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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

April 2021 Grand Jury

UNITED STATES OF AMERICA,

CR 5:21-cr-00170-JFW

Plaintiff,

I N D I C T M E N T

v.

[18 U.S.C. § 1349: Conspiracy To Commit Bank Fraud; 18 U.S.C. § 1344(2): Bank Fraud; 18 U.S.C. § 3147: Offense Committed While On Pretrial Release; 18 U.S.C. § 982: Criminal Forfeiture]

WESTERN DISTRIBUTION, LLC,
aka "Advanced Distribution
Inc.," and
CARL BRADLEY JOHANSSON,
aka "Brad Johnson,"
aka "Carl Johnson,"
aka "C. Brad Johanson,"
aka "Jay Johnson,"
aka "Keith Golatta,"

Defendants.

The Grand Jury charges:

INTRODUCTORY ALLEGATIONS

At times relevant to this Indictment:

A. THE DEFENDANTS AND CO-CONSPIRATORS

1. Defendant WESTERN DISTRIBUTION, LLC, also known as ("aka") "Advanced Distribution, Inc." ("WESTERN"), was a

1 trucking company based in San Bernardino County, California,
2 that was engaged in the business of transporting jet fuel.

3 2. Defendant CARL BRADLEY JOHANSSON, aka "Brad Johnson,"
4 "Carl Johnson," aka "C. Brad Johanson," aka "Jay Johnson," aka
5 "Keith Golatta" ("JOHANSSON"), controlled and operated defendant
6 WESTERN and Co-conspirator #1. From in or about April 2018
7 through July 2021, defendant JOHANSSON was on federal pretrial
8 release due to the felony charges pending against him in United
9 States v. National Distribution Services, Inc., et al., C.D.
10 Cal. Case No. 5:18-CR-114(B)-VAP.

11 3. Co-conspirator #1 was a trucking company based in
12 Gustine, California, that was engaged in the business of
13 transporting agricultural products.

14 4. Co-conspirator #2 was defendant JOHANSSON's son, and
15 the alleged owner of defendant WESTERN.

16 5. Co-conspirator #3 was defendant JOHANSSON's
17 administrative assistant for defendant WESTERN.

18 B. THE PAYCHECK PROTECTION PROGRAM

19 6. The Coronavirus Aid, Relief, and Economic Security
20 ("CARES") Act was a federal law enacted in or about March 2020
21 that was designed to provide emergency financial assistance to
22 Americans suffering economic harm due to impacts of the COVID-19
23 pandemic. One form of assistance provided by the CARES Act was
24 the authorization of United States taxpayer funds to be paid as
25 forgivable loans to small businesses for the specific purpose of
26 paying employees, protecting their jobs, and certain other
27 expenses, through a program referred to as the Paycheck
28 Protection Program ("PPP"). PPP loan proceeds were required to

1 be used by applying businesses for the following purposes only:
2 to retain workers and maintain payroll, make mortgage interest
3 payments, make lease payments, and make utility payments. The
4 PPP allowed the interest and principal on the PPP loan to be
5 entirely forgiven if the business spent the loan proceeds on
6 these allowable expenses within a designated period of time
7 (usually 24 weeks after receiving the proceeds) and used at
8 least sixty percent of the PPP loan proceeds on worker payroll
9 expenses.

10 7. To obtain a PPP loan, a qualifying business was
11 required to submit a PPP loan application signed by an
12 authorized representative of the business. The PPP loan
13 application required the applicant business (through its
14 authorized representative) to acknowledge the program rules and
15 make certain affirmative certifications to be eligible for a PPP
16 loan. These certifications required the applicant to affirm
17 that "The [PPP loan] funds will be used to retain workers and
18 maintain payroll or make mortgage interest payments, lease
19 payments, and utility payments," and that the "loan proceeds
20 will be used only for business-related purposes as specified in
21 the loan application" and consistent with the PPP rules. The
22 authorized representative of the applicant was also required to
23 certify that "the information provided in this application and
24 the information provided in all supporting documents and forms
25 is true and accurate in material respects," and "I understand
26 that if the funds are knowingly used for unauthorized purposes,
27 the federal government may hold me legally liable, such as for
28 charges of fraud."

1 8. In the PPP loan application, the applicant was
2 required to state, among other things, the business's average
3 monthly payroll expenses and number of employees. These figures
4 were used to calculate the amount of money the applicant
5 business was eligible to receive under the PPP. In addition,
6 the applicant was required to provide documentation proving its
7 payroll expenses, including federal tax filings and bank account
8 records.

