Presented to the Court by the foreman of the Grand Jury in open Court, in the presence of the Grand Jury and FILED in the U.S. DISTRICT COURT at Seattle, Washington.

November 29 2023
Ravi Subramanian, Clerk
By [signature] Deputy

The Honorable Lauren King

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA, Plaintiff v. DONTE JAMAL MCCLELLON, Defendant.	NO. CR22-0073-LK **SECOND SUPERSEDING INDICTMENT**

The Grand Jury charges that:

The Paycheck Protection Program

1. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act was a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to the millions of Americans suffering the economic effects caused by the COVID-19 pandemic. 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.

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2. In order to obtain a PPP loan, a qualifying business was required to submit a PPP loan application 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 in order to be eligible to obtain a 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 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.

3. PPP loan applications were processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own money, which the U.S. Small Business Administration ("SBA") guaranteed in its entirety. The lender transmitted to the SBA, in the course of processing the loan, data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees.

4. The business receiving the PPP loan proceeds was required to spend the funds on certain permissible expenses, such as payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be entirely forgiven if the business spent the loan proceeds on these allowable expense items within a designated period of time and used a specified portion of the PPP loan proceeds on payroll expenses.

The Defendant and Relevant Entities

5. The defendant, DONTE JAMAL MCCLELLON, resided within the Western District of Washington through at least the end of June 2020.

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6. MCCLELLON owned and controlled various corporate entities registered in Washington State, including Frostlake, LLC ("Frostlake"), Skylake, LLC ("Skylake"), and Cannonlake, LLC ("Cannonlake") (collectively, the "McClellon Entities"). None of the McClellon Entities had employees or payroll expenses of its own.

7. Frostlake was a limited liability company that was registered with Washington State in or around December 2016. Frostlake purportedly engaged in retail and wholesale trade. Its principal place of business was MCCLELLON's residential address in Seattle, Washington. MCCLELLON was listed as its sole governor.

a. Frostlake was administratively dissolved on or around May 3, 2018. On or about February 5, 2021, MCCLELLON filed documentation with Washington State to reinstate Frostlake.

b. From at least on or around January 1, 2018 through at least December 31, 2020, Frostlake had no employees for which it paid federal payroll taxes.

8. Skylake was a limited liability company that was registered with Washington State in or around April 2016. Skylake purportedly engaged in finance and real estate, and its principal place of business was MCCLELLON's residential address in Seattle, Washington. MCCLELLON was listed as its sole managing partner and governor.

a. Skylake was administratively dissolved on or around September 1, 2017. On or about December 27, 2017, MCCLELLON filed documentation with Washington State to reinstate Skylake.

b. Skylake was administratively dissolved again on or around September 3, 2019. On or around June 13, 2020, MCCLELLON filed documentation with Washington State to reinstate Skylake.

c. From at least on or around January 1, 2018 through at least December 31, 2020, Skylake had no employees for which federal payroll taxes were paid.

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9. Cannonlake was a limited liability company that was registered with Washington State in or around December 2016. Cannonlake purportedly engaged in real estate, retail, and wholesale trade. Its principal place of business was MCCLELLON's residential address in Seattle, Washington. MCCLELLON was listed as its sole governor.

a. Cannonlake was administratively dissolved on or about May 3, 2018. On or about June 17, 2020, MCCLELLON filed documentation with Washington State to reinstate Cannonlake.

b. From at least on or around January 1, 2018 through at least December 31, 2020, Cannonlake had no employees for which federal payroll taxes were paid.

Relevant PPP Lenders

10. Company One was a financial technology company headquartered in the State of Georgia. Company One participated in the PPP program as an SBA-approved lender. Small businesses seeking PPP loans could apply through Company One for PPP loans. Company One would review the loan applications and if the loan was approved for funding, Company One would disburse the loan directly to the borrower.

11. Bank One was a financial institution based in the State of Florida whose deposits were insured by the FDIC. Bank One participated as an SBA-approved PPP lender to small businesses.

12. Bank Two was a financial institution based in Utah whose deposits were insured by the FDIC. Bank Two participated as an SBA-approved PPP lender to small businesses.

COUNTS 1-3

(Wire Fraud)

13. The allegations in Paragraphs 1-12 are realleged and incorporated by reference as if set forth in full herein.

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14. Beginning at a time unknown but not later than in or about May 2020 and continuing through at least February 2021, in King County, within the Western District of Washington, and elsewhere, the defendant, DONTE JAMAL MCCLELLON, knowingly and with intent to defraud, devised and executed and attempted to execute a scheme and artifice to defraud Company One to obtain money and property in the custody and control of Company One by means of material false and fraudulent pretenses, representations, and promises, and the concealment of material facts, all by filing false and fraudulent applications for PPP funds.

