UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

UNITED STATES OF AMERICA

v.

YUNIOR BARRERA ALMAGUER,

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.

In or around June 2020, **YUNIOR BARRERA ALMAGUER (BARRERA)** caused the submission of fraudulent PPP loan applications on behalf of multiple companies. Specifically, **BARRERA** gathered the owner name, social security number, date of birth, mailing address, and email address, and the bank account routing number for companies such as Construction47, Inc., Penas Concrete Pumping Corp., Garcia & Son Remodeling Services, Corp., and others. **BARRERA** had an unindicted co-conspirator use interstate wire communications to electronically view and sign a PPP Loan Application Form on behalf of these companies, and falsely represent that each company had more employees and a higher average monthly payroll than each had in order to obtain the PPP loan.

From June to July 2020, based on the false information in the PPP loan applications, Bank of America (BofA), Celtic Bank, Cross River Bank, Kabbage, and TD Bank approved the loans and transferred approximately $8 million in PPP funds via interstate wire communication to the companies. For example, on or about July 1, 2020, based on the false information provided in the PPP loan applications, Kabbage approved loans and transferred the following amounts in PPP funds via interstate wire communication: $505,952 to Construction47's BofA account, for which co-defendant **EDUARDO RAMOS LEYVA (RAMOS)** was the only signatory; $720,860 to Penas Concrete's BofA account, for which co-defendant **LEINER PENA INFANTE (PENA)** was the only signatory; and $515,873 to Garcia & Son's BofA account, for which **YANDRE GARCIA HERNANDEZ (GARCIA)** was the only signatory.

Bank records showed that the companies had low balances and no evidence of payroll payments prior to receipt of the PPP funds. For example, immediately prior to receipt of the PPP funds, Construction47's BofA account had a balance of approximately $19,930.73, of which $10,000 was an Economic Injury Disaster Loan payment from the SBA, Penas Concrete's BofA account had a balance of approximately $3,200, and Garcia & Son's BofA account had a balance of approximately $41.87. After these companies received their PPP loans, **BARRERA** instructed **RAMOS, PENA, and GARCIA** to give him blank, pre-signed checks drawn on each company BofA account so that **BARRERA** could access the PPP funds. **RAMOS, PENA, and GARCIA** also wrote checks on the companies' accounts at **BARRERA's** direction.

For example, on July 24, 2020, **BARRERA** directed **RAMOS** to write a check to Garcia & Son in the amount of $25,000 from Construction47's BofA account, using monies in part from the PPP loan as described above. Garcia & Son deposited the check in Miami-Dade County into its BofA account, followed by which Garcia & Son wrote checks sending the funds to other companies involved in the scheme, such as Saihdel Trucking, Inc., which had also received its own PPP loan in the same scheme with **BARRERA**. On October 7, 2020, **BARRERA** directed **PENA** to write checks to EBO Construction in the amounts of $22,000 and $8,000 respectively from Penas Concrete's BofA account, using monies from the PPP loan as described above. EBO Construction had also received its own PPP loan in the same scheme with **BARRERA** and was controlled by **BARRERA**. After receiving these checks, EBO Construction deposited them in Miami-Dade County into its Wells Fargo account, followed by which EBO Construction wrote checks sending the funds to **BARRERA's** company, YBA Auto.

BARRERA agrees that he assisted in obtaining and/or laundering approximately $8.4 million in PPP funds through the scheme described above. At all times relevant to the offense conduct, BofA and Wells Fargo 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 **BARRERA**, are sufficient to prove the offense to which **BARRERA** is pleading guilty.

Respectfully submitted,

JUAN ANTONIO GONZALEZ
UNITED STATES ATTORNEY

Date: 11-8-2022 By: Susan Osb
SUSAN OSBORNE
ASSISTANT UNITED STATES ATTORNEY

Date: 11/8/22 By: ______________________
SABINO JAUREGUI
ATTORNEY FOR DEFENDANT

Date: 11/8/22 By: ______________________
YUNIOR BARRERA ALMAGUER
DEFENDANT