9 9. The PPP loan application included eligibility
10 questions relating to current and past criminal histories of any
11 and all individuals owning twenty percent or more of the
12 applicant company. The application stated that any recent
13 felony conviction or current indictment of an owner of twenty
14 percent or more of an applicant made the applicant ineligible
15 for PPP funding.

16 10. A small business's PPP loan application would be
17 received and processed by a participating lender approved by the
18 United States Small Business Administration ("SBA"). If a PPP
19 loan application was approved, the participating lender would
20 fund the PPP loan using its own monies, which were guaranteed by
21 the SBA.

22 C. THE SBA-APPROVED LENDERS

23 11. "Bank A" was a financial institution and an SBA-
24 approved participating lender of PPP loans based in Stockton,
25 California, whose deposits were insured by the Federal Deposit
26 Insurance Corporation ("FDIC").

1 12. "Bank B" was a financial institution and an SBA-
2 approved participating lender of PPP loans based in San
3 Francisco, California, whose deposits were insured by the FDIC.

4 13. These Introductory Allegations are incorporated into
5 each count of this Indictment.

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1 COUNT ONE

2 [18 U.S.C. §§ 1349, 3147]

3 [ALL DEFENDANTS]

4 A. OBJECTS OF THE CONSPIRACY

5 Beginning on a date unknown to the Grand Jury and
6 continuing to on or about July 21, 2021, in San Bernardino
7 County, within the Central District of California, and
8 elsewhere, defendants WESTERN and JOHANSSON conspired with
9 others known and unknown to the Grand Jury, including Co-
10 conspirators #1, #2, and #3, to execute a scheme to defraud a
11 federally-insured financial institution, as to material matters,
12 and to obtain moneys and funds owned by and in the custody and
13 control of the bank by means of material false and fraudulent
14 pretenses, representations, and promises, and the concealment of
15 material facts, in violation of Title 18, United States Code,
16 Sections 1344(1), (2).

17 B. THE MANNER AND MEANS OF THE CONSPIRACY

18 The objects of the conspiracy were carried out, and were to
19 be carried out, as follows:

20 1. Under defendant JOHANSSON's direction, defendant
21 WESTERN would apply for and obtain a PPP loan in the amount of
22 \$436,390 in April 2020, yet fail to disclose on its PPP loan
23 application that (a) it would not comply with the PPP rules; (b)
24 it shared common management (*i.e.*, defendant JOHANSSON) with
25 other businesses; (c) it already had laid off most of its
26 employees; and (d) it was not a lawfully registered limited
27 liability company ("LLC").

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1 2. Under defendant JOHANSSON's direction, defendant
2 WESTERN would spend all of the \$436,390 PPP loan by June 15,
3 2020, and most of the loan on expenses unrelated to its payroll.

4 3. Under defendant JOHANSSON's direction, Co-conspirator
5 #1 would apply for and obtain a PPP loan in the amount of
6 \$286,500 in April 2020, yet fail to disclose on the PPP loan
7 application that Co-conspirator #1 shared common management
8 (*i.e.*, defendant JOHANSSON) with other businesses.

9 4. When defendant WESTERN's business picked back up in
10 the fall of 2020, in order to make it look as if defendant
11 WESTERN had spent most of its PPP loan on its payroll,
12 defendants WESTERN and JOHANSSON and Co-conspirator #1 would
13 cause 21 of Co-conspirator #1's employees to be placed on
14 defendant WESTERN's payroll, even though those 21 individuals
15 did not work for defendant WESTERN.

16 5. Under defendant JOHANSSON's direction, Co-conspirator
17 #1 would reimburse defendant WESTERN for the payroll costs for
18 Co-conspirator #1's employees, even though those employees had
19 been transferred to defendant WESTERN's payroll.

20 6. Under defendant JOHANSSON's direction, defendant
21 WESTERN and Co-conspirator #2 would submit a PPP loan
22 forgiveness application that fraudulently claimed that defendant
23 WESTERN had complied with the PPP rules, and that 21 of Co-
24 conspirator #1's employees worked for defendant WESTERN, so that
25 defendant WESTERN could meet the PPP loan-forgiveness
26 eligibility requirement that at least sixty percent of a
27 company's loan be spent on payroll.