The Scheme and Artifice to Defraud

15. The essence of the scheme and artifice to defraud was for MCCLELLON to unjustly enrich himself by obtaining PPP loan proceeds through false and misleading pretenses, including by making false statements about: monthly payroll expenses; the number of paid employees; whether the business was in operation as of February 15, 2020; the type of operations; and revenues, and by providing falsified financial documents. MCCLELLON's artifice and scheme to defraud included attempts to conceal his illegal behavior.

Manner and Means of the Scheme and Artifice to Defraud

16. It was part of the scheme and artifice to defraud that MCCLELLON submitted and caused to be submitted at least seven false and misleading loan applications to various financial institutions seeking to obtain funds related to the PPP on behalf of corporate entities registered in Washington State that he owned and controlled, including Frostlake, Skylake, and Cannonlake (collectively, the "McClellon Entities").

17. It was further part of the scheme and artifice to defraud that MCCLELLON successfully obtained at least three PPP loans on behalf of the McClellon Entities totaling at least $500,948.

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18. It was further part of the scheme and artifice to defraud that MCCLELLON submitted a loan application to Company One, seeking at least $20,833 in PPP funds for Frostlake.

19. It was further part of the scheme and artifice to defraud that MCCLELLON included in the loan application to Company One multiple materially false statements, including but not limited to:

a. That Frostlake had average monthly payroll of approximately $8,334; and

b. That Frostlake was in operation on February 15, 2020, and had employees for whom it paid salaries and payroll taxes or paid independent contractors.

20. It was further part of the scheme and artifice to defraud that MCCLELLON submitted to Company One false documents in support of his PPP loan application, including but not limited to a false tax document.

21. On May 8, 2020, in furtherance of the scheme to defraud, MCCLELLON emailed Company One from the Gmail account idontlikelawyers4u@gmail.com—which he used to apply for the Frostlake loan—to inquire why certain bank accounts were not properly added to his account with Company One. Company One responded that one of the bank accounts was invalid and directed MCCLELLON to add a valid checking account. MCCLELLON added a valid checking account to his Company One account several days later and ultimately received PPP funds into that account.

22. To conceal the scheme to defraud, MCCLELLON transferred PPP funds he received, based on the false representations he made and caused to be made in the fraudulent PPP application, between financial accounts he controlled shortly after he first received the funds.

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23. To further conceal the scheme to defraud, MCCLELLON filed papers to reinstate Frostlake LLC with the Washington Secretary of State in February 2021 after the business had been dissolved in May 2018.

Execution of the Scheme and Artifice to Defraud

24. On or about the dates set forth below, in Seattle, in the Western District of Washington, and elsewhere, defendant DONTE JAMAL MCCLELLON, for the purpose of executing the above-described scheme to defraud, did knowingly transmit and cause to be transmitted by means of wire communication in interstate commerce the following writing, signals, pictures, and sounds:

Count	**Date**	**Interstate Wire Transmission**
1	May 7, 2020	Electronic transmission of documents in support of loan application containing false information in the name of Frostlake LLC from Washington state to Company One server outside of Washington state
2	May 8, 2020	Electronic transmission of correspondence between MCCLELLON (using email address idontlikelawyers4u@gmail.com) in Washington state and Company One (outside of Washington state) via Google server outside of Washington state
3	May 12, 2020	Electronic transmission of loan application with false information and false certifications in the name of Frostlake LLC from Washington state to Company One server outside of Washington state

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

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COUNTS 4-5

(Bank Fraud)

25. The allegations in Paragraphs 1-12 are realleged and incorporated by reference as if set forth in full herein.

26. Beginning at a time unknown but not later than in or about May 2020 and continuing through at least February 2021, in King County, within the Western District of Washington, and elsewhere, the defendant, DONTE JAMAL MCCLELLON, knowingly carried out a scheme and artifice to obtain moneys, funds, assets, and other property owned by and under the custody and control of financial institutions participating in the PPP loan program, and insured by the Federal Deposit Insurance Corporation (FDIC), by means of materially false and fraudulent pretenses, representations, and promises, as further and more particularly set forth below.

The Scheme and Artifice to Defraud

27. The essence of the scheme or artifice to defraud was for MCLELLON to file fraudulent PPP applications on behalf of the McClellon Entities. He then unjustly enriched himself by transferring those funds into his personal investment accounts and spending the PPP proceeds on personal expenses that are disallowed under the terms of the loan.

28. Through this scheme or artifice, MCLELLON improperly obtained PPP loans through false and misleading pretenses including by making false statements about the monthly payroll expenses, number of paid employees, fact of operations, type of operations, and revenues of the McClellon Entities, and by providing falsified financial documents.

29. Through this scheme or artifice, MCLELLON attempted to conceal his illegal behavior through money transfers, filing reinstatement paperwork on behalf of the McClellon Entities, and creating false tax documents.

