

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Special Agent Christina Rosen, being sworn, state as follows:

INTRODUCTION

1. I am employed as a Special Agent with the United States Department of Labor, Office of Inspector General, Office of Investigations (“DOL OIG”) in Boston, Massachusetts. My responsibilities as a Special Agent with DOL OIG include investigating fraud, waste, and abuse of Department of Labor programs, employees, and departments. I have been employed by the United States government as a Special Agent since October 2007. I am a graduate of the Criminal Investigator Training Program of the Federal Law Enforcement Training Center in Glynco, Georgia, and have received extensive training in criminal investigation procedures and criminal law. In 2005, I graduated from Northeastern University with a bachelor’s degree in criminal justice. In 2006, I graduated from Boston University with a master’s degree in criminal justice.

2. During my tenure as a Special Agent, I have conducted investigations of several types of criminal activity, including work visa fraud, unemployment insurance fraud, CARES Act fraud, false claims fraud, employee benefits fraud, identity theft, and money laundering. During the investigation of these cases, I have participated in the execution of search and arrest warrants and have seized evidence as evidence, fruits, and/or instrumentalities of violations of federal law.

PURPOSE OF AFFIDAVIT

3. I submit this affidavit in support of a criminal complaint against Donovan SCARLETT (“SCARLETT”) for a violation of 18 U.S.C. § 1343 (wire fraud) (the “TARGET

OFFENSE”). As set forth below, there is probable cause to believe that SCARLETT committed the TARGET OFFENSE.

4. The facts in this affidavit come from my personal observations and review of records, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is probable cause for the requested criminal complaint and does not set forth all my knowledge about this matter.

SUMMARY OF PROBABLE CAUSE

I. Relevant Individuals and Entities

5. SCARLETT lives in Weymouth, Massachusetts. Financial and Registry of Motor Vehicles records all list the same address for SCARLETT’s residence in Weymouth.

6. Capital Plus Financial, LLC (“CPF”) is a financial institution based in Texas. It was an approved lender of Paycheck Protection Program (“PPP”) loans.

7. Chime Bank is a financial institution based in California.

II. The CARES ACT and the Paycheck Protection Program

8. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic.

9. The CARES Act authorized forgivable loans to small businesses and non-profits for job retention and certain other expenses through the PPP.

10. To obtain a PPP loan, a qualifying business had 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 the PPP loan application, the small business, through its authorized

representative, had to state, among other things, its number of employees and its average monthly payroll expenses. These figures were used to calculate the amount of a PPP loan that the business was eligible to receive; typically, a business was eligible to receive a loan equal to two-and-a-half times its average monthly payroll expenses. In addition, businesses applying for a PPP loan had to provide documentation of their payroll expenses.

11. Question 5 on the standard PPP loan application (“Question 5”) asked the following: “Is the Applicant (if an individual) or any individual owning 20% or more of the equity of the Applicant subject to an indictment, criminal information, arraignment, or other means by which formal criminal charges are brought in any jurisdiction, or presently incarcerated, or on probation or parole?”

12. The standard PPP application also states: “If questions (5) or (6) are answered ‘Yes’, the loan will not be approved.”

13. A PPP loan application had to be processed by a lender authorized by the U.S. Small Business Administration (“SBA”). If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies, which were 100 percent guaranteed by the SBA. Data from the loan application was transmitted regularly by the lender to the SBA in the course of processing the loan.

14. PPP loan proceeds had to be used by the recipient business on certain permissible expenses, including payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be forgiven entirely if the business spent the loan proceeds on these permissible expenses within a designated period and used a certain percentage of the PPP loan proceeds on payroll expenses.

III. SCARLETT’s CPF PPP Loan for \$13,600

15. On or about March 30, 2021, SCARLETT electronically applied for a PPP loan to CPF. The loan was reviewed and approved on the same day. On May 31, 2021, the loan was disbursed through direct deposit into a Chime Bank account ending in 1034 (“1034 Account”) in the amount of \$13,600.

16. According to the loan application, SCARLETT is the 100% owner of the company and listed the year of establishment as 2020. The application listed the location of the company as SCARLETT’s personal residence. The application stated that the company’s gross income from 2020 was \$65,280.