1 7. Under defendant JOHANSSON's direction, defendant
2 WESTERN and Co-conspirator #2 would apply for a second PPP loan
3 in the amount of \$231,527 in March 2021, using the same
4 fraudulent scheme whereby they falsely represented - the
5 following: (a) that defendant WESTERN would comply with the PPP
6 rules; (b) that defendant WESTERN did not share any common
7 management with other businesses; (c) that defendant WESTERN was
8 a lawfully registered LLC; and (d) that many of Co-conspirator
9 #1's employees worked for defendant WESTERN.

10 C. OVERT ACTS

11 On or about the following dates, in furtherance of the
12 conspiracy and to accomplish the objects of the conspiracy,
13 defendants WESTERN and JOHANSSON, and others both known and
14 unknown to the Grand Jury, including Co-conspirators #1, #2, and
15 #3, committed various overt acts within the Central District of
16 California and elsewhere, including, but not limited to, the
17 following:

18 Overt Act No. 1: On or about April 15, 2020, Co-
19 conspirator #1 submitted a PPP loan application ("Co-conspirator
20 #1's PPP Loan Application") to Bank B, seeking a PPP loan in the
21 amount of \$286,505.

22 Overt Act No. 2: On or about April 15, 2020, as part of
23 Co-conspirator #1's PPP Loan Application, Co-conspirator #1
24 represented to Bank B that Co-conspirator #1 had no common
25 management with any other business.

26 Overt Act No. 3: On or about April 15, 2020, as part of
27 Co-conspirator #1's PPP Loan Application, Co-conspirator #1
28 represented to Bank B that defendant JOHANSSON's mother owned

1 Co-conspirator #1 to make it appear that no owner of Co-
2 conspirator #1 was under indictment.

3 Overt Act No. 4: On or about April 24, 2020, defendant
4 WESTERN submitted a PPP loan application ("WESTERN's PPP Loan
5 Application") to Bank A, seeking a PPP loan in the amount of
6 \$436,390.

7 Overt Act No. 5: On or about April 24, 2020, as part of
8 defendant WESTERN's PPP Loan Application, defendant WESTERN
9 represented to Bank A that it had the equivalent of 31 full-time
10 employees, even though defendant WESTERN had laid off most of
11 those employees prior to the submission of the application.

12 Overt Act No. 6: On or about April 24, 2020, as part of
13 WESTERN's PPP Loan Application, defendant WESTERN represented to
14 Bank A that WESTERN had no common management with any other
15 business.

16 Overt Act No. 7: On or about April 24, 2020, as part of
17 defendant WESTERN's PPP Loan Application, defendant WESTERN
18 represented to Bank A that it was a lawfully registered LLC even
19 though defendant JOHANSSON had caused the LLC to become defunct
20 in or around September 2019.

21 Overt Act No. 8: On or about April 24, 2020, as part of
22 defendant WESTERN's PPP Loan Application, defendant WESTERN
23 represented to Bank A that Co-conspirator #2 owned defendant
24 WESTERN to make it appear that no owner of defendant WESTERN was
25 under indictment.

26 Overt Act No. 9: On or about April 24, 2020, as part of
27 defendant WESTERN's PPP Loan Application, defendant WESTERN
28 certified to Bank A that the PPP funds it received would be

1 "used to retain workers and maintain payroll or make mortgage
2 interest payments, lease payments, and utility payments, as
3 specified under the Paycheck Protection Rule."

4 Overt Act No. 10: On or about May 5, 2020, defendant
5 WESTERN obtained a PPP loan in the amount of \$436,390 after
6 submitting its fraudulent PPP loan application.

7 Overt Act No. 11: On or about May 6, 2020, Co-conspirator
8 #1 obtained a PPP loan in the amount of \$286,500 after
9 submitting its fraudulent PPP loan application.

10 Overt Act No. 12: Between on or about May 7, 2020 and
11 June 15, 2020, defendant WESTERN spent at least \$435,000 of its
12 PPP loan, mostly on expenses unrelated to its payroll, because
13 the company had laid off most of its employees before it even
14 applied for the PPP loan.

15 Overt Act No. 13: On or about May 16, 2020, defendant
16 JOHANSSON added Co-conspirator #2 to defendant WESTERN's
17 payroll, even though defendant JOHANSSON had previously
18 represented in the April 24, 2020 PPP loan application that Co-
19 conspirator #2 already owned defendant WESTERN.

