, however, were fraudulent. The IRS has no record of either business filing a Form 941 in 2019 or in 2020.

30. A review of bank accounts located at Bank 1 and at other banks that **STANLEY** and **PHILUS** identified on recorded calls noted below revealed that Elegance Auto and Dream Gurl did not have transactions consistent with the business enterprises claimed in the respective loan applications. Prior to receiving hundreds of thousands of dollars in PPP funds, the bank accounts associated with each business only engaged in small dollar transactions. Law enforcement was unable to locate compensation to any employees. Instead, account transactions

seemed consistent with personal banking, rather than business banking, and included purchases at restaurants and consumer stores. Although **STANLEY** and **PHILUS** both represented that their businesses had millions of dollars in payroll, account balances for each business were no more than a few thousand dollars and often in the negative.

Confirmation of STANLEY and PHILUS as the PPP Applicants

31. To confirm that **STANLEY** and **PHILUS** themselves did, in fact, submit the fraudulent PPP applications, law enforcement continued its investigation by reviewing additional records and conducting surveillance.

32. Law enforcement received the internet protocol ("IP") address associated with the PPP application for Dream Gurl. Law enforcement was able to obtain subscriber information related to this account from an internet service provider ("ISP"). According to the internet service provider, the subscriber of the IP address was **STANLEY**.[1]

33. Law enforcement also reviewed the phone numbers associated with each PPP application. According to records from a telecommunications company, the subscriber for both phone numbers was **STANLEY**.

34. Law enforcement reviewed recorded phone calls placed to the number listed on the Dream Gurl PPP application. The calls were answered by an individual who identified herself as **STANLEY**. On these calls, **STANLEY** made statements that: (a) she is the owner of Dream Gurl; (b) She personally applied for the PPP application; (c) Dream Gurl has $200,000 in inventory of hair and beauty products; (d) The Form 941s submitted with the PPP application are accurate; and

[1] Although the IP address for the Elegance Auto application belonged to the same ISP, the ISP was unable to provide any subscriber information for that address.

(e) the physical address of the business is 1275 NE 118th Street, which is a storefront location where customers can walk in and shop.[2]

35. Law enforcement also reviewed recorded phone calls placed to the number listed on the Elegance Auto PPP application. The calls were answered by an individual who identified himself as **PHILUS**. On these calls, **PHILUS** made statements that: (a) he is the owner of Elegance Auto; (b) he personally submitted the PPP application for Elegance Auto; and (c) the physical address of the business is located at 1277 NE 118th Street. **PHILUS** also stated that Elegance Auto sells and leases vehicles and motorcycles and that the company has 40 to 50 cars available at any time, with an estimated fleet value of over $1 million. **PHILUS** also claimed that most of the cars in the fleet are located at the 1277 NE 118th Street location.

36. During the recorded call, **PHILUS** was also asked about Dream Gurl. **PHILUS** answered that he is not the CEO of Dream Gurl, that he did not know of Dream Gurl, and that he was unfamiliar with **STANLEY**.

37. Law enforcement conducted physical surveillance at the 1275 and 1277 NE 118th Street addresses listed on the two PPP applications. Law enforcement observed cars parked in front of the locations, which were registered to **STANLEY** and **PHILUS**. Law enforcement surveillance revealed that 1277 NE 118th Street (the purported location of the Elegance Auto rental business) was a single-family home. Law enforcement observed cars consistent in number with the size of the home, rather than a fleet of cars.

38. Finally, law enforcement was able to confirm the identity of **STANLEY** and **PHILUS** via photographic evidence. **STANLEY** and **PHILUS** employed Bank 2's drive-through to open their accounts on the same day. Surveillance footage captured a black Chevrolet with

[2] As discussed below, law enforcement surveilled this location, which is a single-family home.

three digits visible on the license plate. A male drove the car. The digits, as well as the make and model of the car, are consistent with a vehicle registered to **STANLEY**, which was observed in front of 1275 NE 118th Street, Miami, Florida. Both **STANLEY** and **PHILUS** identified additional bank accounts for their respective businesses on the recorded calls. Law enforcement reviewed stills from surveillance footage from those account. Stills for an account belonging to Elegance Auto show **PHILUS**. Stills for an account belonging to Dream Gurl show **STANLEY**.

EIDL Applications

39. Separate from the PPP loans, law enforcement queried other SBA pandemic relief programs to determine if **STANLEY** and **PHILUS** had applied for monies from those programs.

40. Law enforcement located EIDL applications for both **STANLEY** and **PHILUS**. **STANLEY** and **PHILUS** submitted the application on or about June 18, 2020. The application materials contained the following representations:

Applicant	Type of Business	Industry	Occupation	# of Employees Claimed	Business Address
Latoya Stanley	Sole Proprietor	Agriculture	Farmer	5	1275 NE 118th Street, Miami, Florida
Johnny Philus	Sole Proprietor	Agriculture	Farmer	10	535 NW 127th Street, North Miami, Florida[3]

41. During the loan application process, the SBA communicated with both individuals via the phone number provided on the EIDL application. The phone numbers for **STANLEY** and **PHILUS** were identical to the phone numbers that **STANLEY** and **PHILUS** submitted with their PPP applications. **STANLEY** and **PHILUS** subsequently emailed tax information to the SBA to support their application.

[3] Law Enforcement has reviewed PHILUS's driver's license which lists his home address as 535 NE 127th Street, North Miami, Florida, which is nearly identical to the address listed on the EIDL application.

42. **STANLEY** submitted tax information claiming that her farm produced approximately $899,000 in income in 2019. **PHILUS** submitted tax information claiming that his farm produced approximately $400,000 in income in 2019.

43. The SBA approved funding **PHILUS** for $150,000 and **STANLEY** for $137,500.

44. Law enforcement surveilled the business address listed on both applications. The addresses are single family residential homes on small lots. They are wholly incongruous with large scale farming.

Conclusion

45. Based on my training and experience, and the information provided in this affidavit, I respectfully submit that there is probable cause to believe that **LATOYA STANLEY** and **JOHNNY PHILUS** committed wire fraud, in violation of 18 U.S.C. § 1343 and false statements, in violation of 18 U.S.C. § 1001.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

Special Agent Antonio Soto
Treasury Inspector General Tax Administration

Attested to by the Applicant in accordance with the requirements of Fed.R.Crim.P. 4.1 by Face Time this 25th day of August 2020.

HONORABLE ALICIA M. OTAZO REYES
UNITED STATES MAGISTRATE JUDGE