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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 8:21-cr-6 T35 AAS
18 U.S.C. § 1956(h)

KEITH NICOLETTA

INFORMATION

The United States Attorney charges:

COUNT ONE
(Conspiracy to Commit Money Laundering)

A. Introduction

At all times material to this Information:

The Defendant and his Business Operations

1. KEITH NICOLETTA resided in Dade City, Florida, which was within the Middle District of Florida.
2. In or around 2016, NICOLETTA established a Florida corporation known as West Coast Cores, LLC ("WCC"), listing himself as WCC's manager. In or around May 2020, WCC's registered principal place of business was NICOLETTA's residence in Dade City, Florida.
3. NICOLETTA used WCC to trade in scrap metal. For 2019 and 2020, WCC did not report payroll or wages to federal or state agencies as it had no employees. Instead, WCC operated like a sole proprietorship.

4. WCC maintained bank accounts at a credit union headquartered in Lakeland, Florida (“Credit Union-1”). NICOLETTA was a signatory on the WCC accounts and also maintained separate personal accounts at Credit Union-1. NICOLETTA also maintained and/or opened new bank accounts at other credit unions, referred to herein as Credit Union-2 and Credit Union-3.

The Paycheck Protection Program

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. As part of this effort, the SBA enabled and provided for loans through banks, credit unions, and other lenders. These loans had government-backed guarantees.

6. In March 2020, the Coronavirus Aid, Relief, and Economic Security Act, or the “CARES Act,” was enacted to provide immediate assistance to individuals, families, and organizations affected by the COVID-19 emergency. Among its various provisions, the CARES Act authorized the SBA to guarantee loans under the Paycheck Protection Program (“PPP”), and the full principal amount of the loans could qualify for forgiveness.

7. Borrowers were required to use PPP loan proceeds only for enumerated purposes, including payroll costs, rent and utilities, and mortgage interest payments. Knowing misuse of PPP funds would subject borrowers to additional liability, such as charges for fraud.

8. Under the PPP, the maximum loan amount was the lesser of \$10 million or an amount calculated using a payroll-based formula specified in the CARES Act. The payroll-based formula considered the borrower's total payroll costs from the preceding twelve months for all domestic employees. Once an average monthly payroll cost was established, the borrower would multiply that figure by 2.5 to arrive at a total maximum PPP loan amount.

9. To apply for a PPP loan, a potential borrower electronically submitted an SBA Form 2483 with supporting payroll documentation to a financial institution that would administer the loan and serve as custodian of the funds. On the SBA Form 2483, an authorized representative of the business was required to certify information regarding business operations. Those certifications included that: (i) the applicant 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 a Form 1099-MISC; (ii) current economic uncertainty made the loan request necessary to support the applicant's ongoing operations; and (iii) the PPP funds would be used to retain

workers and to maintain payroll or pay other qualifying expenses.

10. Further, when submitting the SBA Form 2483, the authorized representative certified his understanding that, should the PPP funds be knowingly used for unauthorized purposes, the United States could hold him legally liable, including for charges of fraud. The applicant was also required to certify the truth and accuracy of any information provided on the SBA Form 2483 and in all supporting documents, to include any documents intended to verify the applicant's payroll expenses. Such supporting documents could include payroll processor records, bank records, wage records, payroll tax filings with the Internal Revenue Service, or other records sufficient to demonstrate the qualifying payroll amount.

11. Finally, the applicant was required to certify the following warning regarding false statements and other criminal penalties:

I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 U.S.C. §§ 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 U.S.C. § 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a federally insured institution, under 18 U.S.C. § 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.

12. PPP loan applications would then be processed by participating lenders. If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies, which were 100% guaranteed by

the SBA. Data from the application, including information from 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.

The PPP Lender C.B. and Its Processor B.V.

13. C.B., which was located in Utah, was a financial institution, as defined in 18 U.S.C. § 20, insured by the Federal Deposit Insurance Corporation. C.B. participated in the SBA's PPP as a lender and, as such, was authorized to lend funds to eligible borrowers under the terms of PPP.

14. B.V. was a California fintech company that provided online business banking and financing solutions to small- and medium-sized businesses. B.V. (the "Processor") processed and serviced SBA-guaranteed PPP loans, including for C.B. (hereinafter, the "Lender").

