UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, Plaintiff, v. BAOKE ZHANG, Defendant.	NO. CR20-169 RAJ **INFORMATION** **(Felony)**

The United States Attorney charges that:

At all times relevant to this Information:

Relevant Individuals and Entities

1. Defendant BAOKE ZHANG was a software developer residing in Issaquah, Washington. Until in or around May 2020, ZHANG was employed by Company 1, a technology company headquartered in San Francisco, California.

2. Individual 1 was ZHANG's wife and resides in Issaquah, Washington.

3. Individual 2 was ZHANG's father and resides in China.

4. Individual 3 was ZHANG's mother and resides in China.

5. Baoke Zhang dba Baoke Zhang ("the Zhang Sole Proprietorship") was a sole proprietorship that ZHANG established in or around April 2020. ZHANG was the sole owner of the Zhang Sole Proprietorship. On or about April 3, 2020, ZHANG applied for and obtained an Employer Identification Number ("EIN") from the Internal

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Revenue Service ("IRS") for the Zhang Sole Proprietorship. On or about April 8, 2020, ZHANG applied for a business license from the Washington State Department of Revenue for the Zhang Sole Proprietorship and the license was issued on or about April 17, 2020.

6. Cloud Optimization LLC ("Cloud Optimization") was a limited liability company established by ZHANG in or around April 2020. On or about April 21, 2020, ZHANG applied for and obtained an EIN from the IRS for Cloud Optimization. ZHANG never applied for or obtained a business license for Cloud Optimization from the Washington State Department of Revenue.

The Paycheck Protection Program

7. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020 and 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 a program referred to as the Paycheck Protection Program ("PPP"). In or around April 2020, Congress authorized over $300 billion in additional PPP funding.

8. In order to obtain a PPP loan, a qualifying business was required to submit a PPP loan application 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, the small business (through its authorized representative) was required to state, among other things, its: (a) average monthly payroll expenses; 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, businesses applying for a PPP loan were required to provide documentation showing their payroll expenses.

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9. PPP loan applications were processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies, which were 100% guaranteed by the U.S. Small Business Administration ("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.

10. PPP loan proceeds were required to be used by the business on certain permissible expenses—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 the allowable expenses within a designated period of time and used a certain percentage of the PPP loan proceeds on payroll expenses.

11. Lender 1 was a publicly traded real estate investment trust with its primary offices in New York, Texas, and New Jersey, that participated in the PPP as a lender

12. Lender 2 was an online money transfer business headquartered in San Jose, California. Lender 2 served as a broker between borrowers and Financial Institution 1, a PPP lender. Financial Institution 1 was a Federal Deposit Insurance Corporation-insured bank headquartered in Salt Lake City, Utah. As a broker, Lender 2 collected and provided loan applications to Financial Institution 1 for funding once approved.

13. Lender 3 was a merchant services business and mobile payment company headquartered in San Francisco, California. Lender 3 served as a broker between borrowers and Financial Institution 2, which was a PPP lender. Financial Institution 2 was a Federal Deposit Insurance Corporation-insured bank headquartered in Salt Lake City, Utah. As a broker, Lender 3 collected and provided loan applications to Financial Institution 2 for funding once approved.

The Economic Injury Disaster Relief Program

14. The Economic Injury Disaster Loan ("EIDL") program was an SBA program that provided low-interest financing to small businesses, renters, and homeowners in regions affected by declared disasters.

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15. The CARES Act authorized 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 was determined by the number of employees the applicant certified having. The advances did not have to be repaid.

16. In order to obtain an EIDL and advance, a qualifying business had to 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 also had to certify that all of the information in the application was true and correct to the best of the applicant's knowledge.

17. EIDL applications were submitted directly to the SBA. The amount of the loan, if the application was approved, was 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 were issued directly by the SBA. EIDL funds could be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rent, and mortgage payments. If the applicant also obtained a loan under the PPP, the EIDL funds could not be used for the same purpose as the PPP funds.

