

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Crim. No.
	:	
NIVAH GARCIS	:	18 U.S.C. § 1349
	:	18 U.S.C. § 1343
	:	18 U.S.C. § 1957

INFORMATION

The defendant having waived in open court prosecution by Indictment, the United States Attorney for the District of New Jersey charges:

COUNT ONE
(Conspiracy to Commit Bank Fraud)

Background

Individuals and Entities

1. At all times relevant to this Information:
 - a. Defendant NIVAH GARCIS (“GARCIS”) resided in New Jersey.
 - b. GARCIS owned and controlled a series of purported businesses through which she submitted applications for federal COVID-19 emergency relief funds, including Business 1, Business 2, and Business 3.
 - c. CC-1 was a co-conspirator not charged in this Information who agreed with GARCIS to submit fraudulent loan applications for federal COVID-19 emergency relief funds.
 - d. Victim-Lender 1 was a financial institution and a member bank of the Federal Home Loan Bank system headquartered in Utah.

e. Bank 1 was a financial institution and a member bank of the Federal Home Loan Bank system headquartered in New York, New York.

f. Bank 2 was a financial institution and a member bank of the Federal Home Loan Bank system headquartered in San Francisco, California.

g. Bank 3 was a financial institution and a member bank of the Federal Home Loan Bank system headquartered in Cherry Hill, New Jersey.

h. Title Agency 1 was a title insurance and settlement agency located in New Jersey.

Paycheck Protection Program

i. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law enacted in or about March 2020 and designed to provide emergency financial assistance to the millions of Americans who were 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 about April 2020, Congress authorized over \$300 billion in additional PPP funding. The PPP ended on May 31, 2021.

j. 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 the PPP loan. In the loan application,

the small business 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 had to provide documentation showing their payroll expenses.

k. A PPP loan application had to be processed by a participating lender. If the PPP loan application was approved, the participating lender funded the PPP loan using its own money, which was 100% guaranteed by the U.S. 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, was transmitted by the lender to the SBA while processing the loan.

l. PPP loan proceeds could only be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be forgiven if the business spent the loan proceeds on these eligible expense items within a designated period of time after receiving the proceeds and used a certain amount of the PPP loan proceeds on payroll expenses.

Economic Injury Disaster Loan Program

m. The Economic Injury Disaster Loan (“EIDL”) program is an SBA program that provides low-interest financing to small businesses, renters, and homeowners in regions affected by declared disasters.

n. The CARES Act authorized the SBA to provide EIDLs of up to \$2 million to eligible small businesses experiencing substantial financial disruption due to the COVID-19 pandemic.

o. In order to obtain an EIDL, a qualifying business must submit an application to the SBA and provide information about its operations, such as the number of employees, gross revenues, and cost of goods sold in the 12-month period preceding the disaster. The amount of the EIDL is determined based, in part, on the information the applicant provides regarding the revenue, employees, and cost of goods of the company. SBA directly issues any funds disbursed under an EIDL to the applicant company. A company may use EIDL funds for payroll expenses, sick leave, production costs, and business obligations, such as debts, rent, and mortgage payments. If an applicant also obtains a loan under the PPP, the applicant company is prohibited from using EIDL funds for the same purpose as the PPP funds.

The Bank Fraud Conspiracy

2. From at least in or around March 2020 through in or around June 2020, for the purpose of executing and attempting to execute the scheme and artifice to defraud, in the District of New Jersey and elsewhere, defendant

NIVAH GARCIS

did knowingly and intentionally conspire and agree with others, including CC-1, to execute and attempt to execute a scheme and artifice to defraud one or more financial institutions, as defined by 18 U.S.C. § 20, namely, Victim-Lender 1, the deposits of which are insured by the Federal Deposit Insurance Corporation, and to obtain any of the moneys, funds, credits, assets, securities, and other property owned by, and

under the control of, such financial institution by means of false and fraudulent pretenses, representations, and promises, contrary to Title 18, United States Code, Section 1344.

