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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

| | |
|---|---|
| UNITED STATES OF AMERICA,<br>Plaintiff,<br>vs.<br>DANIEL C. LABRUM,<br>Defendant. | Case No. CR 22-0152-S DCN<br>**INDICTMENT**<br>18 U.S.C. §§ 981(a)(1)(A), 981(a)(1)(C)<br>18 U.S.C. §§ 982(a)(1), 982(a)(2)<br>18 U.S.C. § 1344<br>18 U.S.C. § 1957<br>28 U.S.C. § 2461(c) |

## INTRODUCTION

The Grand Jury Charges:

At all times relevant to this Indictment:

1. The Defendant, DANIEL C. LABRUM ("LABRUM"), was a resident of South Jordan, Utah.

2. LABRUM owned and controlled Labrum Landscaping LLC, a Utah-based business. Labrum Landscaping LLC was incorporated in 2016 and was issued an Employer Identification Number ("EIN") by the Internal Revenue Service ("IRS").

3. LABRUM also owned and controlled another Utah-based business, Pro Excavation LLC. Pro Excavation LLC was incorporated in 2018 and was issued an EIN by the IRS.

4. Individual-1 owned and controlled Watson Construction LLC, a Utah-based business. Watson Construction LLC was incorporated in 2013 and was issued an EIN by the IRS.

***The U.S. Small Business Administration***

5. The United States Small Business Administration ("SBA") was an executive-branch agency of the United States government that provided support to entrepreneurs and small businesses. The mission of the SBA was to maintain and strengthen the nation's economy by enabling the establishment and viability of small businesses and by assisting in the economic recovery of communities after disasters.

***The Paycheck Protection Program***

6. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020 to provide emergency financial assistance to Americans suffering economic harm related to the COVID-19 pandemic. One form 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 called the Paycheck Protection Program ("PPP").

7. To obtain a PPP loan, a qualifying business was required to submit 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 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 business was eligible to receive under the PPP. In addition, businesses applying for a PPP loan were required to provide documentation showing payroll expenses. To qualify for a PPP loan, every application was also required to certify that the business seeking the loan "was in operation on February 15, 2020, and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC."

8. A PPP loan application was processed by a participating lender. If a PPP loan application was approved, the participating lender funded the loan using its own monies, which was one hundred percent 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.

9. PPP loan proceeds were required to be used on certain permissible business-related expenses, including payroll costs, mortgage interest, rent, and utilities. Under the applicable PPP rules and guidance, the interest and principal on the loan were eligible for forgiveness if the business used the loan proceeds on these expense items within a designated period of time and used at least a certain portion of the loan towards payroll expenses.

***<u>Relevant Financial Institutions</u>***

10. Lender-1 was a financial institution based in Boise, Idaho that participated as a lender in the SBA's PPP loan program.

11. Bank-1 was a financial institution based in Salt Lake City, Utah.

12. Bank-2 was a financial institution based in Oklahoma City, Oklahoma.

***Overview of the Scheme to Defraud***

13. Beginning in or around February 2021, and continuing until at least in or around May 2021, in the District of Idaho and elsewhere, the Defendant, DANIEL C. LABRUM ("LABRUM"), together with others known and unknown to the Grand Jury, did execute, and attempt to execute, a scheme and artifice to defraud Lender-1 in connection with the fraudulent PPP loan applications described in the table below (together, the "PPP Loan Applications"):

| Application No. | Relevant Entity | Approx. Date of Application | Lender | Approx. Loan Amount Sought |
|---|---|---|---|---|
| 1 | Labrum Landscaping LLC | February 25, 2021 | Lender-1 | $205,639 |
| 2 | Pro Excavation LLC | March 2, 2021 | Lender-1 | $344,000 |
| 3 | Pro Excavation LLC | April 12, 2021 | Lender-1 | $344,062 |
| 4 | Watson Construction LLC | March 8, 2021 | Lender-1 | $407,600 |
| 5 | Watson Construction LLC | April 16, 2021 | Lender-1 | $407,604 |

***Purpose of the Scheme to Defraud***

14. It was the purpose of the scheme for LABRUM to unjustly enrich himself, and others, by fraudulently obtaining PPP loans through false pretenses, representations, and promises, and to conceal the scheme.