Other COVID-19 Relief Programs

18. Non-Profit 1 was a non-profit organization headquartered in Washington, D.C., that funded programs to support individuals seeking careers in the restaurant and food-service industry. Relief Program 1 was a program funded by Non-Profit 1 to assist restaurant employees whose employment was affected by the COVID-19 pandemic. Relief Program 1 provided one-time grants of $500 to qualifying restaurant workers who

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provided proof they had been employed in the restaurant industry since before December 10, 2019, and proof that they had suffered decreased or loss work after March 10, 2020.

19. Relief Program 2 was a COVID-19 relief program established for restaurant workers in King County, Washington, who had suffered financial hardship because of the COVID-19 pandemic. Relief Program 2 was facilitated by a platform for cash grants established by Non-Profit 2.

20. Company 1 was a multinational technology company headquartered in Seattle, Washington. Relief Program 3 was a COVID-19 relief fund established by Company 1 for small businesses operating in designated neighborhoods in the Seattle, Washington region. Under Relief Program 3, service and retail establishments open to the general public, with less than 50 employees or less than $7 million in revenue, and located in either the South Lake Union or Regrade neighborhoods of Seattle, Washington, or in Bellevue, Washington, could qualify for assistance grants.

COUNT 1

(Wire Fraud)

21. The allegations in Paragraphs 1-20 are re-alleged and incorporated by reference as if set forth in full herein.

A. The Scheme to Defraud

22. Beginning in or around April 2020, and continuing until in or around June 2020, in Seattle, within the Western District of Washington, and elsewhere, defendant BAOKE ZHANG, knowingly and with intent to defraud, devised and executed and attempted to execute a scheme and artifice to defraud Lender 1, Lender 2, Financial Institution 1, Lender 3, Financial Institution 2, the SBA, Non-Profit 1, Company 1, and Non-Profit 2, and to obtain money and property in the custody and control of Lender 1, Financial Institution 1, Financial Institution 2, the SBA, Non-Profit 1, Company 1, and Non-Profit 2 by means of material false and fraudulent pretenses, representations, and promises, and the concealment of material facts, all by filing false and fraudulent applications for COVID-19 relief-related loans and grants.

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B. Purpose of the Scheme to Defraud

23. The purpose of the scheme to defraud was for ZHANG to unjustly enrich himself by obtaining COVID-19 relief-related loans and grants under false and misleading pretenses.

C. Manner and Means of the Scheme to Defraud

24. To carry out the scheme to defraud, ZHANG submitted and caused to be submitted four fraudulent PPP loan applications on behalf of the Zhang Sole Proprietorship and Cloud Optimization to the following PPP lenders and brokers for the following funds:

Entity Name	Lender	Loan Amount
Baoke Zhang dba Baoke Zhang	Lender 1	$600,000
Baoke Zhang dba Baoke Zhang	Lender 2/Financial Institution 1	$600,000
Cloud Optimization	Lender 2/Financial Institution 1	$325,000
Baoke Zhang dba Baoke Zhang	Lender 3/Financial Institution 2	$41,580.63

25. ZHANG made materially false and misleading statements in the PPP loan applications he submitted, including:

a. In all four applications, ZHANG falsely claimed that the Zhang Sole Proprietorship and Cloud Optimization had been in operation as of February 15, 2020, and had employees for which the entities paid salaries and payroll taxes. In fact, neither entity had been in operation or had employees as of February 15, 2020.

b. In applications submitted to Lender 1 and Lender 2, ZHANG falsely claimed that the Zhang Sole Proprietorship had 25 employees for which it paid $240,000 in payroll each month. In fact, the Zhang Sole Proprietorship had no employees or payroll obligations.

c. In an application submitted to Lender 2, ZHANG falsely claimed that Cloud Optimization had 20 employees for which it paid $130,000 in payroll each month. In fact, Cloud Optimization had no employees or payroll obligations.

d. In an application submitted to Lender 3, ZHANG falsely claimed that the Zhang Sole Proprietorship had one employee for which it paid $16,632.25 in payroll

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each month. In fact, the Zhang Sole Proprietorship had no employees or payroll obligations.