17. As to Question 5, asking whether SCARLETT was subject to an “indictment, criminal information, arraignment, or other means by which formal criminal charges are brought,” SCARLETT digitally selected “NO” and initialed “Ds.” This was a false affirmation according to a review of the Commonwealth of Massachusetts, Trial Court of Massachusetts Boston Municipal Court (“BMC”) Department records, which revealed SCARLETT was arraigned on August 3, 2020, for a violation of Massachusetts G.L. c. 269 § 10(n) (Carrying a Loaded Firearm Without a License) and Massachusetts G.L. c. 269 § 10(a) (Carrying a Firearm Without a License), Roxbury Division BMC Docket #2002CR001596.

18. At the time of the loan application, SCARLETT’s criminal charges were pending. The pending charges precluded SCARLETT from lawfully receiving PPP loan funds.

19. CPF provided photographs SCARLETT submitted of his Massachusetts Driver’s License, number S52999775, front and back. The information on the driver’s license, including name and address, was the same as on SCARLETT’s PPP application.

20. As part of his application, SCARLETT submitted a Schedule C for the 2020 tax year. The Schedule C indicated SCARLETT’s principal business was “Food Delivery

(Restaurants, Drinks, Grocery, UbertEats, GrubHub, DoorDash).” SCARLETT reported gross receipts from this business in the amount of \$65,280.

21. IRS records do not show any record of tax returns filed under SCARLETT’s social security number for the tax year 2020. Therefore, the Schedule C SCARLETT provided in support of his PPP loan application, which bears his name and social security number, was not filed with the IRS and prepared for the sole purpose of fraudulently obtaining the loan under fraudulent means.

22. According to Chime Bank, the address, last four digits of his social security number, and phone number provided by SCARLETT for the 1034 Account were the same as on the PPP loan application.

23. The 1034 Account’s first funding event occurred on January 4, 2021. The account showed no activity during the tax year which SCARLETT reported income on the Schedule C. In fact, a review of the 1034 Account’s activity only showed two completed deposits: one from CPF and another from Breaktime United for \$150.¹ The 1034 Account did not include any deposits from UbertEats, GrubHub, DoorDash or any other delivery service, casting further doubt on the accuracy of his PPP application.

¹ According to records from the 1034 Account, an individual did attempt to deposit a Massachusetts Department of Unemployment Assistance (“DUA”) amount of \$567 into the account; however, the deposit was rejected because “Name on deposit may not be the same as name of the account.” Upon further investigation, I learned that two separate individuals attempted to deposit their DUA amounts into the 1034 Account. One of the individuals made a Pennsylvania Office of Unemployment Compensation claim with SCARLETT’s address as the mailing address. The second individual listed two bank accounts for the DUA deposit that were also on SCARLETT’s DUA application. SCARLETT applied for DUA for the 2020 year, alleging that he unemployed as of May 8, 2020; that sum went into another account. In his DUA application, SCARLETT put down the same address, phone number, and driver’s license number as on his PPP application and in his 1034 Account user details. His DUA application included the same email address as in his 1034 Account user details.

24. After receiving \$13,600 in proceeds from the PPP loan on May 31, 2021, SCARLETT conducted a series of fourteen transactions within one week to deplete the account more than the amount of the loan proceeds. On June 1, 2, and 3, five CashApp transfers were initiated to a related J.P. Morgan Chase account totaling \$7,060.00. Four additional CashApp transfers to unknown individuals were initiated totaling \$3,510.00. Lastly, four transactions labeled "Walmart" were conducted totaling \$3,914.96. The nature of the transfers and its immediate use do not appear business related, especially relating to payroll costs, rent/mortgage, or utilities.

CONCLUSION

25. Therefore, based on the information summarized herein, there is probable cause to believe that on or about March 30, 2021, DONOVAN SCARLETT knowingly and with the intent to defraud, executed a scheme to obtain money, funds, and property from the SBA by means of materially false and fraudulent representations, pretenses, and promises made in connection with the submission of his PPP loan applications in violation of 18 U.S.C. § 1343.

Christina Rosen DCU
Christina Rosen
Special Agent
Department of Labor, Office of Inspector
General

ATTESTED and SWORN to before me telephonically in accordance with the requirements of Fed. R. Crim. P. 4.1 on February 13, 2024.



Hon. Donald L. Cabell
Chief United States Magistrate Judge
District of Massachusetts

