DGB

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:22-CR-290

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL INFORMATION
	)	
ALBERT EUGENE MILLER, JR.	)	

The United States Attorney charges the following:

INTRODUCTORY ALLEGATIONS

1. Between September and December of 2021, Defendant ALBERT EUGENE MILLER, JR. and others, known and unknown to the United States Attorney, conspired to defraud the United States Government in the name of a company he controlled through a sole proprietorship. This scheme involved frauds upon institutions and agencies engaged to provide financial assistance to the public arising from the COVID-19 pandemic.

2. At all times relevant to this Information, MILLER was a resident of the Eastern District of North Carolina.

COVID Fraud: The Paycheck Protection Program ("PPP")

3. In March 2020, Congress passed the Coronavirus Aid, Relief, and

Economic Security (CARES) Act, which was designed to provide emergency financial assistance to millions of Americans who were suffering from the economic effects caused by the COVID-19 pandemic.

4. 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 business and by assisting in the economic recovery of communities after disasters.

5. 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.

6. To obtain a PPP loan, businesses were required to submit a PPP loan application, signed by an authorized representative of the business, acknowledging the program rules. The business was required to state (a) its average monthly payroll expenses and (b) the 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.

7. A PPP loan application was required to be processed by a participating

financial institution ("Lender"). Many Lenders constituted financial institutions, as that term is defined in Title 18, United States Code, Section 20. If a PPP loan application was approved, the Lender funded the PPP loan using its own moneys, which were 100% 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, were transmitted by the Lender to the SBA in the course of processing the loan.

8. PPP loan proceeds were required to be used by businesses on certain permissible expenses: payroll costs, interest on mortgages, rent, and utilities. Loans provided through the PPP have government-backed guarantees and are 100% forgivable if the borrower submits documentation to the PPP Lender and SBA demonstrating that at least sixty percent (60%) of the PPP loan proceeds were utilized to meet existing payroll obligations and to retain employees.

9. Funds disbursed under the PPP and other programs are referred to collectively herein as "COVID Loans."

The Scheme to Defraud

10. Between approximately January of 2021 and September of 2021, ALBERT EUGENE MILLER, JR. (hereinafter "MILLER") conspired with E.W. and others to engage in a fraud upon the PPP program. MILLER engaged in fraud upon the PPP program in the name of Al Miller Agency, a sole proprietorship owned and controlled by MILLER. Both MILLER and Al Miller Agency were located in

Rolesville, NC, which is in the Eastern District of North Carolina.

11. E.W. assisted numerous other companies and individuals (collectively "Borrowers") located around the country to fraudulently obtain COVID Loans. In exchange for their assistance in obtaining COVID Loans, the Borrowers such as MILLER paid E.W. a fee. In total, E.W. and their spouse, S.C., collectively facilitated the fraudulent disbursement of more than $15 Million in COVID Loans.

12. To promote the operation of the scheme, E.W. and S.C. utilized middlemen to recruit Borrowers. E.W. and S.C. paid, and caused others to pay, these middlemen a "cut" of the fee charged for securing the fraudulent loans for the Borrowers.

13. Q.J. was one such individual who operated various companies in the Eastern District of North Carolina. Q.J. was a Borrower who utilized E.W. and S.C. to fraudulently obtain PPP loan proceeds in the names of several companies. In addition to being a Borrower, Q.J. also served as a middleman, and recruited additional Borrowers—including Defendant MILLER—for E.W. and S.C. for an agreed upon fee.

14. To carry out the scheme, the conspirators engaged in the following series of steps:

a. E.W. came into contact with MILLER—a Borrower who desired to obtain a PPP loan—by introduction from Q.J., acting as a middleman. MILLER and E.W. communicated through interstate text messages, phone calls, and emails. During these contacts, E.W. and MILLER discussed the process by which E.W. would assist MILLER to secure a PPP loan.

b. MILLER supplied E.W. with various information concerning MILLER and his company, Al Miller Agency, which would be used to obtain the PPP loan, such as the company's federal tax identification number and payroll information for the prior year. MILLER also supplied personal information, such as a driver's license and social security card. Lastly, MILLER provided bank account information for the company, including the account number and routing information.

c. E.W. and S.C. used the information supplied by MILLER to fraudulently apply for a PPP loan. In furtherance of the application, E.W. created documents that falsely reflected such information as the annual payroll, gross receipts, expenses, number of employees, and employee names for Al Miller Agency.

d. E.W. and S.C. then supplied fraudulent documents to MILLER via interstate email transmission for review and signature, such as the Paycheck Protection Program Borrower Application Form. These documents were fraudulent because, among other reasons, they intentionally misrepresented the average monthly payroll and true number of employees for Al Miller Agency. MILLER signed and returned the fraudulent Application Form.

e. E.W. and S.C. also supplied to MILLER via interstate email, a purported employee listing and annual salary for Al Miller Agency. Miller signed and returned these fraudulent documents.

f. E.W. and S.C. also supplied to MILLER via interstate email, a fraudulent Form 940, and four fraudulent from 941 forms. The forms were fraudulent because they misrepresented the actual annual and quarterly wages for MILLER's company. MILLER received, signed, and returned the fraudulent and backdated Form 940 and Form 941s.

g. The PPP loan application was electronically submitted or caused to be submitted by E.W. and S.C. in MILLER's name, and received through SBA servers located in Oregon, using the fraudulent information described above, by electronically transmitting the information to the lending institution, Harvest Small Business Finance, LLC, which is based in California, via interstate wire transmission.

h. MILLER or another member of the conspiracy acting at E.W.'s direction electronically signed the promissory note or promise to pay.

i. The PPP loan monies were then deposited via interstate wire transfer into MILLER's PNC Bank account ending in -7347 associated with Al Miller Agency over which MILLER had custody and control.

COUNT ONE

15. The United States Attorney realleges and incorporates by reference herein all of the allegations contained in the preceding paragraphs of this Criminal Information.

16. From approximately September of 2021 to December of 2021, in the Eastern District of North Carolina and elsewhere, defendant ALBERT EUGENE MILLER, JR. and others—known and unknown to the United States Attorney—did knowingly combine, conspire, confederate, agree, and have a tacit understanding with each other to commit an offense against the United States, in violation of Title 18, United States Code, Section 1343 ("Wire Fraud"), that is: knowingly executing and attempting to execute a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing said scheme and artifice, transmitting and causing to be transmitted by means of wire communication in interstate commerce, any writing, sign, signal, picture, and sound.

Manner and Means

17. The United States Attorney realleges and incorporates by reference herein all of the allegations contained in the preceding paragraphs of this Criminal

Information, and further alleges that MILLER, E.W., and others, known and unknown to the United States Attorney carried out the conspiracy in the manner and means as set forth in those paragraphs.

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

FORFEITURE NOTICE

Notice is hereby given that all right, title and interest in the property described herein is subject to forfeiture.

Upon conviction of any offense charged herein constituting "specified unlawful activity" (as defined in 18 U.S.C. §§ 1956(c)(7) and 1961(1)), or a conspiracy to commit such offense, the defendant shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C), as made applicable by 28 U.S.C. § 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the said offense.

The forfeitable property includes, but is not limited to, the following:

Forfeiture Money Judgment:

a) A sum of money representing the gross proceeds of the offense(s) charged herein against ALBERT EUGENE MILLER, JR. in the amount of at least $145,833.

If any of the above-described forfeitable property, as a result of any act or omission of a defendant: cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

MICHAEL F. EASLEY, JR
United States Attorney

BY: ______________________________
DAVID G. BERAKA
Assistant United States Attorney