26. With each of the fraudulent PPP loan applications, ZHANG submitted fake documents that he created to make it appear as if the Zhang Sole Proprietorship and Cloud Optimization were in operation and had employees as of February 15, 2020. The forms ZHANG submitted included fake IRS Forms 941, Schedules C to IRS Form 1040, IRS Notices CP 575, payroll documents, and a falsified bank statement.

27. After his loan applications had been approved, ZHANG signed loan agreements with Financial Institution 1 and Financial Institution 2 in which he falsely certified that the information provided in the loan applications he had submitted to Lender 2 and Lender 3, respectively, were true and accurate. In fact, ZHANG knew he had provided material false statements on the loan applications.

28. To further carry out the scheme to defraud, ZHANG submitted a fraudulent application to the SBA for an EIDL in the name of the Zhang Sole Proprietorship that contained materially false statements. Specifically, ZHANG falsely claimed that the Zhang Sole Proprietorship had 49 employees as of January 31, 2020; $2,978,000 in gross revenue in the 12-month period preceding January 31, 2020, and $2,647,906 in cost of goods sold in the 12-month period before January 31, 2020. In fact, ZHANG knew that the Zhang Sole Proprietorship did not exist before January 31, 2020 and did not have any employees, revenues, or cost of goods in the relevant 12-month period.

29. To further carry out the scheme to defraud, ZHANG submitted fraudulent applications to Relief Program 1 and Relief Program 2 that contained materially false statements in the names of ZHANG, Individual 1, Individual 2, and Individual 3 for COVID-19 relief-related grants. In the applications he submitted, ZHANG falsely claimed that ZHANG and Individuals 1, 2, and 3 qualified for grants because they were restaurant employees who had suffered economic hardship due to the COVID-19 pandemic. In fact, ZHANG knew when he submitted the applications that neither ZHANG nor Individuals 1, 2, and 3 were or had been employed as restaurant employees as required for eligibility

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under Relief Program 1 and Relief Program 2.

30. To further carry out the scheme to defraud, ZHANG submitted a fraudulent application to Relief Program 3 that contained materially false statements for a COVID-19 relief-related grant. In the application, ZHANG falsely claimed to operate a kiosk in a mall located within the geographical area in which grants through Relief Program 3 were available. In fact, ZHANG knew that he did not operate any businesses meeting the criteria for grants under Relief Program 3.

D. <u>Execution of the Scheme to Defraud</u>

31. On or about April 19, 2020, at Issaquah, in the Western District of Washington, and elsewhere, defendant BAOKE ZHANG, for the purpose of executing the above-described scheme to defraud, did knowingly transmit and cause to be transmitted by means of wire communication in interstate commerce from a place within the State of Washington to a place outside the State of Washington, writing, signals, and sounds, to wit: a PPP loan application in the name of Baoke Zhang dba Baoke Zhang.

All in violation of Title 18, United States Code, Sections 1343 and 2.

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FORFEITURE ALLEGATIONS

The allegations contained in Count 1 of this Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture. Upon conviction of the offense alleged in Count 1, the defendant BAOKE ZHANG shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), by way of Title 28, United States Code, Section 2461(c), any property that constitutes or is traceable to proceeds of the offense. This property includes, but is not limited to:

1. $10,000 in U.S. funds seized on or about June 8, 2020 from Financial Institution 3 account ending in 2129 held in the name of Baoke Zhang; and,
2. A sum of money reflecting the proceeds the defendant obtained from the offense.

(Substitute Assets)

If any of the above-described forfeitable property, as a result of any act or omission of the defendant,

a. cannot be located upon the exercise of due diligence;
b. has been transferred or sold to, or deposited with, a third party;
c. has been placed beyond the jurisdiction of the Court;
d. has been substantially diminished in value; or
e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States to seek the forfeiture of any other property of the defendant, up to the value of the above-described forfeitable property, pursuant to Title 21, United States Code, Section 853(p).

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DATED this 13th day of October, 2020.

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