

Approved: Sagar K. Ravi
MICHAEL MCGINNIS / SAGAR K. RAVI
Assistant United States Attorneys

Before: THE HONORABLE KATHARINE H. PARKER
United States Magistrate Judge
Southern District of New York

20 MAG 12908

- - - - -X		<u>SEALED COMPLAINT</u>
	:	
UNITED STATES OF AMERICA	:	Violations of
	:	18 U.S.C. §§ 371,
- v. -	:	1031, 1349, and 2
	:	
NGOC MANH NGUYEN,	:	COUNTY OF OFFENSE
a/k/a "Peter Nguyen,"	:	NEW YORK
VICTORIA DIEUY HO,	:	
a/k/a "Vicky Ho," and	:	
DAT TAT HO,	:	
	:	
Defendants.	:	
	:	
- - - - -X		

SOUTHERN DISTRICT OF NEW YORK, ss.:

SIMON Y. DINITS, being duly sworn, deposes and says that he is a Special Agent with the United States Small Business Administration ("SBA"), Office of the Inspector General, and charges as follows:

COUNT ONE
(Major Fraud Against the United States)

1. From at least in or about April 2020 through at least in or about June 2020, in the Southern District of New York and elsewhere, NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, willfully and knowingly executed, and attempted to execute, a scheme and artifice with the intent to defraud the United States, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, in a grant, contract, subcontract, subsidy, loan, guarantee, insurance, and other form of Federal assistance, including through an economic stimulus, recovery and rescue plan provided by the Government, the value of which was \$1,000,000 and more, to wit, the defendants engaged in a scheme to obtain more than \$13 million

in Government-guaranteed loans by means of false and fraudulent pretenses, representations, and documents, for several related nail salons and other companies (the "Victoria Companies") through a loan program of the United States Small Business Administration (the "SBA") designed to provide relief to small businesses during the novel coronavirus/COVID-19 pandemic, namely the Paycheck Protection Program (the "PPP").

(Title 18, United States Code, Sections 1031 and 2.)

COUNT TWO
(Conspiracy to Commit Wire Fraud and Bank Fraud)

2. From at least in or about April 2020 through at least in or about June 2020, in the Southern District of New York and elsewhere, NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, and others known and unknown, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343, and bank fraud, in violation of Title 18, United States Code, Section 1344.

3. It was a part and an object of the conspiracy that NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, and others known and unknown, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, knowingly and willfully would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343, to wit, the defendants engaged in a scheme to obtain Government-guaranteed loans for the Victoria Companies through the PPP by means of false and fraudulent pretenses, representations, and documents, including through electronic communications transmitted into and out of the Southern District of New York.

4. It was further a part and an object of the conspiracy that NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, and others known and unknown, knowingly and willfully would and did execute and attempt to execute a scheme and artifice to defraud a financial institution, the deposits of which were then insured

by the Federal Deposit Insurance Corporation ("FDIC"), and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344, to wit, the defendants engaged in a scheme to obtain Government-guaranteed loans for the Victoria Companies from FDIC-insured banks through the PPP by means of false and fraudulent pretenses, representations, and documents.

(Title 18, United States Code, Section 1349.)

COUNT THREE
(Conspiracy to Make False Statements)

5. From at least in or about April 2020 through at least in or about June 2020, in the Southern District of New York and elsewhere, NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, and others known and unknown, willfully and knowingly, did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, violations of Title 18, United States Code, Sections 1014 and 1001.

6. It was a part and an object of the conspiracy that NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, and others known and unknown, would and did make a false statement and report for the purpose of influencing the actions of a financial institution, the accounts of which were insured by the FDIC, in connection with an application and loan, in violation of Title 18, United States Code, Section 1014, to wit, the defendants agreed to make false statements regarding, among other things, the number of employees of and wages paid by the Victoria Companies, for the purpose of obtaining Government-guaranteed loans for the Victoria Companies from FDIC-insured banks through the PPP.

7. It was further a part and an object of the conspiracy that NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, and others known and unknown, in a matter within the jurisdiction of the executive branch of the Government of the United States, would and did falsify, conceal and cover up by a trick, scheme and device a material fact, make a materially false, fictitious, and fraudulent statement and representation, and make and use a false writing and document knowing the same to contain a

materially false, fictitious, and fraudulent statement and entry, in violation of Title 18, United States Code, Section 1001, to wit, the defendants agreed to make false and misleading statements regarding, among other things, the number of employees of and wages paid by the Victoria Companies, for the purpose of obtaining Government-guaranteed loans for the Victoria Companies through the PPP administered by the SBA.