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Manner and Means of the Scheme to Defraud

30. It was part of the scheme or artifice that MCCLELLON submitted and caused to be submitted at least seven false and misleading loan applications to various financial institutions seeking to obtain funds related to the PPP on behalf of corporate entities registered in Washington State that he owned and controlled, including the McClellon Entities.

31. It was further part of the scheme or artifice that MCCLELLON successfully obtained at least three PPP loans on behalf of the McClellon Entities totaling at least $500,948.

32. It was further part of the scheme or artifice that MCCLELLON submitted a PPP loan application to Bank One seeking at least $282,800 in funds on behalf of Skylake.

33. It was further part of the scheme or artifice that MCCLELLON knowingly included in the loan application to Bank One multiple materially false statements, including but not limited to:

a. That Skylake had 13 employees;

b. That Skylake had average monthly payroll of $104,815.42; and

c. That Skylake was in operation on February 15, 2020, and had employees for whom it paid salaries and payroll taxes or paid independent contractors.

34. It was further part of the scheme or artifice that MCCLELLON knowingly submitted to Bank One false documents in support of his PPP loan application including but not limited to false tax documents.

35. To conceal the scheme or artifice, MCCLELLON transferred PPP funds he received, based on the false representations he made and caused to be made in the fraudulent PPP application, between financial accounts he controlled shortly after he first received the funds.

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36. To further conceal the scheme to defraud, MCCLELLON filed papers to reinstate Skylake LLC with the Washington Secretary of State on June 11, 2020 after the business had been dissolved in September 2019.

37. It was further part of the scheme or artifice to defraud that MCCLELLON submitted a PPP loan application to Bank Two seeking at least $197,315 in funds on behalf of Cannonlake.

38. It was further part of the scheme or artifice to defraud that MCCLELLON knowingly included in the loan application to Bank Two multiple materially false statements, including but not limited to:

a. That Cannonlake had 13 employees;

b. That Cannonlake had an average monthly payroll of $78,926.00, and

c. That Cannonlake was in operation on February 15, 2020, and had employees for whom it paid salaries and payroll taxes or paid independent contractors.

39. It was further part of the scheme or artifice to defraud that MCCLELLON knowingly submitted to Bank Two false documents in support of his PPP loan application, including but not limited to false tax documents.

40. It was further part of the scheme or artifice to defraud that MCCLELLON filed papers with the Washington Secretary of State to reinstate Cannonlake LLC on June 17, 2020, after Cannonlake had been dissolved in May 2018.

41. To conceal the scheme to defraud, MCCLELLON transferred PPP funds he received, based on the false representations he made and caused to be made in the fraudulent PPP application, between financial accounts he controlled shortly after he first received the funds.

Execution of the Scheme to Defraud

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42. On or about the dates identified below, in King County, within the Western District of Washington, and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to obtain moneys, funds, assets, and other property owned by and under the custody and control of financial institutions by means of materially false and fraudulent pretenses, representations and promises, MCCLELLON knowingly caused to be conducted the following acts, with each act constituting a separate Count of this Indictment:

Count	Approximate Date	Description
4	June 11, 2020	MCCLELLON submitted a fraudulent application with false supporting documentation to Bank One for a PPP loan in the name of Skylake.
5	June 23, 2020	MCCLELLON submitted a fraudulent application with false supporting documentation to Bank Two for a PPP loan in the name of Cannonlake.

All in violation of Title 18, United States Code, Sections 1344(2) and 2.

FORFEITURE ALLEGATION

The allegations contained in Counts 1-5 of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture.

Upon conviction of any of the offenses alleged in Counts 1-3, the defendant, DONTE JAMAL MCCLELLON, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), by way of Title 28, United States Code, Section 2461(c), any property that constitutes or is traceable to proceeds of the offense.

This property includes, but is not limited to:

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1. Approximately $16,394.44 seized on or about May 16, 2022, from a Webull Financial, LLC., account number ending -66-11, held in the name of Donte McClellon; and

2. A sum of money reflecting the proceeds the Defendant obtained from the offense.

Upon conviction of any of the offenses alleged in Counts 4-5, the defendant, DONTE JAMAL MCCLELLON, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2), any property that constitutes or is traceable to proceeds of the offense. This property includes, but is not limited to:

1. Approximately $16,394.44 seized on or about May 16, 2022, from a Webull Financial, LLC., account number ending -66-11, held in the name of Donte McClellon; and

2. A sum of money reflecting the proceeds the Defendant obtained from the offense.

Substitute Assets. If any of the above-described forfeitable property, 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,

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it is the intent of the United States to seek the forfeiture of any other property of the defendant, up to the value of the above-described forfeitable property, pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL: yes

DATED: November 29, 2023

Signature of Foreperson redacted pursuant to the policy of the Judicial Conference of the United States.

FOREPERSON

TESSA M. GORMAN
Acting United States Attorney

SETH WILKINSON
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LAUREN WATTS STANIAR
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