UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 23-20060-Cr-ALTMAN/REID

UNITED STATES OF AMERICA

v.

ALFREDO HUDSON,

Defendant.
_________________________________/

STIPULATED FACTUAL BASIS

The United States and ALFREDO HUDSON ("the defendant") hereby stipulate and agree that had this matter proceeded to trial, the United States would have offered evidence and testimony to establish the following factual basis beyond a reasonable doubt:

The defendant, who resided in Miami-Dade County, in the Southern District of Florida, was at various relevant times employed by the State of Florida as a Corrections Officer. At all relevant times, the defendant had accounts at Regions Bank and TD Bank. Regions Bank and TD Bank both did business throughout the United States, including maintaining branches in the Southern District of Florida.

The United States Small Business Administration ("SBA") was an agency of the executive branch of the Government of the United States. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020 that was designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic.

One source of relief provided by the CARES Act was the authorization of forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program ("PPP").

In order to obtain a PPP loan, a qualifying business submitted 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 in order to be eligible to obtain the PPP loan. In the PPP loan application (SBA Form 2483), the small business (through its authorized representative) was required to provide, among other things, its: (a) average monthly payroll; and (b) number of employees. These figures were used to calculate the amount of money the small business was eligible to receive under the PPP. In addition, the sole proprietor had to report and document the sole proprietorship's income and expenses, as typically reported to the Internal Revenue Service ("IRS") on Form 1040, Schedule C. This application and the supporting documentation submitted were used to calculate the amount of money the applicant was entitled to receive under the PPP.

The PPP also allowed a qualifying business that had obtained a PPP loan in 2020 and experienced a required revenue reduction in 2020 to obtain a second PPP loan in 2021. These second PPP loans were also known as "second draw" loans. Starting on or about March 4, 2021, small businesses that filed an IRS Form 1040, Schedule C, could apply for this second draw loan based on their gross income by using a PPP second draw application (SBA Form 2483-SD-C) that provided their gross income from either 2019 or

2020. This second draw application and the supporting documentation submitted were used to calculate the amount of second draw money the applicant was entitled to receive under the PPP.

A PPP loan application was processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies. While it was the participating lender that issued the PPP loan, the loan was 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, was transmitted by the lender to the SBA in the course of processing the loan.

PPP loan proceeds were required to be used by the business on certain permissible expenses, specifically, payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be entirely forgiven if the business spent the loan proceeds on these permissible expense items within a designated period of time and used a defined portion of the PPP loan proceeds on payroll expenses. In the PPP loan forgiveness application (SBA Form 3508S), the borrower was required to provide, among other things, the amount of the loan spent on payroll costs, and to certify compliance with all the rules and requirements of the PPP program.

Certain PPP borrowers with loans under $150,000 were allowed to use the SBA's Direct Forgiveness Portal to apply for PPP loan forgiveness. Forgiveness requests made through this portal were reviewed and accepted by the lender, and then processed by the SBA. The servers for this portal were located outside the state of Florida.

Kabbage was an SBA-approved lender for PPP loans, and processed PPP loan applications from applicants located throughout the United States. Kabbage was based in Atlanta, Georgia, and its servers were located outside the state of Florida.

Womply was a company that operated an online platform that received information and documents from PPP loan applicants throughout the United States. Womply was not a PPP lender, but rather was an independent business that served as a referral partner and technology services provider for multiple SBA-approved PPP lenders. Once an applicant submitted their information and documents through the online platform, Womply would make certain information and documents available to one of the lenders that retained its services for the lender's review, approval, and funding of the PPP loan. Womply was based in San Francisco, California, and its servers were located outside the state of Florida.

SEDCO was an SBA-approved lender for PPP loans. SEDCO contracted with Womply to receive PPP applications for funding by SEDCO. Fountainhead SBF LLC ("Fountainhead") was an SBA-approved lender that originated and funded PPP loans, and that also acquired and serviced pre-existing PPP loans issued by other lenders. Fountainhead reviewed PPP loan forgiveness applications submitted directly to the SBA by borrowers of the loans it was servicing, and made recommendations to the SBA on whether those applications satisfied the requirements for PPP loan.

On or about June 12, 2020, the defendant submitted to Kabbage, via interstate wire communications from the Southern District of Florida to outside the State of Florida, a false and fraudulent PPP 2020 loan application claiming to be a self-employed individual operating a business under the name "Alfredo Enterprise." That PPP loan application falsely and fraudulently represented Alfredo Enterprise's monthly payroll, and as part of the application process, the defendant submitted a false and fraudulent IRS Form 1040, Schedule C for tax year 2019, stating that Alfredo Enterprise was a "Recreation" business.

As a result of this false and fraudulent application, the defendant obtained approximately $10,104 in PPP loan proceeds from Kabbage that were electronically deposited by Kabbage into one of the defendant's accounts at Regions Bank. This electronic deposit was made via interstate wire communications.

On or about April 25, 2021, the defendant submitted to Womply, via interstate wire communications from the Southern District of Florida to outside the State of Florida, a false and fraudulent 2021 PPP second draw loan application claiming to be a sole proprietor operating a business under the tradename of "Alfredo Enterprise." This second draw PPP loan application falsely and fraudulently represented Alfredo Enterprise's 2019 gross income, and as part of this second draw application process, the defendant submitted a different false and fraudulent IRS Form 1040, Schedule C, for tax year 2019, stating that Alfredo Enterprise was a "Barbershop."

As a result of this false and fraudulent application, the defendant obtained approximately $11,251 in second draw PPP loan proceeds from SEDCO that were electronically deposited by SEDCO into one of the defendant's accounts at TD Bank. This electronic deposit was made via interstate wire communications. SEDCO later transferred this loan to Fountainhead for servicing.

On or about September 24, 2021, the defendant submitted to the SBA, via interstate wire communications from the Southern District of Florida to outside the State of Florida, a false and fraudulent SBA PPP loan forgiveness application seeking forgiveness from repayment of the PPP second draw loan he received from SEDCO. As a result of this false and fraudulent forgiveness application, the defendant was excused from any repayment obligation on the $11,251 second draw PPP loan he received, and the SBA reimbursed Fountainhead, which has acquired this loan from SEDCO, for the full amount of this loan and its accrued interest.

The United States and the defendant agree that this Stipulated Factual Basis, while not containing all facts known to the United States, is sufficient to satisfy all the elements establishing the guilt of the defendant to the crime charged in the Information.

MARKENZY LAPOINTE
UNITED STATES ATTORNEY

Date: 3/28/2023 By: ______________________
Edward N. Stamm
Assistant United States Attorney

Date: 3/28/23 By: ______________________
Daniel Ecarius
Assistant Federal Public Defender
Attorney for Defendant

Date: 3-28-23 By: ______________________
Alfredo Hudson
Defendant