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SEALED

10 IN THE UNITED STATES DISTRICT COURT

11 FOR THE DISTRICT OF ARIZONA

12 United States of America,

No. **CR-21-00977-PHX-GMS**

13 Plaintiff,

INDICTMENT

14 v.

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

16 1. Willie Mitchell
a.k.a. Blu Mitchell,
17 (Counts 1-11)

18 U.S.C. § 1344
(Bank Fraud)
Count 2

18 2. Toni Richardson,
19 (Counts 1-11)

18 U.S.C. § 1957(a)
(Transactional Money Laundering)
Counts 3-11

20 Defendants.

21 18 U.S.C. § 981(a)(1)(C);
22 18 U.S.C. § 982(a)(1);
21 U.S.C. § 853;
28 U.S.C. § 2461(c)
(Forfeiture Allegations)

23 THE GRAND JURY CHARGES:

24 **INTRODUCTION**

25 1. At all times relevant to this Indictment, defendants WILLIE MITCHELL,
 26 a.k.a. BLU MITCHELL, and TONI RICHARDSON, purporting to do business as The
 27 Lotto Club, conspired and schemed, with each other and others, to prepare and submit a
 28 false and fraudulent Paycheck Protection Program (“PPP”) loan application to Western

1 State Bank, a participating lender helping to provide government-backed, emergency
2 financial assistance to businesses suffering from the economic impact of the Covid
3 pandemic. Defendants submitted a loan application replete with false and fraudulent
4 information, including fake employment data and fictitious payroll. As a result, defendants
5 obtained \$1,276,500.00 in government-guaranteed loans, which were intended for real
6 businesses actually harmed by the COVID-19 pandemic. After receiving the loan
7 proceeds, defendants used the funds for personal expenses, disguised business expenses to
8 enrich themselves and confederates, and transferred funds to various bank accounts they
9 personally controlled.

10 **SMALL BUSINESS ADMINISTRATION**

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

18 **PAYCHECK PROTECTION PROGRAM BACKGROUND**

19 3. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a
20 federal law enacted in March 2020 and was designed to provide emergency financial
21 assistance to the millions of Americans suffering from the economic effects caused by the
22 COVID-19 pandemic. One source of relief the CARES Act provided, through a program
23 referred to as the Paycheck Protection Program (“PPP”), was authorization of up to \$349
24 billion in potentially forgivable loans to small businesses for payroll, job retention,
25 mortgage interest, rent/lease, utilities, and certain other applicable expenses.

26 4. The first phase of the PPP loan process was implemented between March
27 2020 and March 31, 2021. PPP loans had an interest rate of one percent. Loans issued
28 prior to June 5, 2020, had a maturity of two years, while loans issued after June 5, 2020,

1 had a maturity of five years. Each loan draw had a specific application process and
2 requirements. SBA would forgive PPP loans if all employee retention criteria were met,
3 and the funds were used for eligible expenses within a designated period as set forth in the
4 PPP.

5 PPP LOAN APPLICATION PROCESS

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

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

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

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

- 22 a. The Application business was in operation on February 15, 2020 and has
23 employees for whom it paid salaries and payroll taxes or paid independent
24 contractors, as reported on Internal Revenue Services ("IRS") Form(s) 1099-
25 MISC;
- 26 b. The funds would be used to retain workers and maintain payroll or make
27 mortgage interest payments, lease payments, and utility payments, as specified
28 under the PPP Rules; and

- 1 c. The information provided in the application and information provided in all
2 supporting documents and forms was true and accurate in all material respects.

3 **PPP LOAN FORGIVENESS APPLICATION PROCESS**

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

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

16 11. Borrowers were eligible for forgiveness of eligible payroll costs if at least
17 60% of the loan proceeds were spent on actual payroll costs during the eight-week covered
18 period. Borrowers were also eligible for forgiveness of nonpayroll costs such as mortgage
19 payments, rent or lease payments, and utility payments. To be eligible, nonpayroll costs
20 could not exceed 25% of the total forgiveness amount.

21 12. If borrowers did not apply for forgiveness within ten months after the last
22 day of the covered period, then PPP loan payments were no longer deferred, and borrowers
23 were required to repay their loans to their PPP lender.