Goal of the Conspiracy

3. The goal of the conspiracy was for GARCIS and CC-1 to profit by fraudulently obtaining federal COVID-19 emergency relief funds from Victim-Lender 1 and the SBA by submitting fraudulent loan applications and then diverting the money for their personal use and other business ventures.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that:

a. On or about May 28, 2020, GARCIS and CC-1 submitted a PPP application to Victim-Lender 1 for Business 1 seeking a loan for approximately \$549,295 (the "Business 1 PPP Application"). The Business 1 PPP Application was submitted in GARCIS's name and listed GARCIS as the owner of Business 1.

b. The Business 1 PPP Application and supporting documentation contained materially false and fraudulent information, including false tax documents and false claims about the number of employees and the monthly payroll of Business 1.

c. The fraudulent Business 1 PPP Application caused Victim-Lender 1 to disburse approximately \$549,295 in PPP funds on or about June 1, 2020 to an account that GARCIS controlled at Bank 1. GARCIS then transferred approximately \$16,478.85 from Bank 1 to an account controlled by CC-1.

d. On or about June 16, 2020, GARCIS and CC-1 submitted a PPP application to Victim-Lender 1 for Business 2 seeking a loan for approximately \$66,458 (the “Business 2 PPP Application”). The Business 2 PPP Application was submitted in GARCIS’s name and listed GARCIS as the 80% owner of Business 2.

e. The Business 2 PPP Application and supporting documentation contained materially false and fraudulent information, including false tax documents and false claims about the number of employees and average monthly payroll at Business 2.

f. The fraudulent Business 2 PPP Application caused Victim-Lender 1 to disburse approximately \$66,458 in PPP funds on or about June 17, 2020 to an account that GARCIS controlled at Bank 2. GARCIS then transferred \$6,645.80 from Bank 2 to an account controlled by CC-1.

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

COUNTS TWO THROUGH FOUR

(Wire Fraud)

5. The allegations set forth in Paragraphs 1, 2, and 4 of Count One of this Information are realleged here.

The Scheme to Defraud

6. From in or around March 2020 through in or around July 2021, in the District of New Jersey and elsewhere, the defendant,

NIVAH GARCIS

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud the SBA, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, which scheme and artifice was in substance as set forth below.

Goal of the Scheme to Defraud

7. The goal of the scheme was for GARCIS to profit by fraudulently obtaining federal COVID-19 emergency relief funds from the SBA by submitting fraudulent loan applications and then diverting the money for personal use and other business ventures.

Manner and Means of the Scheme to Defraud

8. It was part of the scheme to defraud that:

a. GARCIS applied for EIDLs on behalf of Business 1, Business 2, and Business 3. On these loan applications, GARCIS falsified various information, including the number of employees, gross revenues, and cost of goods sold for the 12 months before the disaster.

b. On or about April 3, 2020, GARCIS applied for an EIDL from SBA on behalf of Business 1 (the “Business 1 EIDL Application”). The Business 1 EIDL Application contained materially false and fraudulent information, including false statements regarding the number of employees, gross revenues, cost of goods sold, non-profit/agriculture cost, rental losses, and secular services expenses.

c. GARCIS’s fraudulent Business 1 EIDL Application caused the SBA to disburse approximately \$10,000 on or about April 30, 2020, and \$149,900 on or about June 9, 2020, to an account that GARCIS controlled at Bank 1.

d. On or about June 16, 2020, GARCIS applied for another EIDL from SBA on behalf of Business 3 (the “Business 3 EIDL Application”). The Business 3 EIDL Application contained materially false and fraudulent information, including false statements regarding the number of employees, gross revenues, and cost of goods sold.

e. GARCIS’s fraudulent Business 3 EIDL Application caused the SBA to disburse approximately \$149,900 on or about July 1, 2020, and \$10,000 on or about July 9, 2020, to an account at Bank 3 controlled by GARCIS.

f. On or about June 25, 2020, GARCIS applied for an EIDL from SBA on behalf of Business 2 (the “Business 2 EIDL Application”). The Business 2 EIDL Application contained materially false and fraudulent information, including false statements regarding the number of employees, gross revenues, and cost of goods sold.

g. GARCIS's fraudulent Business 2 EIDL Application caused the SBA to disburse approximately \$10,000 on or about June 30, 2020 and \$109,900 on or about July 15, 2020, to an account at Bank 2 controlled by GARCIS.

h. Each of the applications was sent from New Jersey by the internet and interstate wires to the SBA.

9. On or about each of the dates set forth below, for the purposes of executing and attempting to execute the scheme and artifice to defraud, in the District of New Jersey and elsewhere, defendant

NIVAH GARCIS

did knowingly and intentionally transmit and cause to be transmitted by means of wire communications in interstate commerce, certain writings, signs, signals, pictures, and sounds, as set forth more fully below, each such wire transmission constituting a separate count of this Information:

Count	Approx. Date	Description
2	April 3, 2020	Transmission of Business 1 EIDL application to the SBA
3	June 16, 2020	Transmission of Business 3 EIDL application to the SBA
4	June 25, 2020	Transmission of Business 2 EIDL application to the SBA

In violation of Title 18, United State Code, Sections 1343 and 2.

