UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-CR-20018-ALTMAN/REID

UNITED STATES OF AMERICA

vs.

MARLIN JEAN,

Defendant.

_________________________________/

FACTUAL PROFFER

The United States of America (the "United States"), MARLIN JEAN (the "Defendant"), and his undersigned counsel agree that, were this case to proceed to trial, the United States would prove beyond a reasonable doubt the following facts, among others, which occurred in the Southern District of Florida and elsewhere:

1. The federal government provides unemployment insurance ("UI") benefits for qualified people who are unable to work. State employment offices administer the UI system for the federal government. In California, the agency responsible for oversight of the state's UI system is the Employment Development Department ("EDD"). In March 2020, through the CARES Act, the federal government provided substantial UI funds to the states to help the American people during the economic crisis caused by the COVID-19 pandemic. For the times relevant to this case, the California EDD disbursed UI benefits primarily by issuing pre-paid Bank of America ("BofA") debit cards, to provide easily accessible UI assistance to eligible California UI claimants.

2. In 2021, Homeland Security Investigations ("HSI") agents began to develop information leading them to believe that the Defendant was engaged in fraudulent activities. In or around August 2021, they learned that he was traveling overseas and was scheduled to return to

the United States that same month, through Miami International Airport ("MIA").

3. On or about August 15, 2021, the HSI agents and officers from U.S. Customs and Border Protection ("CBP") were present during the Defendant's arrival into MIA, where he and his travel companions were referred to secondary inspection, where they would be subject to inspections of their persons and their belongings, prior to being admitted into the United States.

4. During that secondary inspection, the CBP agents learned that the Defendant's travel companion was holding the Defendant's phone, and the Defendant ultimately confirmed that it was indeed his phone. Accordingly, pursuant to their border search powers as federal "customs officers," the HSI agents imaged the Defendant's phone in order to conduct a forensic search of its contents.

5. Most prominently, the Defendant's phone data contained files demonstrating the Defendant's use of illegally obtained access devices and the personal identifiable information ("PII") and means of identification of other individuals, in order to fraudulently open California EDD accounts in the names of approximately forty (40) individual victims.

6. Specifically, the phone evidence revealed that, starting in or around August 2021, the Defendant fraudulently opened California EDD UI accounts using the social security numbers ("SSNs") and PII (*e.g.*, names, dates of birth) of the individual victims, and then caused the state agency to mail out unauthorized BofA debit cards (pre-paid with UI funds) to various residential addresses ("drop sites") throughout South Florida. Starting at around the same time, chats from the Defendant's phone also showed that the Defendant directed an accomplice named "R.E." to coordinate the pick-ups of EDD mailings from the drop sites, and then to deliver the mailings (containing the pre-paid BofA debit cards) to the Defendant.

7. Account records provided by the California EDD and BofA confirmed that the names and SSNs of real individual victims were used to fraudulently open multiple California EDD accounts—often more than one account per victim. For example, during a subsequent interview, victim "T.R." confirmed that he did not know the Defendant, that he did not authorize the Defendant to possess or use his name, date of birth, or SSN, and that he had never given anyone permission to apply for UI benefits under his name. In total, California EDD records showed that approximately $826,000 in UI funds were credited to those accounts opened in the name of the 40 individuals found on the Defendant's phone, from in or around August 2020 through in or around October 2021.

8. In addition to the California EDD accounts fraudulently opened in the name of those approximately forty (40) individuals, the Defendant's phone also contained evidence of approximately fifty-three (53) other unauthorized access devices—*e.g.*, personal credit cards and debit cards from other banks, personal and business checks, etc.—belonging to other individuals and business victims.

9. The parties agree that Defendant's conduct was in and affecting interstate commerce, specifically, but not limited to, the aforementioned involvement of and effect of this fraud scheme on the California EDD.

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10. The parties further agree that these facts, which do not include all facts known to the United States and the Defendant, are sufficient to prove Counts 1 and 2 of the Indictment beyond a reasonable doubt.

JUAN ANTONIO GONZALEZ
UNITED STATES ATTORNEY

Date: 12/21/2022 By: ______________________
EDUARDO GARDEA, JR.
ASSISTANT UNITED STATES ATTORNEY

Date: 12/21/22 By: ______________________
CELESTE SIBLESZ HIGGINS, ESQ.
ATTORNEY FOR DEFENDANT

Date: 12/21/22 By: ______________________
MARLIN JEAN
DEFENDANT