

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

| | | | |
|---------------------------------|---|-----------------------------------|-------------------------|
| UNITED STATES OF AMERICA |) | Criminal No. | 1:21-CR-165 (GTS) |
| |) | | |
| v. |) | Information | |
| |) | | |
| SEAN M. ANDRE, |) | Violations: | 18 U.S.C. §§ 1344, 1349 |
| |) | | [Conspiracy to Commit |
| |) | | Bank Fraud] |
| |) | | |
| |) | | 18 U.S.C. §§ 1343, 1349 |
| |) | | [Conspiracy to Commit |
| |) | | Wire Fraud] |
| |) | | |
| |) | 2 Counts & Forfeiture Allegations | |
| |) | | |
| Defendant. |) | County of Offense: | Ulster |

THE UNITED STATES ATTORNEY CHARGES:

COUNT 1
[Conspiracy to Commit Bank Fraud]

Between on or about June 24, 2020 and August 13, 2020, in Ulster County in the Northern District of New York, and elsewhere, the defendant, **SEAN M. ANDRE**, and Co-Conspirator A, conspired to commit bank fraud, in violation of Title 18, United States Code, Section 1344(1) and (2), by knowingly executing a scheme and artifice to defraud a financial institution, and to obtain monies, funds and assets owned by, and under the custody and control of, a financial institution, by means of false and fraudulent pretenses and representations, in that **SEAN M. ANDRE** and Co-Conspirator A agreed to submit, and did knowingly submit, four (4) false and fraudulent Paycheck Protection Program (“PPP”) loan applications to Bank of America, N.A., the deposits of which were then insured by the Federal Deposit Insurance Corporation, and made materially false statements, and submitted fraudulent and materially false

tax documents, in support of each PPP loan application. All in violation of Title 18, United States Code, Section 1349.

COUNT 2
[Conspiracy to Commit Wire Fraud]

Between on or about June 24, 2020 and August 13, 2020, in Ulster County in the Northern District of New York, and elsewhere, the defendant, **SEAN M. ANDRE**, and Co-Conspirator A, conspired to commit wire fraud, in violation of Title 18, United States Code, Section 1343, by devising and intending to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and transmitting and causing to be transmitted by means of wire communication in interstate commerce, writings, signs and signals for the purpose of executing such scheme and artifice, in that **SEAN M. ANDRE** and Co-Conspirator A agreed to submit, and did knowingly submit from the State of New York by means of interstate wire communications over the Internet, two (2) false and fraudulent PPP loan applications to Kabbage, Inc. (“Kabbage”), and one (1) false and fraudulent Economic Injury Disaster Loan (“EIDL”) application to the U.S. Small Business Administration (SBA), and made materially false statements, and submitted fraudulent and materially false tax documents, in support of each PPP loan application to Kabbage, a lender that processed and approved the loan applications in Atlanta, Georgia, and made materially false statements in support of the EIDL application to the SBA, which received the application on Internet servers located in the State of Iowa. All in violation of Title 18, United States Code, Section 1349.

First Forfeiture Allegation

1. The allegations contained in Count One of this information are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 982(a)(2).

2. Upon conviction of the offense charged in Count One of the information, in violation of Title 18, United States Code, Section 1349, the defendant, **SEAN M. ANDRE**, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(2), any property constituting, and derived from, proceeds obtained directly and indirectly, as the result of such violation. The property to be forfeited includes, but is not limited to, the following:

- a. JP Morgan Chase account with account number ending in 0388, in the name of SMELifestyle Inc.;
- b. JP Morgan Chase account with account number ending in 9756, in the name of SMELifestyle Inc.;
- c. Capital One, N.A. account with account number ending in 3438, in the name of SMELifestyle Realty, LLC;
- d. Capital One, N.A. account with account number ending in 3921, in the name of SMELifestyle Realty, LLC;
- e. TD Bank account with account number ending in 3233, in the name of Beyond Limitations LLC;
- f. A 2019 Mercedes Benz GLS, Vehicle Identification Number (VIN) 4JGDF6EE6KB184306, registered to Sean Andre; and

- g. A money judgment in the amount of the unrecovered proceeds personally obtained by the defendant as a result of the offenses of conviction.

3. If any of the property described above, as a result of any act or omission of the defendant:

- a. Cannot be located upon the exercise of due diligence;
- b. Has been transferred or 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 which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1), and Title 28, United States Code, Section 2461(c).

Second Forfeiture Allegation

1. The allegations contained in Count Two of this information are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the offense charged in Count Two of the information, in violation of Title 18, United States Code, Section 1349, the defendant, **SEAN M. ANDRE**, shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real and personal, which constitutes and is derived from proceeds traceable to the offense. The property to be forfeited includes, but is not limited to, the following:

- a. JP Morgan Chase account with account number ending in 0388, in the name of SMELifestyle Inc.;
- b. JP Morgan Chase account with account number ending in 9756, in the name of SMELifestyle Inc.;
- c. Capital One, N.A. account with account number ending in 3438, in the name of SMELifestyle Realty, LLC;
- d. Capital One, N.A. account with account number ending in 3921, in the name of SMELifestyle Realty, LLC;
- e. TD Bank account with account number ending in 3233, in the name of Beyond Limitations LLC;
- f. A 2019 Mercedes Benz GLS, Vehicle Identification Number (VIN) 4JGDF6EE6KB184306, registered to Sean Andre; and
- g. A money judgment in the amount of the unrecovered proceeds personally obtained by the defendant as a result of the offenses of conviction.

3. If any of the property described above, as a result of any act or omission of the defendant:

- a. Cannot be located upon the exercise of due diligence;
- b. Has been transferred or 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 which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

Dated: May 25, 2021

ANTOINETTE T. BACON
Acting United States Attorney

By:



Michael Barnett
Joshua R. Rosenthal
Assistant United States Attorneys
Bar Roll Nos. 519140 and 700730