COUNT FIVE

(Transacting in Criminal Proceeds)

10. The allegations set forth in Paragraphs 1, 2, and 4 of Count One and Paragraph 8 of Counts Two through Four of this Information are realleged here.

11. On or about October 6, 2020, in the District of New Jersey and elsewhere, defendant

NIVAH GARCIS

knowingly engaged in a monetary transaction by, through, and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a greater value than \$10,000, that is the transfer of approximately \$193,521.89 from a bank account at Bank 1 to Title Agency 1, such property having been derived from a specified unlawful activity, that is bank fraud and wire fraud.

In violation of Title 18, United States Code, Section 1957.

FORFEITURE ALLEGATION AS TO COUNT ONE

1. As a result of committing the offense charged in Count One of this Information, defendant NIVAH GARCIS shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of the offense charged in Count One of this Information, the value of which totaled \$1,054,258, and which includes, but not limited to, the following properties:

a. The contents of an account at JP Morgan Chase (“JPMC Bank”) ending in [REDACTED] 1268 in the name of Headway LLC (“Headway LLC JPMC Acct 1268”);

b. The contents of an account at Wells Fargo, NA ending in [REDACTED] 3803 in the name of Allstar Development Enterprises LLC (“Allstar Development WF Acct 3803”);

c. The contents of an account at TD Bank ending in [REDACTED] 3221 in the name of Advance Rapid Property Clean Up LLC (“Advance Rapid Property TD Acct 3221”);

d. The contents of an account at Wells Fargo, NA ending in [REDACTED] 5769 in the name of Pure Eminence LLC (“Pure Eminence WF Acct 5769”);

e. The contents of an account at Wells Fargo, NA ending in [REDACTED] 2400 in the name of NIVAH GARCIS (“GARCIS WF Acct 2400”);

f. The contents of an account at TD Bank ending in [REDACTED] 7802 in the name of NIVAH GARCIS (“GARCIS TD Acct 7802”);

g. The contents of an account at Valley National Bank (“VNB”) ending in [REDACTED] 7777 in the name of Advance Rapid Property Clean Up LLC (“Advance Rapid Property VNB Acct 7777”);

h. The contents of an account at VNB ending in [REDACTED] 7696 in the name of Bigly Motors LLC (“Bigly Motors VNB Acct 7696”);

i. The contents of an account at VNB ending in [REDACTED]1030 in the name of Bigly Motors LLC (“Bigly Motors VNB Acct 1030”);

j. The contents of an account at Robinhood Financial, LLC (“Robinhood”) ending in [REDACTED]7739 in the name of NIVAH GARCIS (“GARCIS Robinhood Acct 7739”);

k. The contents of an account at Robinhood Financial, LLC (“Robinhood”) ending in [REDACTED]1546 in the name of H.J. (“HJP Robinhood Acct 1546”);

l. The real property known as 39 Amherst St., East Orange, NJ 07018; and

m. The real property known as 132 Court St., Newark, NJ 07103;

and all property traceable to such property, (hereinafter referred to collectively as the “Specific Property”).

FORFEITURE ALLEGATION AS TO COUNTS TWO THROUGH FOUR

2. As a result of committing the offenses charged in Counts Two through Four of this Information, defendant NIVAH GARCIS shall forfeit to the United States, pursuant to Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, constituting or derived from proceeds traceable to the offenses alleged in Counts Two through Four of this Information, including but not limited to all right, title, and interest of the defendant in the Specific Property.

FORFEITURE ALLEGATION AS TO COUNT FIVE

3. As a result of committing the money laundering offense charged in Count Five of this Information, defendant NIVAH GARCIS shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), all property, real or personal, involved in such money laundering offense, and all

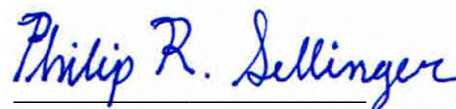
property traceable to such property.

SUBSTITUTE ASSET PROVISION
(Applicable to All Forfeiture Allegations)

4. 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
- e. 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), as incorporated by Title 18, United States Code, Section 982(a)(1) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such defendant up to the value of the forfeitable property described above.



PHILIP R. SELLINGER
United States Attorney

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INFORMATION FOR

18 U.S.C. § 1349

18 U.S.C. § 1343

18 U.S.C. § 1957

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