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

- 28 a. The dollar amount for which forgiveness is requested "was used to pay costs that

1 are eligible for forgiveness (payroll costs to retain employees; business mortgage
2 interest payments; business rent or lease payments; or business utility
3 payments)”;

4 b. “The borrower understands that if the funds were knowingly used for
5 unauthorized purposes, the federal government may pursue recovery of loan
6 amounts and/or civil or criminal fraud charge”; and

7 c. “The information provided in this application and the information provided in
8 all supporting documents and forms is true and correct in all material respects.”

9 **DEFENDANTS AND RELATED ENTITY**

10 14. The Lotto Club was a business incorporated on or about May 5, 2015 in the
11 State of Arizona. The Lotto Club was incorporated by defendants as a social club. In its
12 2021 annual report, The Lotto Club is described as a charity for veterans.

13 15. Defendant WILLIE MITCHELL, a.k.a. BLU MITCHELL (“MITCHELL”),
14 was a resident within the District of Arizona. MITCHELL was the statutory agent of The
15 Lotto Club. MITCHELL controlled a bank account with Mountain America Credit Union
16 (“MACU”) (account #8412).

17 16. Defendant TONI RICHARDSON (“RICHARDSON”) was a resident within
18 the District of Arizona. As of February 4, 2021, RICHARDSON was the Director,
19 President, and CEO of The Lotto Club. RICHARDSON is also the principal and statutory
20 agent of another company, TLR Housing Phoenix LLC, which is a business incorporated
21 on or about November 22, 2020 in the State of Arizona.

22 **FINANCIAL INSTITUTION AND PARTICIPATING PPP LENDER**

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

28 **THE LOTTO CLUB’S PPP LOAN APPLICATION**

1 18. On or about February 17, 2021, defendants submitted a PPP application with
2 Western State Bank on behalf of The Lotto Club. RICHARDSON was listed as having
3 100% ownership in The Lotto Club. In the application, defendants falsely represented that
4 The Lotto Club had an average monthly payroll of \$510,635, had 85 employees, and
5 needed the PPP loan to support its ongoing operation. But the application was false. The
6 Lotto Club had no employees and no payroll.

7 19. As part of the application, defendant RICHARDSON signed as The Lotto
8 Club's authorized representative and signed next to each of the following certifications:

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

19 20. Each of these certifications was false. Defendants knew The Lotto Club had
20 zero employees and that it paid no salaries or payroll taxes to any employees or independent
21 contractors.

22 21. Defendants also falsely and fraudulently represented that the funds sought in
23 The Lotto Club's application would be "used to retain workers and maintain payroll or
24 make mortgage interest payments, lease payments, and utility payments" when, in fact,
25 they intended to divert the funds to their personal use and benefit.

26 22. Defendant RICHARDSON signed a promissory note with Western State
27 Bank for the PPP loan in the amount of \$1,276,500 that was to be disbursed via cashier's
28 check.

1 23. The Lotto Club application included additional false and fraudulent
2 information about its purported payroll, as well as fraudulent documentation purporting to
3 establish that The Lotto Club made substantial monthly payroll disbursements. For
4 example:

5 a. The Lotto Club application included a fictitious payroll ledger purporting to
6 show the monthly wages for 83 The Lotto Club employees with an average
7 monthly payroll of approximately \$510,635. In fact, at the time The Lotto Club
8 application was filed on February 17, 2021, the Arizona Department of
9 Economic Security did not have any tax or wage reports for 2019 or 2020.

10 24. Despite these representations, it was not until the first quarter of 2021 that
11 The Lotto Club submitted, for the first time, three employee wage submissions for a total
12 of approximately \$9,807.69 in wages paid in the quarter. During the second quarter of
13 2021, The Lotto Club submitted nine employee wage submissions for a total of
14 \$147,586.11 in wages paid in the second quarter. Defendants RICHARDSON and
15 MITCHELL were both listed as employees.

16 25. On or about February 25, 2021, Western State Bank approved The Lotto
17 Club's PPP application and funded the loan by issuing a cashier's check for \$1,276,500.

