


1 GLENN B. McCORMICK
2 Acting United States Attorney
3 District of Arizona

4 PETER SEXTON
5 Arizona State Bar No. 011089
6 LEIGHANN THOMAS
7 Illinois State Bar No. 6327687
8 KRISTEN BROOK
9 Arizona State Bar No. 023121
10 Assistant U.S. Attorneys
11 Two Renaissance Square
12 40 N. Central Ave., Ste. 1800
13 Phoenix, Arizona 85004
14 Telephone: 602-514-7500
15 Emails: Peter.Sexton@usdoj.gov
16 LeighAnn.Thomas@usdoj.gov
17 Lindsay.Short@usdoj.gov
18 Attorneys for Plaintiff

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> LODGED
<input type="checkbox"/> RECEIVED	<input type="checkbox"/> COPY
NOV 28 2021	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY 	DEPUTY

SEALED

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF ARIZONA

13 United States of America,
14
15 Plaintiff,

16 v.

17 1. Sean Swaringer, and
18 (Counts 1-14)
19 2. Vanessa Swaringer,
20 (Counts 1-14)
21 Defendants.

No. **CR-21-00981-PHX-SPL**

INDICTMENT

VIO: 18 U.S.C. § 371
(Conspiracy)
Count 1

18 U.S.C. § 1344
(Bank Fraud)
Counts 2-3

18 U.S.C. § 1957(a)
(Transactional Money Laundering)
Counts 4-14

18 U.S.C. § 981(a)(1)(C);
18 U.S.C. § 982(a)(1);
21 U.S.C. § 853;
28 U.S.C. § 2461(c)
(Forfeiture Allegations)

22
23
24
25
26
27 THE GRAND JURY CHARGES:
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15

INTRODUCTION

1. At all times relevant to this Indictment, defendants SEAN SWARINGER and VANESSA SWARINGER, purporting to do business as Cryotherapy for Veterans, conspired and schemed, with each other and others, to prepare and submit two false and fraudulent Paycheck Protection Program (“PPP”) loan applications to Western State Bank, a participating lender helping to provide government-backed, emergency financial assistance to businesses suffering from the economic impact of the Covid pandemic. Defendants submitted two loan applications replete with false and fraudulent information, including fake employment data and fictitious payroll. As a result, defendants obtained two government-guaranteed loans, for \$850,000 and \$521,000, which were intended for real businesses actually harmed by the COVID-19 pandemic. After receiving the loan proceeds, defendants used the funds for personal expenses, disguised business expenses to enrich themselves and confederates, and transferred funds to various bank accounts they personally controlled.

16
17
18
19
20
21
22

SMALL BUSINESS ADMINISTRATION

2. The United States Small Business Administration (“SBA”) was an executive-branch agency of the United States government that provided financial support to entrepreneurs and small businesses. The mission of the SBA was to maintain and strengthen the nation’s economy by enabling the establishment and viability of small businesses and by assisting in the economic recovery of communities after disasters. As part of this effort, the SBA facilitated loans through banks, credit unions, and other lenders. These loans had government-backed guarantees if certain requirements were met.

23
24
25
26
27
28

PAYCHECK PROTECTION PROGRAM BACKGROUND

3. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law enacted in March 2020 and was designed to provide emergency financial assistance to the millions of Americans suffering from the economic effects caused by the COVID-19 pandemic. One source of relief the CARES Act provided, through a program referred to as the Paycheck Protection Program (“PPP”), was authorization of up to \$349

1 billion in potentially forgivable loans to small businesses for payroll, job retention,
2 mortgage interest, rent/lease, utilities, and certain other applicable expenses.

3 4. The first phase of the PPP loan process was implemented between March
4 2020 and March 31, 2021. PPP loans had an interest rate of one percent. Loans issued
5 prior to June 5, 2020, had a maturity of two years, while loans issued after June 5, 2020,
6 had a maturity of five years. Each loan draw had a specific application process and
7 requirements. SBA would forgive PPP loans if all employee retention criteria were met,
8 and the funds were used for eligible expenses within a designated period as set forth in the
9 PPP.

10 **PPP LOAN APPLICATION PROCESS**

11 5. The SBA oversaw the entire PPP and fully guaranteed every legitimate PPP
12 loan. The individual PPP loans, however, were issued by private, SBA-approved lenders
13 who received and processed the PPP applications. Thus, the loans were made from the
14 lenders' own funds.

