

SCOTT ERIK ASPHAUG, OSB #833674
Acting United States Attorney
District of Oregon
GAVIN W. BRUCE, OSB #113384
Assistant United States Attorney
Gavin.Bruce@usdoj.gov
405 East 8th Avenue, Suite 2400
Eugene, Oregon 97401
Telephone: (541) 465-6771
Attorneys for the United States of America

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

UNITED STATES OF AMERICA

6:21-cr-00200-MC

v.

**GOVERNMENT'S SENTENCING
MEMORANDUM**

RUSSELL ANTHONY SCHORT,

Defendant.

INTRODUCTION

Defendant Russell Schort stole nearly \$300,000 from a COVID pandemic assistance program, sending another \$300,000 to a co-conspirator who helped him perpetrate the fraud. Yet because of his minor role in the overall scheme, defendant should receive a time-served sentence.

FACTUAL BACKGROUND

A. The COVID-19 Pandemic and the Paycheck Protection Program

In early 2020, the COVID-19 pandemic spread rapidly across our country and the world. The public-health crisis quickly set off a devastating economic crisis. Large parts of the economy were shut down, businesses shuttered, and workers lost their jobs. By April 2020, the unemployment rate in the United States had reached nearly 15%. Millions of businesses faced the risk of failing.

To respond to the economic fallout and prevent an even worse disaster, Congress passed the Coronavirus Aid, Relief, and Economic Security Act (the CARES Act). One of the goals of the CARES Act was to help businesses make payroll and pay operating expenses, which would get much-needed cash into the hands of a struggling workforce. To that end, the CARES Act created a new government program, the Paycheck Protection Program (the PPP), to enable the issuance of loans, that ultimately could be forgivable, to small businesses in operation as of February 2020.

Under the PPP, loans were processed and funded by participating lenders. The loans were guaranteed by the Small Business Administration (the SBA), and ultimately would be forgiven if borrowers spent the loan proceeds on permissible expenses, including spending a substantial percentage on payroll. To qualify for a PPP loan, a business was required to submit an application and supporting documentation that established, among other things, the number of persons employed by the business and the amount of the business' payroll expenses.

B. Russell Schort's PPP Fraud

On May 1, 2020, Schort and his coconspirator, Andrew Lloyd, submitted a PPP Loan Application under the business name Schort Lee Construction to U.S. Bank. Included with the loan application package was a false IRS form 944 listing 2019 wages in the amount of \$3,084,046. The application included a list of fifty-six employees and the amount paid to each employee in 2019.

Yet none of this information was accurate in the least. In fact, Schort Lee Construction was only established in January 2020. Therefore, the total amount of wages, the employee names, the amount of wages paid to each employee were all false: all information on the IRS Form 944 was fictitious.

Based on these misrepresentations, and in an effort to quickly distribute funds to businesses and workers in need, U.S. Bank processed the PPP loan application, sending \$601,552 to Schort's bank account on May 8, 2021. On May 11, 2020, three days after receiving the PPP loan proceeds, Schort transferred \$307,000 from his account to Lloyd's bank account, which represented Lloyd's cut of the fraud. Schort walked away with \$294,552.

C. The Charges, Plea Agreement, and Guideline Computations

Defendant was charged and plead guilty to a one-count information charging him with Bank Fraud in violation of 18 U.S.C. § 1344.

The parties agree with the following PSR computations:

Guideline Provision	Offense Levels
Base— USSG § 2B1.1(a)(1)	7
Loss— USSG § 2B1.1(b)(1)(G),	+12

more than \$250,000 and less than \$550,000	
Minor/Minimal Participant— USSG § 3B1.2	-3
Acceptance of Responsibility— USSG § 3E1.1	-3
Total Offense Level	13
Resulting Guideline Range	12-18

Pursuant to the plea agreement, the government will recommend a sentence at the low end of the applicable guideline range. However, if the final guideline range as calculated by the Court falls within Zone B of the USSG Sentencing Table, the government agrees to recommend a non-incarcerative sentence.

ARGUMENT

A. Government's Recommended Sentence

Schort was not the mastermind behind this PPP Fraud operation – but he willingly participated and benefitted from it. For his role, a time-served prison sentence is appropriate.

While Schort's role was minor, the crime was anything but. In 2020, as the COVID-19 pandemic spread across the country causing death and economic distress, the government created PPP loans to help small businesses whose livelihoods were jeopardized. Schort, who was the owner of his small business which he admits did not have any real employees, was not eligible for a PPP loan. Yet he took advantage of the program by submitting, with the assistance of his coconspirator Andrew Lloyd, a false application claiming to have employees and payroll that did not exist, supported by false tax forms. All the while, because of people like Schort, many legitimate businesses struggled to access the depleted pandemic relief funds.

Still, there are mitigating factors which weigh against imposing a more serious sentence. Schort had a far more minor role in the scheme as compared to Andrew Lloyd. The Defendant was recruited to the scheme by Lloyd, who also provided, at a minimum, the fake tax documents submitted to the bank with Schort's PPP Loan application. Moreover, when confronted by law enforcement, Schort quickly confessed and accepted responsibility for his actions.

Actors like Schort, who seek to defraud these programs, make it more difficult for administrators relief programs to get aid to individuals who qualify for and need it. Schort's sentence, and the sentence which will be imposed at a later date for Lloyd, should serve as a warning and deterrent to others inclined to exploit pandemic relief programs.

B. Restitution

The parties agree that restitution in the amount of \$294,552 shall be ordered to the Victim Financial Institution, as outlined in the PSR.

CONCLUSION

Based on the foregoing, the government recommends that this Court impose a time-served prison sentence, followed by a three-year term of supervised release, subject to the standard conditions, and restitution in the amount of \$294,552.

Dated: October 13, 2021

Respectfully submitted,

SCOTT ERIK ASPHAUG
Acting United States Attorney

s/ Gavin W. Bruce
GAVIN W. BRUCE OSB #113384
Assistant United States Attorney