18 26. On or about February 25, 2021, defendant RICHARDSON opened an
19 account at Western State Bank for The Lotto Club (account #1700). Defendant
20 RICHARDSON was the authorized signatory on the account. On May 27, 2021, defendant
21 MITCHELL was added as an additional authorized signatory on Western State Bank
22 account #1700.

23 27. On or about February 25, 2021, a cashier's check for \$1,276,500 for The
24 Lotto Club loan was deposited in Western State Bank account #1700. At the time of the
25 deposit, the account balance was approximately \$0.00.

26 28. Prior to the PPP loan deposit, Western State Bank account #1700 showed no
27 evidence of processing payroll. Only *after* the PPP loan deposit, did transactions through
28 a payroll provider finally begin. Indeed, defendants issued payroll for the *first time* on

1 March 19, 2021, in anticipation of presenting this information to Western State Bank as
 2 part of a PPP Loan Forgiveness Application, which required that 60% of the funds be used
 3 on payroll costs.

4 29. In sum, defendants' fraudulent representations are summarized as follows:

	Before PPP Application	On PPP Application [Avg. Monthly]	After Loan Deposited [Avg. Jan.-Jun.]
Payroll	\$0	\$510,635	\$26,232.30
# of Employees	0	85	5

9 30. After the fraudulent loan proceeds were deposited into the Western State
 10 Bank account #1700, The Lotto Club diverted and caused to be diverted some of the
 11 fraudulently obtained funds for personal and unauthorized purposes, including but not
 12 limited to:

- 13 a. On or about March 24, 2021, \$194,577 was transferred from Western State Bank
 14 account #1700 to MACU account #8412 via check, which was controlled by
 15 defendant MITCHELL.
- 16 b. On or about April 13, 2021, \$20,000 was transferred from Western State Bank
 17 account #1700 to TLR Housing Phoenix LLC via check, which is an entity
 18 controlled by defendant RICHARDSON.
- 19 c. On or about May 27, 2021, \$25,000 was transferred from Western State Bank
 20 account #1700 to defendant MITCHELL via check.
- 21 d. On or about April 16, 2021, April 30, 2021, May 14, 2021, May 28, 2021, June
 22 11, 2021, and June 25, 2021, defendants caused other withdrawals to be
 23 processed for fictitious payroll.

24
 25 **COUNT 1**
 26 **Conspiracy**
 27 **[18 U.S.C. § 371]**

28 31. The factual allegations in the preceding paragraphs are incorporated by reference and re-alleged as though fully set forth herein.

OVERT ACTS

1
2 35. In furtherance of the conspiracy, and to effect the objects thereof, the
3 following overt acts, among others, were committed in the District of Arizona, and
4 elsewhere:

- 5 a. On or about February 17, 2021, defendants prepared and submitted, or
6 caused to be prepared and submitted, a fraudulent PPP application for The
7 Lotto Club that was submitted to Western State Bank. Among other things,
8 the PPP application included false representations about The Lotto Club's
9 number of employees and average monthly payroll.
- 10 b. On or about March 24, 2021, defendants caused \$194,577 of the \$1,276,500
11 fraudulently procured PPP loan to be transferred from Western State Bank
12 account #1700 to MACU account #8412 via check, which was controlled by
13 defendant MITCHELL.
- 14 c. On or about April 13, 2021, defendants caused \$20,000 of the \$1,276,500
15 fraudulently procured PPP loan to be transferred from Western State Bank
16 account #1700 to TLR Housing Phoenix LLC via check, which is an entity
17 controlled by defendant RICHARDSON.
- 18 d. On or about May 27, 2021, defendants caused \$25,000 of the \$1,276,500
19 fraudulently procured PPP loan to be transferred from Western State Bank
20 account #1700 to defendant MITCHELL via check.
- 21 e. On or about April 16, 2021, April 30, 2021, May 14, 2021, May 28, 2021,
22 June 11, 2021, and June 25, 2021, defendants caused withdrawals from the
23 \$1,276,500 fraudulently procured PPP loan to be processed to a payroll
24 provider for fictitious payroll.