20 Overt Act No. 14: On or about September 22, 2020,
21 defendant JOHANSSON and Co-conspirator #1 fraudulently
22 transferred 21 of Co-conspirator #1's employees ("Co-conspirator
23 #1's 21 Employees") to defendant WESTERN's payroll account
24 (effective as of on or about September 16, 2020), even though
25 those employees continued to work for Co-conspirator #1 rather
26 than defendant WESTERN.

27 Overt Act No. 15: Between on or about September 16, 2020
28 and October 19, 2020, at defendant JOHANSSON's direction,

1 defendant WESTERN paid Co-conspirator #1's 21 Employees
2 approximately \$87,722, even though Co-conspirator #1's 21
3 Employees did not work for defendant WESTERN.

4 Overt Act No. 16: Between in or about September 2020
5 through December 2020, Co-conspirator #1 wired approximately
6 \$358,287 from Co-conspirator #1's bank account to defendant
7 WESTERN's bank account, in order to reimburse defendant WESTERN
8 for the money that it was using to pay Co-conspirator #1's 21
9 Employees.

10 Overt Act No. 17: On or about December 28, 2020,
11 defendant JOHANSSON sent an email to the employee at Co-
12 conspirator #1 who handled payroll issues, writing "[M]ake this
13 the last week . . . go back to your own next week."

14 Overt Act No. 18: On or about December 29, 2020, the
15 employee at Co-conspirator #1 replied to defendant JOHANSSON,
16 writing, "We will go ahead and run the weekly payroll
17 information we gave you yesterday under the Western trucker
18 account. . . . We will go back to everyone under the Agri-Comm
19 Express, Inc. account next week."

20 Overt Act No. 19: On or about January 19, 2021, defendant
21 WESTERN submitted a loan forgiveness application (the "Loan
22 Forgiveness Application") to Bank A, in which defendant WESTERN
23 requested that its entire \$436,390 loan be forgiven pursuant to
24 the PPP rules.

25 Overt Act No. 20: On or about January 19, 2021, as part
26 of the Loan Forgiveness Application, Co-conspirator #2 certified
27 to Bank A that "[t]he dollar amount for which forgiveness is

1 requested was used to pay costs that are eligible for
2 forgiveness."

3 Overt Act No. 21: On or about January 19, 2021, as part
4 of the Loan Forgiveness Application, Co-conspirator #2 certified
5 to Bank A that "[t]he information provided in this application
6 and the information provided in all supporting documents and
7 forms is true and correct in all material respects."

8 Overt Act No. 22: On or about January 29, 2021, as part
9 of the Loan Forgiveness Application, Co-conspirator #2
10 represented to Bank A that Co-conspirator #1's 21 Employees were
11 actually defendant WESTERN's employees from on or about May 5,
12 2020 to October 19, 2020, and were paid approximately \$87,722 by
13 defendant WESTERN during that period, even though the 21
14 Employees did not work for defendant WESTERN and Co-conspirator
15 #1 had reimbursed defendant WESTERN for those 21 Employees'
16 payroll expenses.

17 Overt Act No. 23: On or about February 22, 2021, Co-
18 conspirator #3 represented to Bank A that defendant WESTERN had
19 three different departments and hence three different payroll
20 journals, yet concealed from Bank A that one of those
21 "departments" actually consisted of Co-conspirator #1's 21
22 Employees.

23 Overt Act No. 24: On or about March 24, 2021, under
24 defendant JOHANSSON's direction, defendant WESTERN applied for a
25 second PPP loan (the "Second PPP Loan Application"), also
26 through Bank A, seeking a PPP loan in the amount of \$231,527.

27 Overt Act No. 25: On or about March 24, 2021, as part of
28 the Second PPP Loan Application, Co-conspirator #2 fraudulently

1 represented to Bank A that defendant WESTERN had no common
2 management with any other business.

3 Overt Act No. 26: On or about March 24, 2021, as part of
4 the Second PPP Loan Application, Co-conspirator #2 fraudulently
5 represented to Bank A that defendant WESTERN was a lawfully
6 registered LLC.

7 Overt Act No. 27: On or about March 24, 2021, as part of
8 the Second PPP Loan Application, Co-conspirator #2 certified to
9 Bank A that the PPP funds that defendant WESTERN received would
10 be "used to retain workers and maintain payroll; or make
11 payments for mortgage interest, rent, utilities, [and] covered
12 operations expenditures . . . as specified under the Paycheck
13 Protection Program Rules."