15 6. To apply for a PPP loan, a qualifying business was required to submit a PPP
16 loan application to a participating lender. The lender then transmitted the relevant data for
17 processing the loan to the SBA. This included the borrower's information, the total amount
18 of the loan, and the listed number of employees.

19 7. In the PPP loan application (SBA Form 2483), the small business (through
20 its authorized representative) had to verify its average monthly payroll, and the total
21 number of employees. These figures were used to calculate the amount of money the
22 business was eligible to receive under the PPP. The maximum PPP loan amount a business
23 could receive was 2.5 times the business's average monthly payroll costs, up to \$10 million.

24 8. Thus, the PPP loan application required the business (through its authorized
25 representative) to make several affirmative certifications. Among them, the authorized
26 representative was required to certify that each of the following statements were true:

- 27 a. The Application business was in operation on February 15, 2020 and
28 has employees for whom it paid salaries and payroll taxes or paid

1 independent contractors, as reported on Internal Revenue Services
2 (“IRS”) Form(s) 1099-MISC;

3 b. The funds would be used to retain workers and maintain payroll or
4 make mortgage interest payments, lease payments, and utility
5 payments, as specified under the PPP Rules; and

6 c. The information provided in the application and information provided
7 in all supporting documents and forms was true and accurate in all
8 material respects.

9 **PPP LOAN FORGIVENESS APPLICATION PROCESS**

10 9. Under the applicable PPP rules, the full principal of the PPP loan and any
11 accrued interest was eligible for forgiveness if, during the 8-to-24-week period following
12 loan disbursement, the business used the PPP loan on permissible business-related
13 expenses, and used a certain portion of the loan proceeds towards payroll costs. To apply
14 for loan forgiveness, the borrower was required to complete a Loan Forgiveness
15 Application (SBA Form 3508) and submit it to its lender, or the lender that was servicing
16 the PPP loan. The Loan Forgiveness Application then required the borrower to submit: (1)
17 a PPP Loan Forgiveness Calculation Form; (2) PPP Schedule A; and (3) a Schedule A
18 Worksheet.

19 10. At any time up to the maturity date of the loan, a borrower could apply for
20 loan forgiveness so long as all the loan proceeds for which the borrower was requesting
21 forgiveness had been used.

22 11. Borrowers were eligible for forgiveness of eligible payroll costs if at least
23 60% of the loan proceeds were spent on actual payroll costs during the eight-week covered
24 period. Borrowers were also eligible for forgiveness of nonpayroll costs such as mortgage
25 payments, rent or lease payments, and utility payments. To be eligible, nonpayroll costs
26 could not exceed 25% of the total forgiveness amount.

27 12. If borrowers did not apply for forgiveness within ten months after the last
28 day of the covered period, then PPP loan payments were no longer deferred, and borrowers

1 were required to repay their loans to their PPP lender.

2 13. Like the PPP loan application, the PPP Loan Forgiveness Application
3 required the business (through its authorized representative) to make several affirmative
4 certifications. Among them, the business's authorized representative was required to
5 certify the following statements were true:

6 a. The dollar amount for which forgiveness is requested "was used to
7 pay costs that are eligible for forgiveness (payroll costs to retain
8 employees; business mortgage interest payments; business rent or
9 lease payments; or business utility payments)";

10 b. "The borrower understands that if the funds were knowingly used for
11 unauthorized purposes, the federal government may pursue recovery
12 of loan amounts and/or civil or criminal fraud charge"; and

13 c. "The information provided in this application and the information
14 provided in all supporting documents and forms is true and correct in
15 all material respects."

16 **DEFENDANTS AND RELATED ENTITY**

17 14. Cryotherapy for Veterans was a business incorporated on or about January
18 6, 2020 in the State of Arizona. Cryotherapy for Veterans was incorporated by defendants.

19 15. Defendant SEAN SWARINGER was a resident within the District of
20 Arizona. SEAN SWARINGER was the president and statutory agent of Cryotherapy for
21 Veterans.

22 16. Defendant VANESSA SWARINGER was a resident within the District of
23 Arizona. VANESSA SWARINGER was the secretary of Cryotherapy for Veterans.