Overt Acts

8. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about April 27, 2020, VICTORIA DIEUY HO, a/k/a "Vicky Ho," the defendant, submitted a PPP loan application for Victoria's Day Spa & Nails 2000 Inc. (defined herein as "Victoria Company-1") to a financial institution (defined herein as "Bank-1") that contained false statements inflating the number of employees and total average payroll of Victoria Company-1.

b. On or about April 29, 2020, NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant, submitted fabricated tax forms, which contained false statements inflating the number of employees and payroll of Victoria Company-1, to a Bank-1 representative based in Manhattan, New York.

c. On or about May 4, 2020, Bank-1 received a PPP loan application for ND - Victoria's Nails and Spa Inc. (defined herein as "Victoria Company-3") signed by DAT TAT HO, the defendant. The application contained false statements inflating the number of employees and total average payroll of Victoria Company-3.

(Title 18, United States Code, Section 371.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

9. I am a Special Agent with the Office of the Inspector General of the SBA and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents, witnesses, and others, as well as my examination of report and records.

Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated. Where figures, calculations, and dates are set forth herein, they are approximate, unless stated otherwise.

Overview of the Conspiracy

10. NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, are members of a family of Vietnamese origin that owns a chain of over 15 nail salons called "Victoria Nails & Spa" and other companies, referred to herein as the Victoria Companies, in or around the New York metropolitan area, including the Bronx, Brooklyn, and Long Island.

11. The Victoria Companies consist of the following nail salon entities and other companies:

- a. Nails & Spa 2000 Inc.;
- b. NC - Victoria's Nails Bar Inc.;
- c. NC Nails & Spa 2000 Inc.;
- d. ND - Victoria's Nails and Spa Inc.;
- e. NM - Victoria's Nails & Spa Inc.;
- f. N T Nails 2000, Inc.;
- g. N T Nail Spa Inc.;
- h. NT - Victoria's Nails & Spa Inc.;
- i. Top Ten Nails Spa 9 Inc.;
- j. V - Victoria's Nails Bar Inc.;
- k. V - Victoria's Nails & Spa Inc.;
- l. Victoria's Day Spa & Nails 2000 Inc.;
- m. Victoria's Hair Salon Inc.;

- n. Victoria's Nails Bar Inc.;
- o. Victoria's Nails & Spa Inc.;
- p. VN - Victoria's Nail & Spa Inc.;
- q. N&D Contract Inc.;
- r. HD New York Property Inc.;
- s. HT New York Property Inc.;
- t. Phan's Property Inc.;
- u. VN Property Inc.; and
- v. William Property Realty Inc.

12. From at least in or about April 2020 through at least in or about June 2020, NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, engaged in a scheme to submit online applications to at least two financial institutions for a total of over \$13 million in government-guaranteed loans for the Victoria Companies through the SBA's PPP. As discussed in further detail below, in connection with these loan applications, the defendants falsely and grossly overstated the number of employees at the Victoria Companies and wages paid to those employees in order to obtain larger loans. In order to support the false representations in the loan applications about the number of employees at and the wages paid by the Victoria Companies, the defendants submitted fraudulent and doctored payroll and tax records. In addition, the defendants falsely listed the same employees in applications for different nail salons to support the loan amounts applied for, and some purported employees were listed as employees of as many as seven different nail salons during the same time period.

13. Based on the fraudulent PPP loan applications submitted by NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, a total of more than \$13 million in PPP loans were approved for the Victoria Companies and approximately \$7.8 million in loan proceeds were disbursed into bank accounts controlled by NGUYEN, DAT HO, and other family members. After the defendants learned that a hold was placed on bank accounts of the Victoria Companies that received PPP loans issued by one financial

institution due to suspicion of fraudulent activity, the defendants withdrew the applications for and/or repaid the PPP loans for the Victoria Companies issued by that financial institution.

