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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:23-CR-338

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL INFORMATION
	)	
DARIAN CASTEELE TYLER	)	

The United States Attorney charges the following:

INTRODUCTORY ALLEGATIONS

1. From in or about April 2021 to in or about February 2022, Defendant DARIAN CASTEELE TYLER and others, known and unknown to the United States Attorney, conspired to defraud the United States Government in the name of a company they controlled. This scheme involved frauds upon institutions and agencies engaged to provide financial assistance to the public arising from the COVID-19 pandemic.

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

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

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

The Scheme to Defraud

9. From in or about April 2021, to in or about February 2022, the Defendant, DARIAN CASTEELE TYLER (hereinafter "TYLER") conspired with E.W., S.C., and others to engage in a fraud upon the PPP program. TYLER engaged in fraud upon the PPP program in the name of Tyler's Delivery Express, LLC; a corporation TYLER owned and controlled. TYLER resided in South Carolina while E.W. and S.C. resided in Texas.

10. E.W. assisted numerous other companies and individuals (collectively

"Borrowers") located around the country, and particularly in the Eastern District of North Carolina, to fraudulently obtain PPP and other COVID Loans. In exchange for their assistance in obtaining COVID Loans, the Borrowers such as TYLER paid E.W. a fee representing a percentage of the fraudulent loan proceeds. In total, E.W. and their spouse, S.C., collectively facilitated the fraudulent disbursement of more than $15 Million in COVID Loans.

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

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

b. TYLER supplied E.W. with various information concerning TYLER and his company, which would be used to obtain the PPP loan, such as the company's federal tax identification number the bank account information for the Tyler's Delivery Express, LLC, including the account number and routing information.

c. E.W. and S.C. used the information supplied by TYLER 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 Tyler's Delivery Express, LLC.

d. E.W. or S.C. then supplied fraudulent documents to TYLER 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 Tyler's Delivery Express, LLC.

e. E.W. or S.C. also supplied to TYLER via interstate email, fraudulent IRS forms: Form 940 and Form 941 documents. The forms were fraudulent because they misrepresented the actual annual and quarterly wages for TYLER's company. TYLER received, signed, and returned the fraudulent and backdated Form 940 and Form 941s.

f. The PPP loan application was electronically submitted or caused to be submitted by E.W. or S.C. in TYLER'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.

g. Specifically, the fraudulent PPP application and supporting paperwork claimed seven employees and an annual payroll of approximately $700,000, figures designed to yield a PPP loan in amount of just under $150,000. E.W. engineered this result because he would be able to apply for forgiveness from the SBA with minimal paperwork requirements.

h. TYLER 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 TYLER's First Citizens Bank account ending in -9118 associated with Tyler's Delivery Express, LLC.

12. After receiving proceeds from the PPP fraud described above, TYLER carried out a series of steps orchestrated by E.W. that made it appear as though TYLER's company was paying biweekly payroll to its employees.

13. Over an approximately four-to-six-week period, TYLER wrote checks payable to each of the individuals previously named as purported employees of Tyler's Delivery Express, LLC. Each of the checks contained a memo notation stating a "pay period" and a two-week interval. Collectively, these checks made it falsely appear that each of the check recipients was engaged in work on behalf of TYLER's company, and receiving regular wages during each of the sated periods. In reality, none of the check recipients previously received wages from Tyler's Delivery Express, LLC comparable to those paid from the PPP proceeds.

14. The purported employees returned some or all of the money back to TYLER, who then wrote checks to E.W. to compensate them for his assistance in helping TYLER to fraudulently obtain the PPP loan.

15. E.W., acting on TYLER's behalf, successfully applied for loan forgiveness from the SBA by falsely attesting that the PPP proceeds were used to pay employee wages.

THE CHARGE

16. 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 TYLER, E.W., and others known to the United States Attorney, carried out the conspiracy in the manner and means as set forth in those paragraphs.

17. From in or about April 2021 to in or about February 2022, in the Eastern District of North Carolina and elsewhere, the Defendant DARIAN CASTEELE TYLER, and others known to the United States Attorney, did knowingly combine, conspire, confederate, and agree, and did have a tacit understanding with each other, to commit an offense against the United States: that is, to knowingly devise and intend to devise 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 such scheme and artifice, to knowingly transmit and cause to be transmitted by means of wire communication in interstate

commerce, any writings, signs, signals, and sounds in violation of Title 18, United States Code, Section 1343.

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 DARIAN CASTEELE TYLER in the amount of at least $94,790.80.

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