UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

February 2023 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

LERONCE SUEL (1),
RAVAE SMITH (2),

Defendants.

Case No. '23 CR0965 RBM

I N D I C T M E N T

Title 18, U.S.C., Sec. 1349 - Conspiracy to Commit Wire Fraud; Title 18, U.S.C., Sec. 1343 - Wire Fraud; Title 18, U.S.C., Sec. 1957 - Money Laundering; Title 18, U.S.C., Sec. 2 - Aiding and Abetting; Title 18, U.S.C., Secs. 982(a)(1)(C) and 982(a)(1), and Title 28, U.S.C., Sec. 2461(c) - Criminal Forfeiture

The grand jury charges, at all times relevant herein:

Persons, Entities, and Background

1. Defendants LERONCE SUEL ("SUEL") and RAVAE SMITH ("SMITH") were United States citizens residing in or around San Diego, California, within the Southern District of California.

2. SUEL and SMITH were the owners of Rockstar Dough LLC and Chicken Feed LLC, which operated a series of restaurants in or around San Diego, California.

3. SUEL had an 85 percent ownership share of Rockstar Dough LLC. SMITH had a 15 percent ownership share of Rockstar Dough LLC.

4. SUEL had a 70 percent ownership share of Chicken Feed LLC. SMITH had a 15 percent ownership share of Chicken Feed LLC. A trust was a 15 percent owner of Chicken Feed LLC.

ECB:nlv:San Diego:5/18/23

5. An S-corporation is a corporation that elects to pass corporate income, losses, deductions, and credits through to its shareholders for federal tax purposes. Shareholders of S corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates.

6. For tax year 2020, Rockstar Dough LLC filed a tax return with the Internal Revenue Service (IRS) using Form 1120S for S-corporations.

Count 1

[Conspiracy to Commit Wire Fraud - 18 U.S.C. § 1349]

7. Paragraphs 1 through 6 of the Indictment are re-alleged and incorporated by reference.

8. Beginning in or about March 2020 and continuing until at least June 2022, within the Southern District of California, and elsewhere, defendants LERONCE SUEL and RAVAE SMITH knowingly conspired and agreed with each other, to commit the offense of wire fraud, in violation of Title 18, United States Code, Section 1343, that is, defendants devised and intended to devise a scheme and artifice to defraud and to obtain money and property by means of a false and fraudulent pretenses, representations, and promises, and for the purpose of executing and attempting to execute such scheme and artifice, transmitted and caused to be transmitted in interstate and foreign commerce certain wire communications.

A. Object of the Conspiracy

9. It was the object of the conspiracy that defendants would unjustly enrich themselves by submitting intentionally false loan and loan forgiveness applications to the U.S. Small Business Administration (SBA).

B. Manner and Means

10. It was a part of the conspiracy that SUEL and SMITH devised a scheme through which they under reported gross receipts of Rockstar Dough LLC for tax year 2020 on Form 1120S filed with the IRS to show a false financial loss so that Rockstar Dough LLC could qualify for Paycheck Protection Program loans and loan forgiveness and Restaurant Revitalization Funding program loans.

11. It was also a part of the conspiracy that SUEL and SMITH made materially false representations on loan and loan forgiveness applications submitted to the SBA so that Rockstar Dough LLC and Chicken Feed LLC would receive Paycheck Protection Program loans and Restaurant Revitalization Funding loans.

C. Overt Acts

12. The following overt acts in furtherance of the conspiracy, among others, were committed within the Southern District of California, and elsewhere:

a. For tax year 2020, SMITH sent a fraudulent profit and loss statement to an accountant for Rockstar Dough LLC, who relied upon this fraudulent profit and loss statement to prepare Rockstar Dough's Form 1120S titled "U.S. Income Tax Return for an S Corporation."

b. SUEL and SMITH then caused Rockstar Dough LLC to file a Form 1120S with the IRS for tax year 2020. On that form, Rockstar Dough LLC reported its gross receipts were $675,026 and that its ordinary business loss was $619,896. However, SUEL and SMITH knew Rockstar Dough LLC received gross receipts totaling at least $2,452,511 from various merchant processers—such as UberEats, Postmates, DoorDash, and Square, among others—as reported on Forms 1099-K mailed to SUEL and SMITH and filed with the IRS by those merchant processors. Thus, SUEL and SMITH caused at least $1,777,785 of Rockstar Dough LLC's revenue not be reported to the Internal Revenue Service for tax year 2020.