24 **FINANCIAL INSTITUTION AND PARTICIPATING PPP LENDER**

25 17. Western State Bank is a financial institution headquartered in West Fargo,
26 North Dakota, with branches located in the District of Arizona and whose deposits were
27 insured by the Federal Deposit Insurance Corporation ("FDIC"). Western State Bank
28 participated in the SBA's PPP as a lender, and as such, was authorized to lend funds to

1 eligible borrowers under the terms of the PPP.

2 **CYROTHERAPY FOR VETERANS' FIRST PPP LOAN APPLICATION**

3 18. On or about July 28, 2020, defendants submitted a PPP application with
4 Western State Bank on behalf of Cryotherapy for Veterans ("Loan #1"). VANESSA
5 SWARINGER was listed as having 100% ownership in Cryotherapy for Veterans. In the
6 application for Loan #1, defendants falsely represented that Cryotherapy for Veterans had
7 an average monthly payroll of \$340,000, had 45 employees, and needed the PPP loan to
8 support its ongoing operation. But the application was false. Cryotherapy for Veterans had
9 no employees and no payroll.

10 19. As part of the application for Loan #1, defendant VANESSA SWARINGER
11 signed as Cryotherapy for Veterans' authorized representative and signed next to each of
12 the following certifications:

- 13 a. Cryotherapy for Veterans "was in operation on February 15, 2020 and
14 had employees for whom it paid salaries and payroll taxes or paid
15 independent contractors, as reported on Form(s) 1099-MISC";
- 16 b. "The funds will be used to retain workers and maintain payroll or
17 make mortgage interest payments, lease payments, and utility
18 payments... [and] if the funds are knowingly used for unauthorized
19 purposes, the federal government may hold [applicant] liable, such as
20 for charges of fraud"; and
- 21 c. "[T]he information provided in the application and in the information
22 provided in all supporting documents and forms is true and accurate
23 in all material respects."

24 20. Each of these certifications was false. Defendants knew Cryotherapy for
25 Veterans had zero employees and that it paid no salaries or payroll taxes to any employees
26 or independent contractors.

27 21. Defendants also falsely and fraudulently represented that the funds sought in
28 the Cryotherapy for Veterans application would be "used to retain workers and maintain

1 payroll or make mortgage interest payments, lease payments, and utility payments” when,
2 in fact, they intended to divert the funds to their personal use and benefit.

3 22. On July 31, 2020, defendant VANESSA SWARINGER signed a promissory
4 note with Western State Bank for the first PPP loan in the amount of \$850,000 that was to
5 be disbursed via cashier’s check.

6 23. The Cryotherapy for Veterans application included additional false and
7 fraudulent information about its purported payroll, as well as fraudulent documentation
8 purporting to establish that Cryotherapy for Veterans made substantial monthly payroll
9 disbursements. For example:

10 a. The Cryotherapy for Veterans application included a fictitious payroll
11 ledger purporting to show the monthly wages of 45 Cryotherapy for
12 Veterans’ employees with an average monthly payroll of
13 approximately \$340,000. In fact, at the time the Cryotherapy for
14 Veterans application was filed on July 28, 2020, the Arizona
15 Department of Economic Security did not have any tax or wage
16 reports for 2019, 2020, or 2021.

17 24. On or about August 3, 2020, Western State Bank approved Cryotherapy for
18 Veterans’ first PPP application and funded Loan #1 for \$850,000 to be deposited into
19 Western State Bank account #0686.

20 **CYROTHERAPY FOR VETERANS’ SECOND PPP LOAN APPLICATION**

21 25. On or about January 21, 2021, defendants submitted a second PPP
22 application with Western State Bank on behalf of Cryotherapy for Veterans (“Loan #2”).
23 On the application for Loan #2, unlike Loan #1, SEAN SWARINGER was now listed as
24 having 100% ownership in Cryotherapy for Veterans. In the application for Loan #2,
25 defendants falsely represented that Cryotherapy for Veterans had an average monthly
26 payroll of \$208,414,167.00, had 45 employees, and needed the PPP loan to support its
27 ongoing operation. But the application was false. Cryotherapy for Veterans had no
28 employees and no payroll. The average monthly payroll in the application was a

1 typographical error. It was processed as if the average monthly payroll was approximately
2 \$208,414.00.