***Manner and Means of the Scheme to Defraud***

15. It was part of LABRUM's fraudulent scheme to submit the PPP Loan Applications on behalf of Labrum Landscaping LLC, Pro Excavation LLC, and Watson Construction LLC (hereinafter, the "Relevant Entities") containing false information concerning, among other things, the number of employees and their monthly payroll, certifications about the Relevant Entities' business, and intended use for the funds.

16. In furtherance of the scheme, LABRUM, together with others known and unknown to the Grand Jury, falsely certified on the PPP Loan Applications that the Relevant Entities were in operation on February 15, 2020, and had employees for whom they paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC. However, in fact, and as LABRUM knew, the Relevant Entities had no employees, paid no salaries, and paid no payroll taxes. LABRUM further certified that the PPP loan funds would be used only for business-related expenses, including to retain workers and cover payroll expenses, and to make mortgage interest payments, lease payments, and/or utility payments. In fact, however, LABRUM did not intend to use the funds for these purposes because the Relevant Entities had no employees, payroll expenses, mortgage interest, lease, or utility bills.

17. In furtherance of the scheme, LABRUM, together with others known and unknown to the Grand Jury, submitted, and caused to be submitted, fraudulent IRS Forms 1120 to Lender-1 for the 2019 tax year on behalf of the Relevant Entities. Further, LABRUM submitted, and caused

to be submitted, fraudulent 2019 IRS Forms 940 and 941 to Lender-1 for Labrum Landscaping LLC, a fraudulent 2020 IRS Form 940 to Lender-1 for Pro Excavation LLC, and fraudulent 2020 IRS Forms 940 and 941 to Lender-1 for Watson Construction LLC. The IRS Forms 1120, 940, and 941 contained materially false and fraudulent information concerning total income and salaries and wages for the Relevant Entities as the Relevant Entities did not appear to have any legitimate business operations or employees in 2019 and 2020. Moreover, the Form 1120 for the Relevant Entities and the Form 940 for Watson Construction LLC were never filed with the IRS.

18. In furtherance of the scheme, LABRUM, together with others known and unknown to the Grand Jury, submitted, and caused to be submitted, the following fraudulent profit and loss statements for the Relevant Entities in support of the PPP Loan Applications to Lender-1.

a. A profit and loss statement for Labrum Landscaping LLC for the second quarter of 2019 falsely claimed Labrum Landscaping LLC earned $600,127 in gross profit and paid $248,400 in wages. A profit and loss statement for the second quarter of 2020 falsely claimed Labrum Landscaping LLC earned $432,095 in gross profit and paid $248,400 in wages. In fact, however, Labrum Landscaping LLC did not appear to have any legitimate business operations or employees in 2019 and 2020.

b. A profit and loss statement for Pro Excavation LLC for the third quarter of 2019 falsely claimed Pro Excavation LLC earned $648,905 in gross profit and paid $412,875 in wages. A profit and loss statement for the third quarter of 2020 falsely claimed Pro Excavation LLC earned $485,905 in gross profit and paid $412,875 in wages. In fact, however, Pro Excavation LLC did not appear to have any legitimate business operations or employees in 2019 and 2020.

c. A profit and loss statement for Watson Construction LLC for the second quarter of 2019 falsely claimed Watson Construction LLC earned $721,446 in gross profit and paid $547,697 in wages. A profit and loss statement for the second quarter of 2020 falsely claimed Watson Construction LLC earned $540,446 in gross profit and paid $357,825 in wages. In fact, however, Watson Construction LLC did not appear to have any legitimate business operations or employees in 2019 and 2020.

19. In furtherance of the scheme, after Lender-1 transferred approximately $205,639 in PPP loan proceeds to the Labrum Landscaping LLC account at Bank-1, LABRUM conducted a monetary transaction of a value greater than $10,000 by transferring approximately $54,000 from Bank-1 to Bank-2, which transaction was used for the payment to a separately charged co-schemer.

## COUNTS ONE THROUGH FIVE

### Bank Fraud
### 18 U.S.C. § 1344

The Grand Jury further charges:

20. The allegations in paragraphs 1 through 19 of this Indictment are realleged and incorporated by reference as though fully set forth herein.

21. From at least in or around February 2021 through at least in or around May 2021, in the District of Idaho and elsewhere, the Defendant, DANIEL C. LABRUM, together with others known and unknown to the Grand Jury, did knowingly, and with intent to defraud, execute and attempt to execute a scheme and artifice to defraud one or more financial institutions, to wit: Lender-1, a mortgage lending business, and to obtain moneys, funds, and credits owned by and under the control of such financial institution by means of materially false and fraudulent pretenses, representations, and promises.