Background on SBA Lending in Response to COVID-19

14. The SBA is a federal agency of the Executive Branch that administers assistance to American small businesses. This assistance includes guaranteeing loans that are issued by certain lenders to qualifying small businesses. Under the SBA loan guarantee programs, the actual loan is issued by a commercial lender, but the lender receives the full faith and credit backing of the United States Federal Government on a percentage of the loan. Therefore, if a borrower defaults on an SBA-guaranteed loan, the commercial lender may seek reimbursement from the SBA, up to the percentage of the guarantee. By reducing the risk to commercial lenders, the SBA loan guarantee programs enable lenders to provide loans to qualifying small businesses when financing is otherwise unavailable to them on reasonable terms through normal lending channels. When a borrower seeks an SBA-guaranteed loan, the borrower must meet both the commercial lender's eligibility requirements for the loan as well as the SBA's eligibility requirements.

15. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted on March 29, 2020 designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other business expenses through the PPP. On April 24, 2020, the Paycheck Protection Program and Health Care Enhancement Act was signed into law, authorizing over \$300 billion in additional PPP funding.

16. The PPP allows qualifying small businesses and other organizations to receive unsecured SBA-guaranteed loans with a maturity of two years and interest rate of one percent. PPP loan proceeds must be used by businesses on payroll costs, mortgage interest, rent, and/or utilities. The PPP allows the interest and principal to be forgiven if businesses spend the proceeds on these expenses under certain conditions. Pursuant to the CARES Act, the amount of PPP funds a business is eligible to receive is determined by the number of employees employed by

the business and their average payroll costs. Businesses applying for a PPP loan must provide documentation to confirm that they have in the past paid employees the compensation represented in the loan application. The PPP is overseen by the SBA, which has authority over all PPP loans, but individual PPP loans are issued by approved commercial lenders who receive and process PPP applications and supporting documentation, and then make loans using the lenders' own funds.

17. The CARES Act also expanded the separate Economic Injury Disaster Loan ("EIDL") Program, which provided small businesses with low-interest loans of up to \$2 million prior to in or about May 2020 and up to \$150,000 beginning in or about May 2020, which can provide vital economic support to help overcome the temporary loss of revenue they are experiencing due to COVID-19. To qualify for an EIDL under the CARES Act, the applicant must have suffered "substantial economic injury" from COVID-19, based on a company's actual economic injury determined by the SBA. EIDLs may be used for payroll and other costs as well as to cover increased costs due to supply chain interruption, to pay obligations that cannot be met due to revenue loss, and for other similar uses. Unlike the PPP, the SBA directly makes loans to applicants under the EIDL Program.

Email Correspondence Among the Defendants Prior to Submission of Fraudulent Loan Applications

18. Based on my review of email subscriber records, I have learned the following, in substance and in part:

a. An email account with the username "ncgocnguyen_ny09" (the "Nguyen Email Account") was subscribed to NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant, with a phone number ending in 1999 (the "1999 Number").

b. An email account with the username "vicky.ho3689" (the "Vicky Email Account") was subscribed to VICTORIA DIEUY HO, a/k/a "Vicky Ho," the defendant.

c. An email account with the username "hotukiet68" (the "Dat Email Account") was subscribed to "kiet ho tu" with a recovery email account with the username "hotatdat87," which contains the name of DAT TAT HO, the defendant.

19. Based on my review of email search warrant returns for the (i) Nguyen Email Account, which I believe to be controlled by NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant; (ii)

the Vicky Email Account, which I believe to be controlled by VICTORIA DIEUY HO, a/k/a "Vicky Ho," the defendant; and (iii) the Dat Email Account, which I believe to be controlled by DAT TAT HO, the defendant (collectively, the "Email Search Warrant Returns"),¹ I have learned the following, in substance and in part:

a. On or about April 1 and 2, 2020, the Nguyen Email Account sent an email to the Vicky Email Account forwarding information from third-party sources about the PPP and other SBA resources during the COVID-19 pandemic.

b. On or about April 2 and 4, 2020, the Vicky Email Account conducted multiple Internet searches relating to the PPP and various financial institutions.

c. On or about April 3, 2020, the Nguyen Email Account sent an email to the Dat Email Account forwarding information from a third-party source about COVID-19 loan relief options. The Vicky Email Account was blind copied on the email.

d. On or about April 14, 2020, the Nguyen Email Account sent an email to the Vicky Email Account forwarding information from the SBA about the EIDL Program.

e. On or about April 18, 2020, the Nguyen Email Account forwarded Excel templates for employee wage and withholding for several of the Victoria Companies to the Vicky Email Account and the Dat Email Account. The templates listed the names and partial social security numbers of purported employees of each of the Victoria Companies. The number of employees listed in the Excel templates was significantly lower than the number of employees represented in the PPP loan applications for the Victoria Companies discussed herein.

f. On or about April 18, 2020, the Vicky Email Account conducted multiple Internet searches relating to IRS

¹I believe that the Nguyen Email Account, the Vicky Email Account, and the Dat Email Account are respectively controlled by NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, based on the subscriber information for each account described above in paragraph 18 as well as the content of the email accounts.