3 26. As part of the application, defendant SEAN SWARINGER signed as
4 Cryotherapy for Veterans' authorized representative and signed next to each of the
5 following certifications:

6 a. Cryotherapy for Veterans "was in operation on February 15, 2020 and
7 had employees for whom it paid salaries and payroll taxes or paid
8 independent contractors, as reported on Form(s) 1099-MISC";

9 b. "The funds will be used to retain workers and maintain payroll or
10 make mortgage interest payments, lease payments, and utility
11 payments... [and] if the funds are knowingly used for unauthorized
12 purposes, the federal government may hold [applicant] liable, such as
13 for charges of fraud";

14 c. "[T]he information provided in the application and in the information
15 provided in all supporting documents and forms is true and accurate
16 in all material respects."

17 27. Each of these certifications was false. Defendants knew Cryotherapy for
18 Veterans had zero employees and that it paid no salaries or payroll taxes to any employees
19 or independent contractors.

20 28. Defendants also falsely and fraudulently represented that the funds sought in
21 the Cryotherapy for Veterans application would be "used to retain workers and maintain
22 payroll or make mortgage interest payments, lease payments, and utility payments" when,
23 in fact, they intended to divert the funds to their personal use and benefit.

24 29. On February 19, 2022, defendant VANESSA SWARINGER signed a
25 promissory note with Western State Bank for Loan #2 in the amount of \$521,000 that was
26 to be disbursed via cashier's check.

27 30. The second Cryotherapy for Veterans application included additional false
28 and fraudulent information about its purported payroll, as well as fraudulent documentation

1 purporting to establish that Cryotherapy for Veterans made substantial monthly payroll
2 disbursements. For example:

- 3 a. The Cryotherapy for Veterans application included a fictitious payroll
4 ledger purporting to show the monthly wages of 45 Cryotherapy for
5 Veterans employees with an average monthly payroll of
6 approximately \$208,414,617 (actually processed as \$208,414). In
7 fact, at the time the second Cryotherapy for Veterans application was
8 filed on January 21, 2021, the Arizona Department of Economic
9 Security did not have any tax or wage reports for 2019, 2020, or 2021.

10 31. On or about February 19, 2021, Western State Bank approved Cryotherapy
11 for Veterans' second PPP application and funded Loan #2 for \$521,000 to be deposited
12 into Western State Bank account #0686.

13 32. On or about May 30, 2019, defendants opened another account at Comerica
14 Bank (account #3399). Defendants SEAN SWARINGER and VANESSA SWARINGER
15 were both authorized signatories on account #3399.

16 33. On or about May 28, 2020, defendants opened an account at Comerica Bank
17 (account #3569). Defendant SEAN SWARINGER was the authorized signatory on
18 account #3569.

19 34. On or about August 3, 2020, defendants opened an account at Western State
20 Bank (account #0686). Defendants SEAN SWARINGER and VANESSA SWARINGER
21 were both authorized signatories on account #0686.

22 35. On August 3, 2020, a cashier's check for \$850,000 for Cryotherapy for
23 Veterans' Loan #1 was deposited in Western State Bank account #0686. At the time of the
24 deposit, the account balance was approximately \$0.00.

25 36. On or about February 19, 2021, the PPP loan disbursement for Cryotherapy
26 for Veterans' Loan #2 was deposited into Western State Bank account #0686. At the time
27 of the deposit, the account balance was approximately \$50,753.69.

28 37. Prior to the PPP loan deposit, Western State Bank account #0686 showed no

1 evidence of processing payroll. Furthermore, *after* the PPP loan deposit, Western State
2 Bank account #0686 showed no evidence of processing payroll.

3 38. In sum, defendants' fraudulent representations regarding Loan #1 are
4 summarized as follows:

	Before PPP Application	On PPP Application [Avg. Monthly]	After Loan Deposited
5 Payroll	\$0	\$340,000	\$0
6 # of Employees	0	45	0

7
8 39. In sum, defendants' fraudulent representations regarding Loan #2 are
9 summarized as follows:

	Before PPP Application	On PPP Application [Avg. Monthly]	After Loan Deposited
11 Payroll	\$0	\$208,414,167.00 or 12 \$208,414.00 (processed)	\$0
13 # of Employees	0	45	0

14
15 40. After the fraudulent loan proceeds from Loan #1 were deposited into the
16 Western State Bank account #0686, Cryotherapy for Veterans diverted and caused to be
17 diverted some of the fraudulently obtained funds for personal and unauthorized purposes,
18 including but not limited to:

- 19 a. On or about August 5, 2020, defendants transferred \$200,000 from
20 Western State Bank account #0686 to defendants via Cryoworld
21 Therapy Comerica account #3399.
- 22 b. On or about August 5, 2020, defendants transferred \$250,000 from
23 Western State Bank account #0686 to defendants via Comerica
24 account #3569.
- 25 c. On or about August 5, 2020, defendants transferred \$17,197 from
26 Western State Bank account to #0686 to individual AM.
- 27 d. On or about September 17, 2020, defendants transferred \$21,006 from
28 Western State Bank account #0686 to Global Financial Services.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- e. On or about November 12, 2020, defendants transferred \$25,000 from Western State Bank account #0686 to U.S Bank account #8661, an account controlled by SEAN SWARINGER.
- f. On or about November 12, 2020, defendants transferred \$31,000 from Western State Bank account #0686 to defendants via Comerica account #3569.
- g. On or about December 15, 2020, defendants transferred \$150,000 from Western State Bank account #0686 to defendants via Comerica account #3569.
- h. On or about February 3, 2021, defendants transferred \$91,000 from Western State Bank account #0686 to defendants via Comerica account #3569.

41. After the fraudulent loan proceeds from Loan #2 were deposited into the Western State Bank account #0686, Cryotherapy for Veterans diverted and caused to be diverted some of the fraudulently obtained funds for personal and unauthorized purposes, including but not limited to:

- a. On or about March 22, 2021, defendants transferred \$125,000 from Western State Bank account #0686 to defendants via Comerica account #3569.
- b. On or about March 30, 2021, defendants withdrew \$25,000 in cash from Western State Bank account #0686.
- c. On or about March 30, 2021, defendants transferred \$90,000 from Western State Bank account #0686 to defendants via Comerica account #3569.

COUNT 1
Conspiracy
[18 U.S.C. § 371]

42. The factual allegations in the preceding paragraphs are incorporated by

1 reference and re-alleged as though fully set forth herein.

2 43. Beginning on or about July 2020, and continuing through on or about the
3 date of the Indictment, in the District of Arizona and elsewhere, defendants SEAN
4 SWARINGER and VANESSA SWARINGER, did conspire, confederate, and agree with
5 each other and others known and unknown to the Grand Jury, to willfully and knowingly
6 devise a scheme and artifice to defraud Western State Bank and the United States Small
7 Business Administration by means of false and fraudulent pretenses, representation, and
8 promises, including preparing and submitting a false and fraudulent PPP loan application
9 in order to obtain \$850,000 and \$521,000 in two separate government-guaranteed loans
10 through the PPP.

11 **OBJECT OF THE CONSPIRACY**

12 44. It was the object of the conspiracy for defendants SEAN SWARINGER and
13 VANESSA SWARINGER, and their co-conspirators, to commit bank fraud in violation of
14 18 U.S.C. § 1344, and transactional money laundering in violation of 18 U.S.C. § 1957.

15 **MANNER AND MEANS OF THE CONSPIRACY AND FRAUD SCHEME**

16 45. The manner and means by which the defendants and others sought to
17 accomplish the objectives of the conspiracy and fraud scheme included, among other
18 things, the following:

- 19 a. In submitting their first loan applications, defendants included a fictitious
20 payroll ledger purporting to show monthly wages of 45 Cryotherapy for
21 Veterans employees, with an average monthly payroll of approximately
22 \$340,000. In fact, at the time the Cryotherapy for Veterans application was
23 filed, Cryotherapy for Veterans had zero employees and no monthly payroll
24 expenses.
- 25 b. In submitting their second loan applications, defendants included a fictitious
26 payroll ledger purporting to show monthly wages of 45 Cryotherapy for
27 Veterans employees, with an average monthly payroll of approximately
28 \$208,414,167.00 (processed as \$208,414.00). In fact, at the time the

1 Cryotherapy for Veterans application was filed, Cryotherapy for Veterans
2 had zero employees and no monthly payroll expenses.

- 3 c. Defendants falsely represented that Cryotherapy for Veterans needed both
4 PPP loans to support its ongoing operation. In fact, at the time both
5 Cryotherapy for Veterans applications were filed, Cryotherapy for Veterans
6 was not doing any business and had no ongoing operations.