Purpose

22. The Grand Jury realleges and incorporates by reference paragraph 14 of this Indictment as a description of the purpose of the scheme and artifice to defraud.

Scheme and Artifice to Defraud

23. The Grand Jury realleges and incorporates by reference paragraphs 15 through 19 of this Indictment as a description of the scheme and artifice to defraud.

24. On or about the dates specified as to each count below, in the District Idaho, and elsewhere, the Defendant, DANIEL C. LABRUM, together with others known and unknown to the Grand Jury, did knowingly execute the above-described scheme, each execution constituting a separate count:

| **Count** | **Approx. Date** | **Execution** |
|---|---|---|
| 1 | February 25, 2021 | Submission of fraudulent PPP Loan Application for Labrum Landscaping LLC to Lender-1 for $205,639. |
| 2 | March 2, 2021 | Submission of fraudulent PPP Loan Application for Pro Excavation LLC to Lender-1 for $344,062. |
| 3 | April 12, 2021 | Submission of fraudulent PPP Loan Application for Pro Excavation LLC to Lender-1 for $344,062. |
| 4 | March 8, 2021 | Submission of fraudulent PPP Loan Application for Watson Construction LLC to Lender-1 for $407,604. |
| 5 | April 16, 2021 | Submission of fraudulent PPP Loan Application for Watson Construction LLC to Lender-1 for $407,604. |

In violation of Title 18, United States Code, Section 1344(2).

## COUNT SIX

**Engaging in a Monetary Transaction in Property Derived from Specified Unlawful Activity**
**18 U.S.C. § 1957**

The Grand Jury further charges:

25. The allegations of paragraphs 1 through 19 are realleged and incorporated by reference as though fully set forth herein.

26. On or about April 15, 2021, in the District of Idaho and elsewhere, the Defendant, DANIEL C. LABRUM, together with others known and unknown to the Grand Jury, knowing that the funds involved represented proceeds of some form of unlawful activity, engaged in and willfully caused others to engage in a monetary transaction, in and affecting interstate commerce, in criminally derived property of a value greater than $10,000, namely, the transfer of approximately $54,000 by the Defendant from the Defendant's account at Bank-1 in Utah to an account at Bank-2 in Oklahoma, which property, in fact, was derived from a specified unlawful activity, that is, bank fraud, in violation of Title 18, United States Code, Section 1344(2). In violation of Title 18, United States Code, Section 1957.

## FORFEITURE ALLEGATIONS

**Bank Fraud Forfeiture**
**18 U.S.C. §§ 981(a)(1)(C), 982(a)(2); 28 U.S.C. § 2461(c)**

The Grand Jury alleges:

Upon conviction of Counts 1 through 5 set forth in this Indictment, the Defendant, DANIEL C. LABRUM, shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense.

If any of the property described above, as a result of any act or omission of the Defendant:

1. cannot be located upon the exercise of due diligence;
2. has been transferred or sold to, or deposited with, a third person;
3. has been placed beyond the jurisdiction of the Court;
4. has been substantially diminished in value; or
5. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2), Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461(c).

**Money Laundering Forfeiture**
**18 U.S.C. §§ 981(a)(1)(A), 981(a)(1)(C), 982(a)(1); 28 U.S.C. § 2461(c)**

The Grand Jury alleges:

Upon conviction of Count 6 set forth in this Indictment, the Defendant, DANIEL C. LABRUM, shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 981(a)(1)(A), and 982(a)(1), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the offense.

If any of the property described above, as a result of any act or omission of the Defendant:

1. cannot be located upon the exercise of due diligence;
2. has been transferred or sold to, or deposited with, a third person;
3. has been placed beyond the jurisdiction of the Court;
4. has been substantially diminished in value; or
5. has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

All pursuant to Title 18, United States Code, Sections 981(a)(1)(A), 981(a)(1)(C), and 982(a)(1), Title 21, United States Code, Section 853(p), and Title 28, United States Code, Section 2461(c).

Dated this 12th day of July, 2022.

A TRUE BILL

*/s/ [signature on reverse]*

FOREPERSON

JOSHUA D. HURWIT
UNITED STATES ATTORNEY
By:

SEAN M. MAZOROL
ASSISTANT UNITED STATES ATTORNEY

LORINDA I. LARYEA
ACTING CHIEF, FRAUD SECTION
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