B. The Conspiracy

15. Beginning in or about June 2020, and continuing through at least in or around October 2020, in the Middle District of Florida and elsewhere, the defendant,

KEITH NICOLETTA

did knowingly combine, conspire, confederate, and agree with others, both known and unknown to the United States Attorney, to commit money laundering, to wit, knowing that the property involved in a financial

transaction represented the proceeds of some form of unlawful activity, did conduct, and attempt to conduct, a financial transaction which, in fact involved the proceeds of specified unlawful activity, that is, bank fraud, in violation of 18 U.S.C. § 1344, knowing that the transaction was designed in whole or in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of 18 U.S.C. § 1956(a)(1)(B)(i).

C. Manner and Means of the Conspiracy

16. The manner and means by which the defendant sought to accomplish the object of the conspiracy included, among others, the following:

a. It was part of the conspiracy that the conspirators would and did submit and cause the submission of a false and fraudulent PPP loan application to the Lender (through the Processor) on behalf of WCC seeking a PPP loan from the SBA.

b. It was further part of the conspiracy that the conspirators would and did falsely and fraudulently certify that the PPP funds acquired from the requested loan would be used to pay for “Payroll,” “Lease/Mortgage Interest,” and “Utilities.”

c. It was further part of the conspiracy that the conspirators’ materially false, fraudulent, and misleading representations would and did

cause the SBA to approve the PPP application and the SBA to issue approximately \$1,903,157 in PPP funds to the Lender, which the Lender then deposited into a WCC business bank account (“Account -3127”) under the defendant’s control at Credit Union-1.

d. It was further part of conspiracy that the defendant would and did open new bank accounts at Credit Union-2 and Credit Union-3.

e. It was further part of the conspiracy that, to conceal and disguise the nature, source, ownership, and control of the fraudulently-obtained loan proceeds, the defendant would and did transfer the PPP funds from Account -3127 into other personal and business bank accounts that he controlled at Credit Union-1, Credit Union-2, and Credit Union-3.

f. It was further a part of the conspiracy that the defendant would and did deliver fraud proceeds to another conspirator in cash;

g. It was further a part of the conspiracy that the defendant would and did transfer fraud proceeds to other conspirators by interstate wire transmission;

h. It was further part of the conspiracy that the conspirators would and did use the PPP funds to be used for unauthorized purposes and/or for their own personal enrichment, including the defendant’s purchase of a 2020 Mercedes-Benz S560 and a 2020 Ford Super Duty F-250 Platinum Edition.

i. It was further part of the conspiracy that the conspirators would and did misrepresent, hide, and conceal, and cause to be misrepresented, hidden, and concealed, the purpose of acts performed in furtherance of the scheme to defraud.

All in violation of 18 U.S.C. § 1956(h).

FORFEITURE

1. The allegations contained in Count One are incorporated by reference for the purpose of alleging forfeiture pursuant to 18 U.S.C. § 982(a)(1).

2. Upon conviction of a violation of 18 U.S.C. § 1956(h), the defendant,

KEITH NICOLETTA,

shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(1), any property, real or personal, involved in such offense, or any property traceable to such property.

3. The property to be forfeited includes, but is not limited to, the following:

- a. an order of forfeiture in the amount of approximately \$1,903,157, which represents the amount of proceeds involved in the offense;

- b. a 2020 Mercedes-Benz S560, Vehicle Identification Number W1KUG8DB8LA529322;
- c. a 2020 Ford Super Duty F-250 Platinum Edition, Vehicle Identification Number 1FT7W2BT9LED45745;
- d. a Rolex watch purchased by the defendant in or about July 2020 from Mayors Jewelers;.
- e. Approximately \$40,335.00 in U.S. Currency seized from 11248 Mansker Road, Dade City, Florida on or about October 20, 2020;
- f. Approximately \$96,139.32 seized from San Antonio Federal Credit Union account number 59274-000, held in the name of Keith W. Nicoletta;
- g. the real property, including all improvements thereon and appurtenances thereto, located at 11248 and 11304 Mansker Road, Dade City, Florida 33525, being the same premises conveyed to Keith Nicoletta by virtue of the deed recorded on August 12, 2019, Instrument Number 201935559, in Pasco County, Official Records, Book 9954, Pages 508 through 514;

Parcel ID: 09-25-21-0000-05600-0000;
Parcel ID: 09-25-21-0000-05600-0010; and

Parcel ID: 09-25-21-0000-05600-0020.

4. If any of the property described above, 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,

the United States shall be entitled to forfeiture of substitute property under the provisions of 21 U.S.C § 853(p), as incorporated by 18 U.S.C § 982(b)(1).

MARIA CHAPA LOPEZ
United States Attorney

By: 
for Kristen A. Fiore
Assistant United States Attorney

By: 
for Jay G. Trezevant
Assistant United States Attorney
Chief, Economic Crimes Section