7 **OVERT ACTS**

8 46. In furtherance of the conspiracy, and to effect the objects thereof, the
9 following overt acts, among others, were committed in the District of Arizona, and
10 elsewhere:

- 11 a. On or about July 28, 2020 and January 21, 2021, defendants prepared and
12 submitted, or caused to be prepared and submitted, two fraudulent PPP
13 applications for Cryotherapy for Veterans that was submitted to Western
14 State Bank. Among other things, both PPP applications included false
15 representations about Cryotherapy for Veterans' number of employees and
16 average monthly payroll.
- 17 b. On or about August 5, 2020, defendants caused \$200,000 of the \$850,000
18 fraudulently procured Loan #1 to be transferred from Western State Bank
19 account #0686 to defendants via Cryoworld Therapy Comerica account
20 #3399.
- 21 c. On or about August 5, 2020, defendants caused \$250,000 of the \$850,000
22 fraudulently procured Loan #1 to be transferred from Western State Bank
23 account #0686 to defendants via Comerica account #3569.
- 24 d. On or about September 17, 2020, defendants caused \$17,197 of the \$850,000
25 fraudulently procured Loan #1 to be transferred from Western State Bank
26 account #0686 to individual AM.
- 27 e. On or about September 17, 2020, defendants caused \$21,006 of the \$850,000
28 fraudulently procured Loan #1 to be transferred from Western State Bank

1 account #0686 to Global Financial Services.

- 2 f. On or about November 12, 2020, defendants caused \$25,000 of the \$850,000
3 fraudulently procured Loan #1 to be transferred from Western State Bank
4 account #0686 to U.S. Bank account #8661, an account controlled by
5 defendant SEAN SWARINGER.
- 6 g. On or about November 12, 2020, defendants caused \$31,000 of the \$850,000
7 fraudulently procured Loan #1 to be transferred from Western State Bank
8 account #0686 to defendants via Comerica account #3569.
- 9 h. On or about December 15, 2020, defendants caused \$150,000 of the
10 \$850,000 fraudulently procured Loan #1 to be transferred from Western State
11 Bank account #0686 to defendants via Comerica account #3569.
- 12 i. On or about February 3, 2021, defendants caused \$91,000 of the \$850,000
13 fraudulently procured Loan #1 to be transferred from Com Western State
14 Bank account #0686 to defendants via Comerica account #3569.
- 15 j. On or about March 22, 2021, defendants caused \$125,000 of the \$521,000
16 fraudulently procured Loan #2 to be transferred from Western State Bank
17 account #0686 to defendants via Comerica account #3569.
- 18 k. On or about March 30, 2021, defendants caused \$25,000 of the \$850,000
19 fraudulently procured Loan #1 to be withdrawn in cash from Western State
20 Bank account #0686 by defendants.
- 21 l. On or about March 30, 2021, defendants caused \$90,000 of the \$521,000
22 fraudulently procured Loan #1 to be transferred from Western State Bank
23 account #0686 to defendants via Comerica account #3569.

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

25
26 **COUNTS 2-3**
27 **Bank Fraud**
28 **[18 U.S.C. § 1344]**

1 47. The factual allegations in the preceding paragraphs of this Indictment are re-
2 alleged and incorporated as though fully set forth herein.

3 48. On or about the date set forth below, in the District of Arizona and elsewhere,
4 defendants SEAN SWARINGER and VANESSA SWARINGER, and others known and
5 unknown to the Grand Jury, did knowingly execute a scheme and artifice to defraud
6 Western State Bank, the deposits of which were insured by the Federal Deposit Insurance
7 Corporation, and to obtain, by means of materially false and fraudulent pretenses,
8 representations, and promises, moneys, funds, credits, assets, securities, and other property
9 owned by and under the custody and control of Western State Bank, and caused Western
10 State Bank to issue a cashier's checks for deposit into an account controlled by the
11 defendants.

Count	Date	Monetary Transaction	Transaction Amount	Institution
2	8/3/2020	Deposit by cashier's check of Loan #1	\$850,000	Western State Bank account #0686
3	2/19/2021	Deposit by transfer for Loan #2	\$521,000	Western State Bank account #0686

17 All in violation of Title 18, United States Code, Section 1344.

18
19 **COUNTS 4-14**
20 **Transactional Money Laundering**
21 **[18 U.S.C. § 1957(a)]**

22 49. The factual allegations in the preceding paragraphs of this Indictment are re-
23 alleged and incorporated as though fully set forth herein.