c. On May 12, 2020, Rockstar Dough LLC received a First Draw Paycheck Protection Program loan in the amount of $82,850 deposited into its Wells Fargo business bank account ending in -9744. On July 15, 2021, SUEL knowingly filed via the Internet an application seeking forgiveness of the $82,850 loan to the SBA by falsely certifying that Rockstar Dough LLC spent the entire loan on payroll costs between May 12, 2020 and July 11, 2020. However, this certification was false, as shown on Rockstar Dough LLC's Forms 941, which show total wages of $0 for the second quarter of 2020 and total wages of $29,408 for the third quarter of 2020.

d. On May 13, 2020, Chicken Feed LLC received a First Draw Paycheck Protection Program loan in the amount of $142,345 deposited into its Wells Fargo business bank account ending in -7285. On July 15, 2021, SUEL knowingly filed via the Internet an application seeking forgiveness of the $142,345 loan to the SBA by falsely certifying that Chicken Feed LLC used the loan for approved expenses such as wages and rent, even though, in truth, Chicken Feed LLC was not in operation during the relevant time, paid $0 in wages, and did not pay its landlord any rent during the relevant period.

e. On January 14, 2021, SUEL submitted via the Internet a Second Draw Paycheck Protection Program loan application to the SBA on behalf of Chicken Feed LLC in which SUEL falsely certified that, among other things, Chicken Feed LLC used its First Draw Paycheck Protection Program loan for "eligible expenses" when it had in fact not done so. On March 29, 2021, Chicken Feed LLC received a Second Draw Paycheck

Protection Program loan in the amount of $181,455 deposited into its Wells Fargo business bank account ending in -7285.

f. On January 14, 2021, SUEL submitted via the Internet a Second Draw Paycheck Protection Program loan application to the SBA on behalf of Rockstar Dough LLC in which SUEL falsely certified that Rockstar Dough LLC had realized a reduction in gross receipts in excess of 25% between tax years 2019 and 2020 when in fact SUEL knew Rockstar Dough LLC increased gross receipts between tax years 2019 and 2020. On April 16, 2021, Rockstar Dough LLC received a Second Draw Paycheck Protection Program loan in the amount of $105,728 deposited into its Wells Fargo business bank account ending in -9744.

g. On May 3, 2021, SMITH submitted a false Restaurant Revitalization Fund loan application to the SBA via the Internet on behalf of Rockstar Dough LLC. As part of that application's supporting documents, SMITH submitted Rockstar Dough LLC's Form 1120S for tax year 2020 that intentionally and falsely underreported Rockstar Dough LLC's gross receipts to qualify for the loan. On May 26, 2021, Rockstar Dough LLC received a deposit of $526,000 from SBA's Restaurant Revitalization Fund into its Wells Fargo business bank account ending in -7285.

h. On May 3, 2021, SMITH submitted a false Restaurant Revitalization Fund loan application to the SBA via the Internet on behalf of Chicken Feed LLC. As part of that application's supporting documents, SMITH made materially false representations in the loan application to qualify for the funds. For instance, SMITH stated that the loan would be used for "business payroll costs," "business rent," and "business food and beverage expenses." On May 24, 2021, Chicken Feed LLC received a deposit of $734,867 from the SBA's Restaurant Revitalization Fund into its Wells Fargo business bank account ending in -7285. Instead of using the money for the stated purpose, on May 26, 2021, SMITH withdrew $734,00 from the account ending in -7285 via a cashier's check payable to SMITH and SUEL.

i. On June 23, 2022, SUEL and SMITH concealed $2,421,345 in U.S. currency in their residence.

All in violation of Title 18, United States Code, Section 1349.

Counts 2-7

[Wire Fraud - 18 U.S.C. §§ 1343 & 2]

13. Paragraphs 1 through 12 of the Indictment are re-alleged and incorporated by reference.

14. Between in or about March 2020 and July 2021, within the Southern District of California, and elsewhere, defendants LERONCE SUEL and RAVAE SMITH, did knowingly devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of a false and fraudulent pretenses, representations, and promises, and for the purpose of executing a scheme for obtaining money by means of false and fraudulent pretenses, representations, and promises, did knowingly transmit and cause to be transmitted by means of a wire communication into interstate commerce certain writings, signs, signals, and pictures as more particularly described in the following table:

Count	Date	Interstate Wire
2 (SUEL only)	January 14, 2021	Submission of a Second Draw Paycheck Protection Program Loan Application on behalf of Rockstar Dough LLC, causing an interstate wire.
3 (SUEL only)	January 14, 2021	Submission of a Second Draw Paycheck Protection Program Loan Application on behalf of Chicken Feed LLC, causing an interstate wire.
4 (SMITH only)	May 3, 2021	Submission of a Restaurant Revitalization Funding Application on behalf of Chicken Feed LLC, causing an interstate wire.

