TRINA A. HIGGINS, United States Attorney (#7349)
TODD C. BOUTON, Assistant United States Attorney (#17800)
SACHIKO JEPSON, Special Assistant United States Attorney (#17077)
Attorneys for the United States of America
Office of the United States Attorney
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111-2176
Telephone: (801) 524-5682
Email: todd.bouton@usdoj.gov

FILED US District Court-UT
SEP 25 '24 PM12:09

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

UNITED STATES OF AMERICA, Plaintiff, vs. CARTER LANE LUCAS, Defendant.	Case No. 2:23-cr-00405-DBB **SUPERSEDING INDICTMENT** VIOLATIONS: COUNTS 1-3: 18 U.S.C. § 1343, Wire Fraud

The Grand Jury charges:

I. BACKGROUND

At all times relevant to this Indictment:

1. Defendant CARTER LANE LUCAS ("LUCAS") was a resident of Salt Lake County, Utah in the District of Utah who operated a company called Nine Lions LLC ("Nine Lions").

2. During the COVID-19 pandemic, LUCAS lied about his criminal history on loan applications to defraud the COVID-19 relief programs, dubbed the Paycheck

Protection Program and the Economic Injury Disaster Loan Program, out of approximately $182,800 in loan funds.

3. To commit his fraud, LUCAS made use of a Mountain America Credit Union account ending in xxx6901 over which he had custody and control.

The Small Business Administration

4. The 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.

5. As part of this effort, the SBA enabled and provided loans through banks, credit unions, and other lenders. Some of these loans have government-backed guarantees.

The Paycheck Protection Program

6. On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). This Act was an economic stimulus bill that, among other things, provided emergency financial assistance to small business owners, including agricultural businesses, and nonprofit organizations in all U.S. states, Washington D.C., and territories which were affected by the COVID-19 pandemic. One form of assistance 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 Program").

7. The PPP Program, which is operated by the SBA, provided small businesses with funding to meet specific business obligations, including payroll and rent. The PPP Program permitted participating third-party lenders to approve and disburse SBA-backed PPP Loans to cover payroll, fixed debts, utilities, rent/mortgage, accounts payable, and other bills incurred by qualifying businesses during, and resulting from, the COVID-19 pandemic. PPP Loans were fully guaranteed by the SBA. In the event of default, the SBA would fully satisfy the lender for any balance remaining on the loan. Further, the SBA would forgive any loan up to 100 percent if the borrower used the loan funds as authorized. Whatever portion of the loan funds was not forgiven was serviced as a loan.

8. The SBA promulgated regulations concerning eligibility for a PPP Loan. To obtain a PPP Loan, a qualifying business was required to submit a PPP Loan application, which was 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 the PPP Loan.

Certification Regarding Criminal History in Relevant PPP Loan Application

9. On or about April 3, 2020, one of the affirmative certifications a borrower had to make in a PPP Loan application was that he had not been convicted of a felony within the last five years. Specifically, the applicant was asked:

> **Within the last 5 years, for any felony, has the Applicant (if an individual) or any owner of the Applicant 1) been convicted**; 2) pleaded guilty; 3) pleaded nolo contendere; 4) been placed on

> pretrial diversion; or 5) been placed on any form of parole or probation (including probation before judgment)

(PPP Loan Application at Question 6) (emphasis added).

10. If the applicant answered that an owner of the business seeking the PPP Loan had been convicted of a felony within the last five years, the loan was denied.

11. By signing a PPP Loan application, each applicant attested that the information provided in the application (including the criminal history information) and in all supporting documents and forms was true and accurate, and that the applicant understood that knowingly making a false statement to obtain a PPP Loan was a crime.

PPP Loan Application Processing Through E-Tran Server in Virginia

12. A PPP Loan application was processed by the third-party participating lender with whom the application was filed. If a PPP Loan application was approved, the participating lender would fund the PPP Loan; in order to encourage PPP Loans to be issued, the loan was 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.

13. More specifically, PPP Loan applications submitted before August 8, 2020 were received through the SBA E-Tran server located in Sterling, Virginia.

The EIDL Loan Program

14. As part of the CARES Act, Congress also authorized the SBA to provide low-interest Economic Injury Disaster Loans ("EIDL Loans") of up to $2 million to eligible small businesses experiencing substantial financial disruption due to the COVID-19

pandemic. In addition, the CARES Act authorized the SBA to issue advances of up to $10,000 to small businesses within three days of applying for an EIDL Loan.

How EIDL Loan Applications Were Processed

15. EIDL Loan applications were submitted directly to and processed by the SBA. The applications were received in cloud-based platforms. The location of the server through which EIDL Loan applications were submitted was based on the date a given application was processed by the SBA and the application number.

16. During the time period relevant to this Indictment, the relevant EIDL Loan application and supporting documents and the later certification for an EIDL Loan modification (increase) were received in a cloud-based platform through SBA servers located in Washington state (the EIDL Loan application), and Iowa (the later certification for the loan modification).