24 50. On or about the dates listed below, in the District of Arizona and elsewhere,
25 defendants SEAN SWARINGER and VANESSA SWARINGER, and others known and
26 unknown to the Grand Jury, knowingly engaged in monetary transactions, of a value
27 greater than \$10,000, occurring within the United States, with funds criminally derived
28 from the bank fraud alleged in Count 2 of this Indictment, with each transaction being a
separate count of this Indictment:

Count	Date	Monetary Transaction	Transaction Amount
4	8/5/2020	Withdrawal from Western State Bank account #0686 to defendants via Cryoworld Therapy, Comerica account #3399	\$200,000
5	8/5/2020	Withdrawal from Western State Bank account #0686 to defendants via Comerica account #3569	\$250,000
6	8/24/2020	Withdrawal from Western State Bank account #0686 to individual AM	\$17,197
7	9/17/2020	Withdrawal from Western State Bank account #0686 to Global Financial Services	\$21,006
8	11/12/2020	Withdrawal from Western State Bank account #0686 to defendants via U.S. Bank account #8661	\$25,000
9	11/12/2020	Withdrawal from Western State Bank account #0686 to defendants via Comerica account #3569	\$31,000
10	12/15/2020	- Withdrawal from Western State Bank account #0686 to defendants via Comerica account #3569	\$150,000
11	2/3/2021	Withdrawal from Western State Bank account #0686 to defendants via Comerica account #3569	\$91,000
12	3/22/2021	Withdrawal from Western State Bank account #0686 to defendants via Comerica account #3569	\$125,000
13	3/30/2021	Withdrawal from Western State Bank account #0686 to defendants via cash	\$25,000
14	3/30/2021	Withdrawal from Western State Bank account #0686 to defendants via Comerica account #3569	\$90,000

All in violation of Title 18, United States Code, Section 1957(a).

FORFEITURE ALLEGATION

[18 U.S.C. § 981(a)(1)(C); 18 U.S.C. § 982(a)(1);
21 U.S.C. § 853; 28 U.S.C. § 2461(c)]

1 51. The factual allegations in Counts 1 through 14 in the preceding paragraphs
2 of this Indictment are re-alleged and incorporated as though fully set forth herein.

3 52. Pursuant to Title 18, United States Code, Sections 981 and 982, Title 21,
4 United States Code, Section 853, and Title 28, United States Code, Section 2461(c), and
5 upon conviction of one or more of the offenses alleged in Counts 1 through 14 of this
6 Indictment, defendant(s) shall forfeit to the United States all right, title, and interest in any
7 and all property, real or personal, involved in such offense(s), or any property traceable to
8 such property involved in the offense(s), or conspiracy to commit such offense(s),
9 including the following: (a) all money or other property that was the subject of each
10 transaction, transportation, transmission or transfer in violation of a statute listed in Title
11 18, United States Code, Section 982, (b) all other property constituting proceeds obtained
12 as a result of those violations, and (c) all property used in any manner or part to commit
13 or to facilitate the commission of those violations including, but not limited to the sum of
14 money representing the amount of money involved in the offense(s) and the property
15 named below.

16 A sum of money equal to at least \$1,371,000 in United States currency, representing
17 the amount of money involved in the offenses.

18 If any of the above-described forfeitable property, as a result of any act or omission
19 of the defendant(s):

- 20 (1) cannot be located upon the exercise of due diligence,
21 (2) has been transferred or sold to, or deposited with, a third party,
22 (3) has been placed beyond the jurisdiction of the court,
23 (4) has been substantially diminished in value, or
24 (5) has been commingled with other property which cannot be divided without
25 difficulty,
26 it is the intent of the United States to seek forfeiture of any other property of said
27 defendant(s) up to the value of the above-described forfeitable property, pursuant to Title
28 21, United States Code, Section 853(p).

1 All in accordance with Title 18, United States Code, Sections 981 and 982, Title 21,
2 United States Code, Section 853, Title 28, United States Code, Section 2461(c), and Rule
3 32.2, Federal Rules of Criminal Procedure.

4
5 A TRUE BILL

6
7 s/
8 FOREPERSON OF THE GRAND JURY
9 Date: November 23, 2021

10 GLENN B. McCORMICK
11 Acting United States Attorney
12 District of Arizona

13 s/
14 LEIGHANN THOMAS
15 KRISTEN BROOK
16 PETER SEXTON
17 Assistant U.S. Attorneys
18
19
20
21
22
23
24
25
26
27
28