UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 22-80118-CR-MIDDLEBROOKS/MATTHEWMAN

UNITED STATES OF AMERICA

v.

DARIEL GARCIA CARMONA,

Defendant.

FACTUAL PROFFER

If this matter had gone to trial, the United States would have proven the following facts beyond a reasonable doubt, which occurred in the Southern District of Florida and elsewhere:

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was a federal law enacted in or around March 2020, designed to provide emergency financial assistance to Americans who were suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was a program referred to as the Paycheck Protection Program (PPP), which authorized forgivable loans to small businesses for job retention and certain other expenses.

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 to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the loan. In the PPP loan application, the small business was required to provide, among other things, its average monthly payroll expenses and number of employees, which were used to calculate the amount of money the small business was eligible to receive.

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, and the loan was 100% guaranteed by the SBA. PPP loan proceeds were required to be used by the business to pay expenses necessary to continue the operations of the business, including the payroll costs of employees, interest on mortgages, rent, and utilities. The interest and principal on the PPP loan could be entirely forgiven if the business spent the loan proceeds on these expense items within a designated period of time and used a defined portion of the loan proceeds on payroll expenses.

DARIEL GARCIA CARMONA (GARCIA) was the owner of Construction by Design, a company which had been created in **GARCIA's** name by co-defendant Yunior BARRERA ALMAGUER (BARRERA). **GARCIA** set up a Bank of America (BofA) account for Construction by Design, which he gave BARRERA access too. BARRERA knew **GARCIA's** name, social security number, date of birth, mailing address, and email address, and the bank account routing number for Construction by Design, and had an unindicted co-conspirator use interstate wire communications to electronically view and sign a PPP Loan Application Form to BofA on behalf of Construction by Design on or about May 29, 2020, which falsely represented that the company had 22 employees and an average monthly payroll of $158,400 each month. In actuality, Construction by Design had only one employee, **GARCIA**.

On or about June 3, 2020, based on the false information provided in the loan application, BofA approved the loan and transferred $396,000 in PPP funds via interstate wire communication to Construction by Design's BofA account, for which **GARCIA** was the only signatory. Bank records showed that Construction by Design's BofA account had a negative balance on June 2, 2020, and no evidence of payroll payments to employees for Construction by Design prior to receipt of the PPP funds. On June 4, 2020, at BARRERA's instruction, **GARCIA** wired $390,000 from Construction by Design's BofA account to another Construction by Design account at TD Bank.

BARRERA instructed **GARCIA** to give him blank, pre-signed checks drawn on the TD Bank account so that BARRERA could access the wired funds, which **GARCIA** did. After Construction by Design's TD Bank account received the PPP funds on June 4, 2020, **GARCIA** knew that BARRERA laundered the PPP funds by writing checks to entities or individuals who were not associated with Construction by Design, or by having **GARCIA** make large cash withdrawals. For example, on August 6, 2020, BARRERA wrote a check in the amount of $20,000 from Construction by Design's TD Bank account using monies from the PPP loan as described above to EBO Construction, which was controlled by BARRERA. After receiving this check, EBO Construction deposited it in Palm Beach County into its own account at BofA, followed by which EBO Construction withdrew $9,800 in cash on August 7, and again on August 10, 2020. **GARCIA** not only knew that BARRERA was laundering the funds from Construction by Design's TD Bank account in this fashion, **GARCIA** also received a portion of the unlawfully obtained PPP funds from BARRERA as payment for his role in the money laundering. **GARCIA** eventually discovered that BARRERA had applied for the PPP loan on behalf of Construction by Design but continued to make withdrawals of the PPP funds as instructed by BARRERA, so that **GARCIA** would continue to be paid.

At all times relevant to the offense conduct, Bank of America and TD Bank were banks the deposits of which were insured by the Federal Deposit Insurance Corporation, and which were engaged in, and the activities of which affected, interstate and foreign commerce.

The parties agree that these facts, which do not include all facts known to the United States and **GARCIA**, are sufficient to prove the offense to which **GARCIA** is pleading guilty.

Respectfully submitted,

JUAN ANTONIO GONZALEZ
UNITED STATES ATTORNEY

Date: 12/9/22 By: ______________________
SUSAN OSBORNE
ASSISTANT UNITED STATES ATTORNEY

Date: 12/9/22 By: ______________________
RAPHAEL LOPEZ
ATTORNEY FOR DEFENDANT

Date: 12/9/22 By: ______________________
DARIEL GARCIA CARMONA
DEFENDANT