17. After an EIDL Loan was approved, the applicant business received the EIDL Loan proceeds through an electronic funds transfer from the SBA into a financial account reportedly under the control of the applicant business. All the EIDL Loan payments were processed by the SBA from Denver, CO and the disbursements of the EIDL Loans and EIDL Advances were transmitted through the Financial Management Service ("FMS") of the Treasury. The primary server for FMS is in Sterling, VA.

Required Criminal History Certification in EIDL Loan Applications

18. From March 2020 on, to obtain an EIDL Loan, a qualifying business was required to submit a loan application to the SBA and provide information about its business and ownership. Each EIDL Loan applicant was required to certify under penalty of perjury

that all the information in the loan application was true and correct to the best of his or her knowledge.

19. Up until May 4, 2020, one of the affirmative certifications a borrower had to make in an EIDL Loan application was that no owner of the business had *ever* been convicted of, plead guilty to, or been placed on probation for any crime other than a minor traffic violation. Specifically, the applicant was asked:

> c. For any criminal offense - other than a minor vehicle violation - have you *ever* been convicted, plead guilty, plead nolo contendere, been placed on pretrial diversion, or been placed on any form of parole or probation (including probation before judgment)?

(EIDL Loan Application Form re: Additional Questions – Criminal History).

20. For any EIDL Loan applications initiated before May 4, 2020, if the applicant answered yes to this question, the SBA denied the EIDL Loan application.

21. After making the required criminal history certification (and other required certifications) in the EIDL Loan application, borrowers would then sign a Loan Authorization and Agreement wherein they were required to certify that "All representations in the Borrower's Loan application (including all supplementary submissions) [were] true, correct and complete and [were] offered to induce [the] SBA to make this Loan." (Loan Authorization and Agreement at 5 re: Borrower's Certifications). The applicant was also required to agree that the EIDL Loan funds would also be used solely as working capital to alleviate economic injury caused by disaster and to certify under penalty of perjury that they were authorized to apply for and obtain an EIDL Loan on behalf of the borrower. (*Id.* at 3 re: Use of Loan Proceeds and Certification at 7).

/ / /

The EIDL Loan Modification (Increase) Program

22. On March 24, 2021, the SBA announced that the maximum amount available for an EIDL Loan was increased from $150,000 to $500,000. The SBA also announced that the formula for calculating the EIDL Loan amount had been changed from 6 months of gross margin to include 24 months of gross margin.

23. Based on these changes, some EIDL Loans that had been approved prior to the week of April 6, 2021 were made eligible for an increase based on the new loan maximum amounts announced March 24, 2021.

24. COVID-19 EIDL Loans could thus be modified to increase the loan amount to account for up to 24 months of economic injury or a maximum of $500,000, whichever was less. An increase could be requested either before or after accepting the loan.

25. To request an increase in the EIDL Loan amount, the borrower was required to log into the SBA loan portal account at https://covid19relief1.sba.gov/. Once logged on, the borrower could click on a button that read "Request More Funds."

26. Borrowers were then required to sign an Amended Loan Authorization and Agreement ("Amended EIDL Loan Agreement") wherein they were required to certify that no substantial adverse changes in their financial condition had occurred since the original EIDL Loan application was submitted.

27. In the same Amended EIDL Loan Agreement, Borrowers were also required to certify that "All representations in the Borrower's [original] Loan application (including all supplementary submissions) [were] true, correct and complete and [were] offered to induce [the] SBA to make this Loan." (Am. Loan Authorization and Agreement at 5 re:

Borrower's Certifications). The applicant was also required to agree that the increased EIDL Loan funds would also be used solely as working capital to alleviate economic injury caused by disaster and to certify under penalty of perjury that they were authorized to apply for and obtain an EIDL Loan on behalf of the borrower. (*Id.* at 3 re: Use of Loan Proceeds and Certification at 7).

Lender

28. Mountain America Credit Union ("Mountain America") is a federally insured financial institution doing business in Utah. When the PPP program was in operation, Mountain America offered PPP Loans to customers.

II. THE SCHEME AND ARTIFICE TO DEFRAUD

29. Beginning in or around April 2020, and continuing to and including at least August 2021, within the District of Utah and elsewhere, the defendant,

CARTER LANE LUCAS,

devised and executed a scheme and artifice to defraud and sought to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and omissions of material facts.

30. In executing and attempting to execute the scheme and artifice to defraud, and in furtherance thereof, LUCAS knowingly devised and intended to devise a scheme and artifice to defraud Mountain America and the SBA and made false and fraudulent pretenses, representations, and promises to Mountain America and the SBA, in violation of 18 U.S.C. § 1343 (Wire Fraud) by, among other things:

///

a. Submitting and causing to be submitted a fraudulent PPP Loan application to Mountain America and the SBA on or about April 3, 2020;

b. Submitting and causing to be submitted a fraudulent EIDL Loan application to the SBA on or about April 3, 2020; and

c. Submitting and causing to be submitted a fraudulent Amended EIDL Loan Modification Agreement to the SBA on or about July 31, 2021.