Form 941 (Employer's Quarterly Federal Tax Return)² and New York State and federal employee withholding rates. As discussed below, false representations regarding the number of employees at and wages paid by the Victoria Companies, which were used to support the PPP loan amounts requested, were submitted to financial institutions on IRS Forms 941 that were never in-fact filed with the IRS.

The PPP Application for Victoria's Day Spa & Nails 2000 Inc.

20. Based on my review of records in connection with an EIDL application for Victoria's Day Spa & Nails 2000 Inc. ("Victoria Company-1") submitted to the SBA, a PPP loan application for Victoria Company-1 submitted to an FDIC-insured financial institution ("Bank-1"), and the Email Search Warrant Returns, I have learned the following, in substance and in part:

a. On or about April 2, 2020, the SBA received an online application for an EIDL for Victoria Company-1, which was a nail salon located at the Broadway Commons shopping mall in Hicksville, New York. The application represented that Victoria Company-1 had 12 employees and the primary contact was the spouse (the "Nguyen Spouse") of NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant, with the Nguyen Email Account.

b. On or about April 27, 2020, Bank-1 received an online application for a PPP loan in the amount of \$828,110 for Victoria Company-1. The loan application represented, among other things, the following, in substance and in part:

i. Victoria Company-1 had 55 employees and a total average monthly payroll of \$331,244.

ii. The loan applicant was the Nguyen Spouse, who was the sole owner of Victoria Company-1.

iii. The email address for the Nguyen Spouse provided in the application was the Nguyen Email Account.

² IRS Form 941 is used to report wages a business has paid as well as employment taxes withheld on a quarterly basis. Form 941 is generally due by the last day of the month following the end of the quarter.

iv. The phone number for Victoria Company-1 and the Nguyen Spouse provided in the application was the 1999 Number.

v. The information provided in the loan application and all supporting documents and forms was "true and accurate in all material respects."

vi. In order to support the representations regarding the number of employees and average monthly payroll for Victoria Company-1 in the loan application, Bank-1 was provided with an Excel spreadsheet listing 55 employees of Victoria Company-1 and a total of \$3,974,928 in wages paid to those employees in 2019 and of \$1,023,544 paid to those employees in the first quarter of 2020. The metadata of the spreadsheet indicates that it was created on or about April 18, 2020 and listed "Vicky Ho" as the author.

c. On or about April 27, 2020, approximately one minute after the PPP loan application for Victoria Company-1 was submitted to Bank-1, the Vicky Email Account sent the Nguyen Email Account a printout of a copy of the submitted application and the confirmation page for the submission from Bank-1's website.

d. On or about April 28, 2020, the Nguyen Email Account forwarded correspondence from Bank-1 requesting documents supporting the requested PPP loan amount for Victoria Company-1 to the Vicky Email Account. Shortly thereafter, the Vicky Email sent an email signed by "Vicky" to a Bank-1 representative based in Manhattan, New York (the "Bank-1 Representative"), copying the Nguyen Email Account, which stated the following: "In reagrds [sic] to the [PPP] application, do we need to support all of the forms you mentioned (2019 940 form, 2020 941 form and bank statements), or we can only use one? Currently, we only have the company's payroll statements (which was uploaded with the application) and the bank statements evidencing the payments to employees each month." The Vicky Email Account also informed the Bank-1 Representative, in response to an inquiry from Bank-1, that the calculation for the average monthly payroll "is included in the first tab of the file uploaded," which file is described in paragraph 20(b)(vi) above.

e. Also on or about April 28, 2020, the Nguyen Email Account sent an email to the Vicky Email Account forwarding two

tax documents prepared by a tax preparer (the "Tax Preparer") for Victoria Company-1:

i. An IRS Form 940 (Employer's Annual Federal Unemployment ("FUTA") Tax Return)³ for Victoria Company-1 for 2019, which was unsigned and reported total payments of \$132,275 to employees in 2019.