14 Overt Act No. 28: On or about March 24, 2021, as part of
15 the Second PPP Loan Application, defendant WESTERN submitted to
16 Bank A its purported payroll, yet failed to disclose to Bank A
17 that many of the individuals that it had listed as its own
18 employees were actually employed by Co-conspirator #1 rather
19 than defendant WESTERN.

20 Overt Act No. 29: On or about March 24, 2021, defendant
21 WESTERN obtained a PPP loan in the amount of \$231,527 after
22 submitting its Second PPP Loan Application.

23 D. OFFENSE COMMITTED WHILE ON PRETRIAL RELEASE

24 During the commission of the felony offense described
25 above, defendant JOHANSSON was released pursuant to Title 18,
26 United States Code, Chapter 207, in the criminal case of United
27 States v. National Distribution Services, Inc., et al., 5:18-CR-
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1 114 (B) -VAP, in the United States District Court for the Central
2 District of California.

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1 COUNTS TWO THROUGH FOUR

2 [18 U.S.C. §§ 1344(2), 2(b), 3147]

3 [ALL DEFENDANTS]

4 A. THE SCHEME TO DEFRAUD

5 1. Beginning no later than in or around April 2020 and
6 continuing until at least in or around July 2021, in San
7 Bernardino County, within the Central District of California,
8 and elsewhere, defendants WESTERN and JOHANSSON, knowingly and
9 with intent to defraud, devised, participated in, and executed a
10 scheme to obtain moneys, funds, credits, assets, and other
11 property owned by and in the custody and control of Bank A by
12 means of material false and fraudulent pretenses,
13 representations, and promises, and the concealment of material
14 facts.

15 2. The fraudulent scheme operated, in substance, as
16 follows:

17 a. In April 2020, defendants WESTERN and JOHANSSON
18 submitted, and caused to be submitted, a false and fraudulent
19 PPP loan application ("WESTERN's PPP Application") to Bank A.

20 b. In defendant WESTERN's PPP Application,
21 defendants WESTERN and JOHANSSON made, and caused to be made,
22 false and fictitious statements and provided falsified documents
23 to the SBA and Bank A, including concealing that defendant
24 WESTERN shared common management with other companies,
25 concealing that defendant WESTERN was not a lawfully registered
26 LLC, and falsely certifying that the loan would be used for
27 permissible PPP purposes.

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1 c. Defendants WESTERN and JOHANSSON electronically
2 submitted, and caused to be submitted, the false and fictitious
3 statements to the SBA and financial institution in support of
4 the fraudulent PPP Loan Application to obtain a PPP loan that
5 they did not intend to spend on payroll as required.

6 d. In reliance on defendants WESTERN's and
7 JOHANSSON's materially false and fraudulent statements and their
8 concealment of material facts, Bank A approved and funded the
9 PPP loan, and thereafter transferred approximately \$436,390 in
10 loan proceeds by interstate wire into bank accounts that
11 defendants WESTERN and JOHANSSON controlled.

12 e. Defendants WESTERN and JOHANSSON used the
13 fraudulently obtained PPP loan proceeds for their own benefit,
14 among other things, rather than ensuring that most of defendant
15 WESTERN's employees would not be laid off.

16 f. Defendants WESTERN and JOHANSSON submitted, and
17 caused to be submitted, a false and fraudulent PPP loan
18 forgiveness application (the "Loan Forgiveness Application") to
19 Bank A on behalf of defendant WESTERN.

20 g. In the Loan Forgiveness Application, defendants
21 WESTERN and JOHANSSON made, and caused to be made, false and
22 fictitious statements to the SBA and Bank A, including inflating
23 defendant Western's payroll expenses by listing employees who
24 did not work for defendant WESTERN, and falsely certifying that
25 the loan had been used for permissible PPP purposes.

26 h. Defendants WESTERN and JOHANSSON electronically
27 submitted, and caused to be submitted, the false and fictitious
28 statements to the SBA and Bank A in support of the fraudulent

1 Loan Forgiveness Application to obtain the forgiveness of the
2 PPP loan that they had not spent on defendant WESTERN's payroll
3 as required.

4 i. In March 2021, defendants WESTERN and JOHANSSON
5 submitted, and caused to be submitted, a second false and
6 fraudulent PPP loan application (the "Second PPP Loan
7 Application") to Bank A on behalf of defendant WESTERN.