III. THE OBJECT OF THE SCHEME AND ARTIFICE TO DEFRAUD

31. It was the object of the scheme and artifice to defraud for LUCAS to obtain money from Mountain America and the SBA in the form of approximately $182,800 in PPP and EIDL Loan proceeds through false statements, misrepresentation, deception, and omissions of material facts.

IV. MANNER AND MEANS OF THE SCHEME AND ARTIFICE TO DEFRAUD

April 3, 2020 PPP Loan Application:

32. On or about April 3, 2020, and on behalf of his company Nine Lions, LUCAS completed and submitted an application to Mountain America and the SBA for a PPP Loan in the amount of approximately $17,000.

33. In execution and furtherance of the scheme and artifice to defraud, when submitting the loan application, LUCAS made, or caused to be made, the following false, fraudulent, and material representation to Mountain America and the SBA:

a. LUCAS had not been convicted of a felony within five years of his submission of the PPP Loan application; when, in fact, he had been.

April 3, 2020 EIDL Loan Application:

34. On or about April 3, 2020, and on behalf of his company Nine Lions, LUCAS also completed and submitted an EIDL Loan application to the SBA for an approximately $34,900 EIDL Loan, along with a request (in the same application) for an additional $1,000 EIDL advance.

35. In execution and furtherance of the scheme and artifice to defraud, when submitting the EIDL Loan application, LUCAS made, or caused to be made, the following false, fraudulent, and material representation to the SBA:

a. For any criminal offense - other than a minor vehicle violation – LUCAS had *never* been convicted, plead guilty, plead nolo contendere, been placed on pretrial diversion, or been placed on any form of parole or probation (including probation before judgment); when, in fact, he had been.

July 31, 2021 Amended EIDL Loan Agreement for Modification (Increase):

36. On or about July 31, 2021, and on behalf of his company Nine Lions, LUCAS requested an EIDL Loan modification and completed and submitted an Amended EIDL Loan Agreement to the SBA for an additional approximately $129,900 EIDL Loan increase.

37. In execution and furtherance of the scheme and artifice to defraud, when submitting the Amended EIDL Loan Agreement and certifying that all the statements in his original EIDL Loan application were true, correct, and complete, LUCAS again made, or again caused to be made, the following false, fraudulent, and material representation to the SBA:

/ / /

a. For any criminal offense - other than a minor vehicle violation – LUCAS had *never* been convicted, plead guilty, plead nolo contendere, been placed on pretrial diversion, or been placed on any form of parole or probation (including probation before judgment); when, in fact, he had been.

COUNTS 1-3
18 U.S.C. § 1343)
(Wire Fraud)

38. The allegations set forth above are incorporated herein by reference and realleged as though fully set forth in these Counts.

39. Beginning around April 2020 and continuing in and through at least August 2021, in the District of Utah and elsewhere, the defendant,

CARTER LANE LUCAS,

having devised and intended to devise a scheme and artifice to defraud, and for obtaining money and property from Mountain America and the SBA, by means of false and fraudulent pretenses, representations, promises, and omissions of material facts, for the purpose of executing said scheme and artifice to defraud, did transmit and cause to be transmitted by means of wire communication certain writings, signs and signals, that is, an interstate wire, as represented below, each such use of wire communication being a separate count:

COUNT	DATE (On or About)	USE OF INTERSTATE WIRE(S)
1	1/28/2021	In relation to a PPP Loan application submitted on approximately April 3, 2020 and a related loan forgiveness application submitted on approximately December 15, 2020 for approximately $17,000, both of which LUCAS submitted on behalf of Nine Lions; LUCAS caused the SBA to transmit approximately $17,137.40 through a server in Virginia to an account (ending in 6667) at Mountain America in Utah.

COUNT	DATE (On or About)	USE OF INTERSTATE WIRE(S)
2	6/9/2020	In relation to an EIDL Loan application submitted on behalf of Nine Lions, LUCAS caused to be transmitted a payment for approximately $34,900 from the SBA's Finance Center through a server in Virginia to a checking account (ending in 6901) at Mountain America in Utah.
3	8/4/2021	In relation to an EIDL Loan modification request submitted on behalf of Nine Lions, LUCAS caused to be transmitted a payment for approximately $129,900 from the SBA's Finance Center through a server in Virginia to a checking account (ending in 6901) at Mountain America in Utah.

All in violation of 18 U.S.C. § 1343.

NOTICE OF INTENT TO SEEK FORFEITURE

Pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), upon conviction of any offense violating 18 U.S.C. § 1343, the defendant(s) shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the scheme to defraud. The property to be forfeited includes, but is not limited to:

- A money judgment equal to the value of any property not available for forfeiture as a result of any act or omission of the defendant(s) for one or more of the reasons listed in 21 U.S.C. § 853(p); and

///

///

///

///

///

- Substitute property as allowed by 28 U.S.C. § 2461(c) and 21 U.S.C. § 853(p).

A TRUE BILL:

/S/

FOREPERSON OF GRAND JURY

TRINA A. HIGGINS
United States Attorney

TODD C. BOUTON
Assistant United States Attorney