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

26
27 **COUNT 2**
Bank Fraud
28 **[18 U.S.C. § 1344]**

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

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

Count	Date	Monetary Transaction	Transaction Amount	Institution
2	2/25/2021	Deposit by cashier's check of PPP Loan Funds	\$1,276,500	Western State Bank account #1700

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

16
17 **COUNTS 3-11**
18 **Transactional Money Laundering**
19 **[18 U.S.C. § 1957(a)]**

20 38. The factual allegations in the preceding paragraphs of this Indictment are re-
21 alleged and incorporated as though fully set forth herein.

22 39. On or about the dates listed below, in the District of Arizona and elsewhere,
23 defendants MITCHELL and RICHARDSON knowingly engaged in monetary
24 transactions, of a value greater than \$10,000, occurring within the United States, with funds
25 criminally derived from the bank fraud alleged in Count 2 of this Indictment, with each
26 transaction being a separate count of this Indictment:

Count	Date	Monetary Transaction	Approx. Trans. Amt.
3	3/24/2021	Withdrawal from Western State Bank account #1700 to Mitchell via Sigma Cuts, MACU	\$194,577

		account #8412	
4	4/13/2021	Withdrawal from Western State Bank account #1700 to Richardson via TLR Housing Phoenix LLC, via check	\$20,000
5	4/16/2021	Withdrawal from Western State Bank account #1700 to a payroll provider	\$15,635
6	4/30/2021	Withdrawal from Western State Bank account #1700 to a payroll provider	\$16,792
7	5/14/2021	Withdrawal from Western State Bank account #1700 to a payroll provider	\$20,491
8	5/27/2021	Withdrawal from Western State Bank account #1700 to Mitchell via check	\$25,000
9	5/28/2021	Withdrawal from Western State Bank account #1700 to a payroll provider	\$18,325
10	6/11/2021	Withdrawal from Western State Bank account #1700 to a payroll provider	\$17,545
11	6/25/2021	Withdrawal from Western State Bank account #1700 to a payroll provider	\$17,390

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)]**

40. The factual allegations in Counts 1 through 11 in the preceding paragraphs of this Indictment are re-alleged and incorporated as though fully set forth herein.

41. Pursuant to Title 18, United States Code, Sections 981 and 982, Title 21, United States Code, Section 853, and Title 28, United States Code, Section 2461(c), and upon conviction of one or more of the offenses alleged in Counts 1 through 11 of this Indictment, defendant(s) shall forfeit to the United States all right, title, and interest in any and all property, real or personal, involved in such offense(s), or any property traceable to such property involved in the offense(s), or conspiracy to commit such offense(s), including the following: (a) all money or other property that was the subject of each transaction, transportation, transmission or transfer in violation of a statute listed in Title 18, United States Code, Section 982, (b) all other property constituting proceeds obtained as a result of those violations, and (c) all property used in any manner or part to commit

1 or to facilitate the commission of those violations including, but not limited to the sum of
2 money representing the amount of money involved in the offense(s) and the property
3 named below.

4 A sum of money equal to at least \$1,276,500.00 in United States currency,
5 representing the amount of money involved in the offenses.

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

8 (1) cannot be located upon the exercise of due diligence,

9 (2) has been transferred or sold to, or deposited with, a third party,

10 (3) has been placed beyond the jurisdiction of the court,

11 (4) has been substantially diminished in value, or

12 (5) has been commingled with other property which cannot be divided without
13 difficulty,

14 it is the intent of the United States to seek forfeiture of any other property of said
15 defendant(s) up to the value of the above-described forfeitable property, pursuant to Title
16 21, United States Code, Section 853(p).

17 All in accordance with Title 18, United States Code, Sections 981 and 982, Title 21,
18 United States Code, Section 853, Title 28, United States Code, Section 2461(c), and Rule
19 32.2, Federal Rules of Criminal Procedure.

20 A TRUE BILL

21
22 s/
FOREPERSON OF THE GRAND JURY
Date: November 23, 2021

23
24 GLENN B. McCORMICK
Acting United States Attorney
District of Arizona

25
26 s/
LEIGHANN THOMAS
KRISTEN BROOK
27 PETER SEXTON
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