

FILED IN OPEN COURT
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AUG 3 2020

JAMES N. HATTEN, Clerk
By:  Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

KENNETH L. WRIGHT, JR.

Criminal Information

No. 1:20-CR-285

THE UNITED STATES ATTORNEY CHARGES THAT:

Count One

Conspiracy
18 U.S.C. § 371

1. In or about May 2020, in the Northern District of Georgia and elsewhere, the defendant, KENNETH L. WRIGHT, JR., did knowingly and willfully combine, conspire, confederate, agree, and have a tacit understanding with Co-Conspirators 1 and 2 and others, known and unknown, to commit an offense against the United States, that is, to devise and intend to devise a scheme and artifice to defraud the United States and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and by omission of material facts, and, with the intent to defraud, cause to be transmitted certain wire communications in interstate and foreign commerce for the purposes of executing the scheme, in violation of Title 18, United States Code, Section 1343.

Background

The Paycheck Protection Program

2. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to the millions of Americans who are 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.

3. In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires 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. In the PPP loan application, the small business (through its authorized representative) must state, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures are used to calculate the amount of money the small business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation showing their payroll expenses.

4. A PPP loan application must be processed by a participating financial institution (the lender). If a PPP loan application is approved, the participating financial institution funds the PPP loan using its own monies, which are 100%

guaranteed by Small Business Administration (“SBA”). Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, are transmitted by the lender to the SBA in the course of processing the loan.

5. PPP loan proceeds must be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

6. The PPP is overseen by the SBA, which is headquartered at 409 3rd Street SW, Washington, D.C. 20416, and has authority over all loans. Individual PPP loans, however, are issued by private approved lenders (most commonly, banks and credit unions), which receive and process PPP applications and supporting documentation, and then make loans using the lenders’ own funds.

Relevant Entities

7. Bank 1 is an SBA-approved lender headquartered in Fort Lee, New Jersey.

8. Bank 2 is a federally-insured financial institution headquartered in San Francisco, California.

9. Company 1 pairs PPP applicants with lenders by collecting applications, performing underwriting tasks, and submitting approved applications to SBA-approved lenders such as Bank 1 for funding.

The Co-Conspirators

10. WRIGHT was a citizen of the United States and resident of the Northern District of Georgia.

11. WRIGHT was an owner and authorized representative of Lux Realty Group, located at 200 Glenridge Point Parkway, Atlanta, GA 30342. Lux Realty's Employer Identification Number issued by the U.S. Internal Revenue Service was 83-1562216.

12. Lux Realty Group maintained a business checking account number ending 8750 at Bank 2. WRIGHT was an authorized signatory on the account.

13. Co-Conspirator 1 (CC-1) aided WRIGHT in submitting an application for a PPP loan for Lux Realty Group.

14. Co-Conspirator 2 (CC-2) referred WRIGHT and others to CC-1.

Object of the Conspiracy

15. The object of the conspiracy was for WRIGHT and his co-conspirators to fraudulently obtain Paycheck Protection Program loans for themselves, and to conceal the conspiracy.

Manner and Means of the Conspiracy

The Fraudulent PPP Loan Application

16. On or about May 5, 2020, a PPP loan application package was submitted to Bank 1, via Company 1, requesting a \$300,000 PPP loan for Lux Realty Group. Included with the loan application were (1) an SBA Form 2483 PPP Borrower Application Form bearing WRIGHT's digital signature; (2) IRS Form 941s (Employer's Quarterly Federal Tax Returns) purportedly reflecting Lux Realty Group's payroll data for January to March 2019, April to June 2019, July to September 2019, and October through December 2019; (3) a statement from Lux Realty Group's business checking account at Bank 2; and (4) a Promissory Note bearing WRIGHT's digital signature.

17. On the SBA Form 2483, WRIGHT falsely certified that his business had an average monthly payroll of \$120,000 and 16 employees. Among other things, WRIGHT further falsely certified that all of the PPP loan funds would be “used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments, as specified under the Paycheck Protection Program Rule.” WRIGHT also acknowledged that failure to use the PPP funds in accordance with the requirements of the PPP program, and making false statements in support of the loan application, could result in criminal penalties.

18. The four IRS Form 941 that were included with the PPP loan application falsely represented, among other things, that Lux Realty Group had 16 employees, paid wages, tips, and other compensation in the amount of \$358,819.00 in each quarter of 2019. In fact, Lux Realty Group made no quarterly tax filings in 2019.

19. On or about May 5, 2020, at CC-1’s direction, WRIGHT digitally signed the SBA Form 2483 and the Promissory Note and electronically transmitted them to Company 1. Company 1 then transmitted the loan package to Bank 1 for approval.

20. On or about May 5, 2020, Bank 1 approved the PPP loan.

21. On or about May 5, 2020, Bank 1 wired approximately \$300,000 to the Lux Realty Group business checking account at Bank 2.

22. In or about May 2020, at CC-1’s direction, WRIGHT signed approximately 8 blank checks from the Lux Realty Group checking account at Bank 2 and supplied them to CC-1. WRIGHT also printed blank checks for CC-2 and

supplied those to CC-1. The individuals who cashed the checks were not eligible to receive funds from the PPP loan made to Lux Realty Group.

All in violation of Title 18, United States Code, Section 371.

Count Two
False Statements
18 U.S.C. § 1001(a)(1) and 2

23. In or about May 2020, in the Northern District of Georgia and elsewhere, the defendant, KENNETH L. WRIGHT, JR., did knowingly and willfully make materially false, fictitious, and fraudulent statements and representations in a matter within the jurisdiction of the executive branch of the Government of the United States, namely, the Small Business Administration, those being: on or about May 5, 2020, WRIGHT signed and initialed an SBA Form 2483 Paycheck Protection Program Borrower Application Form knowing the form contained false information regarding his company's eligibility for a Paycheck Program loan.

All in violation of Title 18 United States Code, Section 1001(a)(1) and Section 2.

FORFEITURE ALLEGATION

23. Upon conviction of the offense alleged in Count One of this Criminal Information, the defendant, KENNETH L. WRIGHT, JR., shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, constituting and derived from proceeds traceable to the scheme to defraud, including but not limited to the following:

(a) MONEY JUDGMENT: A sum of money in United States currency equal to the amount of proceeds the defendant obtained as a result of the offense for which the defendant is convicted.

(b) FUNDS:

(1) \$62,948.79 seized from Wells Fargo Bank account number XXXXXX8750 held in the name of Lux Realty Group LLC.

24. 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 has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

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