ii. An IRS Form 941 for Victoria Company-1 for the first quarter of 2020, which was unsigned and reported total payments of \$50,050 in the first quarter of 2020.

f. On or about April 29, 2020, in response to the request from Bank-1 for documentation supporting the PPP loan amount, the Nguyen Email Account sent the following documents to the Bank-1 Representative, copying the Vicky Email Account:

i. A purported IRS Form 940 for Victoria Company-1 for 2019, which appears to be signed by NGUYEN and reported total payments of \$3,974,928 to employees in 2019.

ii. A purported IRS Form 941 for Victoria Company-1 for the first quarter of 2020, which appears to be signed by NGUYEN and reported total payments of \$1,023,554 to employees in the first quarter of 2020.

g. On or about May 2, 2020, Bank-1 approved a \$828,110 PPP loan to Victoria Company-1. The Nguyen Spouse purportedly signed the promissory note for the loan.

21. Based on my review of bank records relating to the Victoria Company-1, I have learned, in substance and in part, that the \$828,100 PPP loan to Victoria Company-1 was disbursed to an account in the name of Victoria Company-1 controlled by NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant, and the Nguyen Spouse.

22. Based on my review of records maintained by the New York State Department of Labor ("NYSDOL"), which requires wage reporting for employees in New York State, I have learned, in substance and in part, that contrary to the representations made

³ IRS Form 940 is used to report an employer's annual FUTA tax. Together with state unemployment tax systems, the FUTA tax provides funds for paying unemployment compensation to workers who have lost their jobs.

to Bank-1 that Victoria Company-1 had 55 employees and a total payroll of \$3,974,928 in 2019 and \$1,023,544 in the first quarter of 2020, Victoria Company-1 reported a total payroll to NYSDOL of only (i) \$132,275 for no more than 10 employees in 2019 and (ii) \$50,050 for 14 employees in the first quarter of 2020.

23. Based on my review of tax records for Victoria Company-1 obtained from the IRS, I have learned, in substance and in part, that Victoria Company-1 reported \$132,275 in wages paid to employees in 2019, which is consistent with the amount reported to NYSDOL and on the IRS Form 940 prepared by the Tax Preparer, which is referenced above in paragraph 20(e)(ii).

The PPP Application for NC - Victoria's Nails Bar Inc.

24. Based on my review of records in connection with an EIDL application for NC - Victoria's Nails Bar Inc. ("Victoria Company-2") submitted to the SBA, a PPP loan application for Victoria Company-2 submitted to Bank-1, and the Email Search Warrant Returns, I have learned the following, in substance and in part:

a. On or about April 2, 2020, the SBA received an online application for an EIDL for Victoria Company-2, which was a nail salon located at the Kings Plaza Shopping Center in Brooklyn, New York. The application represented that Victoria Company-2 had nine employees. The primary contact listed in the application (the "Nguyen Relative-1") is related to NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants.

b. On or about April 22, 2020, the Nguyen Email Account sent an email to the Vicky Email Account forwarding an IRS Form 941 for Victoria Company-2 prepared by the Tax Preparer, which was unsigned and reported a total payment of \$14,300 in the fourth quarter of 2019.

c. On or about April 27, 2020, Bank-1 received an online application for a PPP loan in the amount of \$483,367 for Victoria Company-2. The loan application represented, among other things, the following, in substance and in part:

i. Victoria Company-2 had 34 employees and a total average monthly payroll of \$193,347.

ii. The loan applicant was Nguyen Relative-1, who was the sole owner of Victoria Company-2.

iii. The email address for the Nguyen Relative-1 provided in the application was the Nguyen Email Account.

iv. The phone number for Victoria Company-2 and the Nguyen Relative-1 provided in the application was the 1999 Number.

v. The information provided in the loan application and all supporting documents and forms was "true and accurate in all material respects."

vi. In order to support the representations regarding the number of employees and average monthly payroll for Victoria Company-2 in the loan application, Bank-1 was provided with an Excel spreadsheet listing 34 employees of Victoria Company-2 and a total of \$2,320,170 in wages paid to those employees in 2019 and of \$598,409 paid to those employees in the first quarter of 2020. The metadata of the spreadsheet indicates that it was created on or about April 25, 2020 and listed "Vicky Ho" as the author.