8 j. In the Second PPP Loan Application, defendants
9 WESTERN and JOHANSSON made, and caused to be made, false and
10 fictitious statements and provided falsified documents to the
11 SBA and Bank A, including inflating the number of defendant
12 WESTERN's employees, concealing the fact that defendant WESTERN
13 shared common management with other companies, concealing the
14 fact that defendant WESTERN was not a lawfully registered LLC,
15 and falsely certifying that the loan would be used for
16 permissible business purposes.

17 k. Defendants WESTERN and JOHANSSON electronically
18 submitted, and caused to be submitted, the false and fictitious
19 statements to the SBA and financial institution in support of
20 the fraudulent Second PPP Loan Application to obtain a PPP loan
21 that they did not intend to spend as they had represented to
22 Bank A.

23 l. In reliance on defendants WESTERN's and
24 JOHANSSON's material false and fraudulent statements and their
25 concealment of material facts, Bank A approved and funded the
26 Second PPP Loan Application, and thereafter transferred
27 approximately \$231,527 in loan proceeds by interstate wire into
28 bank accounts that defendants WESTERN and JOHANSSON controlled.

1 B. EXECUTIONS OF THE SCHEME

2 3. On or about the following dates, in San Bernardino
 3 County, within the Central District of California, and
 4 elsewhere, defendants WESTERN and JOHANSSON committed and
 5 willfully caused others to commit the following acts, each of
 6 which constituted an execution of the fraudulent scheme:

COUNT	DATE	ACT
TWO	4/24/2020	Submission to Bank A of defendant WESTERN's first PPP loan application
THREE	1/19/2021	Submission to Bank A of defendant WESTERN's loan forgiveness application for its first PPP loan
FOUR	3/24/2021	Submission to Bank A of defendant WESTERN's second PPP loan application

13 C. OFFENSES COMMITTED WHILE ON PRETRIAL RELEASE

14 During the commission of the felony offenses described
 15 above, defendant JOHANSSON was released pursuant to Title 18,
 16 United States Code, Chapter 207, in the criminal case of United
 17 States v. National Distribution Services, Inc., et al., 5:18-CR-
 18 114(B)-VAP, in the United States District Court for the Central
 19 District of California.

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1 FORFEITURE ALLEGATION

2 [18 U.S.C. § 982]

3 1. Pursuant to Rule 32.2(a) of the Federal Rules of
4 Criminal Procedure, notice is hereby given that the United
5 States of America will seek forfeiture as part of any sentence,
6 pursuant to Title 18, United States Code, Section 982(a)(2), and
7 Title 28, United States Code, Section 2461(c), in the event of
8 defendants' conviction of the offenses set forth in any of
9 Counts One through Four of this Indictment.

10 2. The defendants so convicted shall forfeit to the
11 United States of America the following:

12 a. \$436,390 in funds obtained on or about May 5,
13 2020 as part of defendants WESTERN and JOHANSSON's PPP loan
14 application;

15 b. \$286,500 in funds obtained on or about May 6,
16 2020 as part of defendant JOHANSSON and Co-conspirator #1's PPP
17 loan application;

18 c. \$231,527 in funds obtained on or about March 24,
19 2021 as part of defendants WESTERN and JOHANSSON's second PPP
20 loan application;

21 d. All right, title, and interest in any and all
22 property, real or personal, constituting, or derived from, any
23 proceeds obtained, directly or indirectly, as a result of the
24 offense; and

25 e. To the extent such property is not available for
26 forfeiture, a sum of money equal to the total value of the
27 property described in subparagraph (a).

3. Pursuant to Title 21, United States Code, Section
853(p), as incorporated by Title 18, United States Code, Section
982(b) and Title 28, United States Code, Section 2461(c), the
defendants so convicted shall forfeit substitute property, up to
the total value of the property described in the preceding
paragraph if, as the result of any act or omission of said
defendant, the property described in the preceding paragraph, or
any portion thereof: (a) cannot be located upon the exercise of
due diligence; (b) has been transferred, 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 that cannot be
divided without difficulty.

A TRUE BILL

/s/

Foreperson

18 TRACY L. WILKISON
Acting United States Attorney

SCOTT M. GARRINGER
Assistant United States Attorney
Chief, Criminal Division

22 MARK A. WILLIAMS
23 Assistant United States Attorney
Chief, Environmental and
Community Safety Crimes Section

24 JOSEPH O. JOHNS
25 Assistant United States Attorney
26 Environmental and Community
Safety Crimes Section

27 MATTHEW W. O'BRIEN
28 Assistant United States Attorney
Environmental and Community
Safety Crimes Section