Count	Date	Interstate Wire
5 (SMITH only)	May 3, 2021	Submission of a Restaurant Revitalization Funding Application on behalf of Rockstar Dough LLC, causing an interstate wire.
6 (SUEL only)	July 15, 2021	Submission of a First Draw Paycheck Protection Program Loan Forgiveness Application on behalf of Rockstar Dough LLC, causing an interstate wire.
7 (SUEL only)	July 15, 2021	Submission of a First Draw Paycheck Protection Program Loan Forgiveness Application on behalf of Chicken Feed LLC, causing an interstate wire.

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

Counts 8-20

[Monetary Transactions in Criminally Derived Property - 18 U.S.C. §§ 1957 & 2]

15. Paragraphs 1 through 14 of the Indictment are re-alleged and incorporated by reference.

16. On or about the dates set forth below, within the Southern District of California, and elsewhere, defendants LERONCE SUEL and RAVAE SMITH, did knowingly engage and attempt to engage in the following monetary transactions by through and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than $10,000, that is, the deposit, withdrawal, and transfer of U.S. currency or monetary instruments, such property having been derived from a specified unlawful activity, that is, wire fraud, in violation of Title 18, United States Code, Section 1343:

Count	Defendant	Date	Monetary Transaction
8	SMITH	May 12, 2020	$20,000 cash withdrawal from Rockstar Dough LLC's Wells Fargo account -9744
9	SMITH	May 18, 2020	$20,000 cash withdrawal from Rockstar Dough LLC's Wells Fargo account -9744
10	SMITH	May 21, 2020	$20,000 cash withdrawal from Chicken Feed LLC's Wells Fargo account -7285

Count	Defendant	Date	Monetary Transaction
11	SMITH	June 1, 2020	$20,000 cash withdrawal from Chicken Feed LLC's Wells Fargo account -7285
12	SMITH	June 29, 2020	$45,000 cash withdrawal from Chicken Feed LLC's Wells Fargo account -7285
13	SMITH	July 7, 2020	$45,000 cash withdrawal from Chicken Feed LLC's Wells Fargo account -7285
14	SMITH & SUEL	March 22, 2021	$957,966 cash deposit into Rockstar Dough LLC's Wells Fargo account -9744
15	SMITH	March 22, 2021	$972,792 wire transfer from Rockstar Dough LLC's Wells Fargo account -9744 to City Title N Closing escrow account for the purchase of real property located 3899 N Dogwood Canyon Loop, Fayetteville, AR 72704
16	SMITH	March 30, 2021	$181,498 cash withdrawal from Chicken Feed LLC's Wells Fargo account -7285
17	SMITH	March 30, 2021	$181,498 cash deposit into Rockstar Dough LLC's Wells Fargo account -9744
18	SMITH	April 26, 2021	$150,000 cash withdrawal from Rockstar Dough LLC's Wells Fargo account -9744
19	SMITH	May 26, 2021	$734,000 withdrawal from Chicken Feed LLC's Wells Fargo account -7285
20	SMITH	May 27, 2021	$600,000 withdrawal from Rockstar Dough LLC's Wells Fargo account -9744.

All in violation of Title 18, United States Code, Sections 1957 and 2.

FORFEITURE ALLEGATION

17. The allegations contained in Counts 1 through 16 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(1), and Title 28, United States Code, Section 2461(c).

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18. Upon conviction of the offenses in violation of Title 18, United States Code, Sections 1343, 1349, or 1957 set forth in Counts 1 through 20 of this Indictment, defendants LERONCE SUEL and RAVAE SMITH, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) 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(s). The property to be forfeited includes, but is not limited to, the following:

a. Real property located at 3899 N Dogwood Canyon Loop, Fayetteville, AR 72704 with parcel number 177-00050-000.

b. $2,421,345.00 in U.S. currency seized from Defendants' residence on June 23, 2022.

19. If any of the property described above, as a result of any act or omission of the defendants:

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,

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the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

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

DATED: May 19, 2023.

A TRUE BILL:

[redacted]

RANDY S. GROSSMAN
United States Attorney

By: ______________________
E. CHRISTOPHER BEELER
Assistant U.S. Attorney
JULIA M. RUGG
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