

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 21-60125-CR-ALTMAN/HUNT

UNITED STATES OF AMERICA

vs.

DEVONTE DEMOND THAMES,

Defendant.

FACTUAL PROFFER

The United States and Defendant Devonte Demond Thames (“Defendant”) agree that at trial, the United States would have proven beyond a reasonable doubt the following facts, which pertain to a violation of Title 18, United States Code, Section 371, and occurred in the Southern District of Florida and elsewhere.

From in around May 2020, through in or around March 2021, Defendant knowingly and willfully conspired and agreed with Individual 1, Individual 2, and others to submit and cause to be submitted millions of dollars’ worth of fraudulent Paycheck Protection Program (“PPP”) loan applications. PPP loans are forgivable business loans for small businesses, created as part of the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, the general purpose of which was to help businesses pay their expenses during the COVID-19 Pandemic and to encourage them to retain their employees. Generally, a business could seek a PPP loan in the amount of 2.5 times its average monthly payroll.

A PPP loan application was processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies. While it was the participating lender that issued the PPP loan, the loan was 100% guaranteed by the Small Business Administration (“SBA”). Data from the application, including information about the

borrower, the total amount of the loan, and the listed number of employees, was transmitted by the lender to the SBA during processing of the loan.

PPP loan proceeds were required to be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be entirely forgiven if the business spent the loan proceeds on these expense items within a designated period of time and used a defined portion of the PPP loan proceeds on payroll expenses.

In furtherance of the conspiracy, and to accomplish its object and purpose, Defendant caused the submission of a PPP loan application on behalf of his company, the Berneta E. Thames Foundation LLC (the “Thames Foundation”), which Defendant knew contained materially false and fraudulent representations. On May 28, 2020, Individual 1 used a residential internet connection in Fort Lauderdale, Florida to submit electronically to Bank 1, through the internet-based loan processor Bank Processor 1, a PPP loan application package on behalf of the Thames Foundation seeking a loan in the amount of \$409,735 (the “Thames Foundation Loan”). Defendant knew about and coordinated this submission of the Thames Foundation Loan application through Individual 2 by providing Individual 2 with information Individual 1 needed to submit the application, which Defendant understood Individual 2 would relay to Individual 1, and which Individual 2 did in fact relay to Individual 1 through intermediaries. The information Defendant provided to Individual 2 included the account and routing numbers for a Thames Foundation bank account held at Bank 2, which Defendant intended as the depository account for the Thames Foundation Loan.

The Thames Foundation Loan application documents falsely claimed that the Thames Foundation had 21 employees and an average monthly payroll of \$163,894. Documents

supporting the Thames Foundation Loan application, such as a purported company bank statement and IRS Forms 941 for 2019 (Employer's Quarterly Federal Tax Return) signed with the name "Devonte Thames," were forgeries. IRS records showed that the Thames Foundation did not file any Forms 941 in 2019.

As a result of the knowing and willful false and fraudulent representations made by Defendant, Individual 1, Individual 2, and others, in the Thames Foundation Loan application documents, Bank Processor 1 approved the Thames Foundation Loan, which Bank 1 funded by making an electronic wire transfer of \$409,735 to the Thames Foundation account at Bank 2 on May 29, 2020. Several days later, at Individual 2's instruction, Defendant wired \$61,460 from the Thames Foundation account at Bank 2 to a bank account for a company controlled by Individual 1 as a kickback for Individual 1's assistance in preparing and submitting the fraudulent Thames Foundation Loan application. Additionally, in June 2020, Defendant sent Individual 2 at least \$6,500 as a kickback for Individual 2's assistance in preparing the fraudulent Thames Foundation Loan application. Over the next several months, Defendant spent the Thames Foundation Loan proceeds on items unrelated to the operation of the Thames Foundation, such as kickbacks to scheme participants, personal expenses, and luxury goods.

Defendant also recruited others to the conspiracy. During June 2020, Defendant introduced three individuals to Individual 2, who referred these individuals to Individual 1 for submission of fraudulent PPP loan applications. One of these fraudulent applications was successful and resulted in a funded PPP loan for \$454,272. Then, in January 2021, Defendant telephoned Individual 1 to discuss the possible preparation of additional fraudulent PPP loan applications for the Thames Foundation and for other businesses. Telephone conversations

between Defendant and Individual 1 about these possible new PPP loan applications continued until Defendant's arrest in this case on March 3, 2021, but no new fraudulent PPP loan applications resulted from these conversations.

The parties agree that the fraud scheme in this case involved the use of interstate wires, including those required to submit the fraudulent Thames Foundation Loan application. The parties also agree that the total intended loss attributable to Defendant is greater than \$1.5 million and less than \$3.5 million and that the total amount subject to a forfeiture money judgment, and the total amount to be paid by Defendant in restitution, is \$864,007. The information contained in this proffer is not a complete recitation of the facts and circumstances of this case, but the parties agree it is sufficient to prove the sole count in the Information beyond a reasonable doubt.

JUAN ANTONIO GONZALEZ
ACTING UNITED STATES ATTORNEY

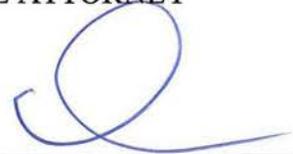
Date: 5/21/2021 By:


KIRAN N. BHAT
ASSISTANT UNITED STATES ATTORNEY

DANIEL KAHN
ACTING CHIEF, FRAUD SECTION

Date: 5/21/2021 By:

FOR 
PHILIP B. TROUT
TRIAL ATTORNEY


DAVID AYLOR
ATTORNEY FOR THE DEFENDANT

Date: 5/11/21 By:

Date: 5/11/21 By:


DEVONTE THAMES
DEFENDANT