d. On or about April 27, 2020, approximately seven minutes after the PPP loan application for Victoria Company-2 was submitted to Bank-1, the Vicky Email Account sent the Nguyen Email Account a printout of a copy of the submitted application and the confirmation page for the submission from Bank-1's website.

e. On or about April 28, 2020, the Nguyen Email Account forwarded correspondence from Bank-1 requesting documents supporting the requested PPP loan amount for Victoria Company-2 to the Vicky Email Account. Shortly thereafter, the Nguyen Email Account sent an email to the Vicky Email Account forwarding two tax documents prepared by the Tax Preparer for Victoria Company-2:

i. An IRS Form 940 for Victoria Company-2 for 2019, which was unsigned and reported total payments of \$14,300 to employees in 2019.

ii. An IRS Form 941 for Victoria Company-2 for the first quarter of 2020, which was unsigned and reported total payments of \$17,875 in the first quarter of 2020.

f. On or about April 29, 2020, in response to the request from Bank-1 for documentation supporting the PPP loan amount, the Nguyen Email Account sent the following documents to Bank-1, which the Nguyen Email Account also forwarded to the Vicky Email Account:

i. A purported IRS Form 940 for Victoria Company-2 for 2019, which appears to be signed by NGUYEN and reported total payments of \$2,320,170 to employees in 2019.

ii. A purported IRS Form 941 for Victoria Company-2 for the first quarter of 2020, which appears to be signed by NGUYEN and reported total payments of \$598,409 to employees in the first quarter of 2020.

g. On or about May 2, 2020, Bank-1 approved a \$483,367 PPP loan to Victoria Company-2. The Nguyen Relative-1 purportedly signed the promissory note for the loan.

25. Based on my review of bank records relating to the Victoria Company-2, I have learned, in substance and in part, that the \$483,367 PPP loan to Victoria Company-2 was disbursed to an account in the name of Victoria Company-2 controlled by NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant, and the Nguyen Relative-1.

26. Based on my review of records maintained by the NYSDOL, I have learned, in substance and in part, that contrary to the representations made to Bank-1 that Victoria Company-2 had 34 employees and a total payroll of \$2,320,170 in 2019 and \$598,4094 in the first quarter of 2020, Victoria Company-2 reported a total payroll to NYSDOL of only (i) \$14,300 for four employees in 2019 and (ii) \$17,875 for five employees in the first quarter of 2020.

27. Based on my review of tax records for Victoria Company-2 obtained from the IRS, I have learned, in substance and in part, that Victoria Company-2 reported \$14,300 in wages paid to employees in 2019, which is consistent with the amount reported to NYSDOL and on the IRS Form 940 prepared by the Tax Preparer, which is referenced above in paragraph 24(e) (i).

The PPP Application for ND - Victoria's Nails and Spa Inc.

28. Based on my review of records in connection with an EIDL application for ND - Victoria's Nails and Spa Inc. ("Victoria Company-3") submitted to the SBA, a PPP loan

application for Victoria Company-3 submitted to Bank-1, and the Email Search Warrant Returns, I have learned the following, in substance and in part:

a. On or about April 4, 2020, the SBA received an online application for an EIDL for Victoria Company-3, which is a nail salon located on East 175th Street in the Bronx, New York. The application represented that Victoria Company-3 had 12 employees and the primary contact was DAT TAT HO, the defendant, with the Dat Email Account.

b. On or about April 18, 2020, the Vicky Email Account forwarded to the Nguyen Email Account an Excel spreadsheet listing the names, partial social security numbers, and wages paid to 16 purported employees of Victoria Company-3.

c. On or about April 29, 2020, the Vicky Email Account forwarded to the Dat Email Account an IRS Form 941 for Victoria Company-3 for the first quarter of 2020, which was unsigned and reported total payments of \$242,411 to employees in the first quarter of 2020. In response, the Dat Email Account stated, "ok I got it."

d. On or about May 4, 2020, Bank-1 received an online application for a PPP loan in the amount of \$874,395 for Victoria Company-3. The loan application represented, among other things, the following, in substance and in part:

i. Victoria Company-3 had 45 employees and a total average monthly payroll of \$349,758.

ii. The loan applicant was DAT HO, who was the sole owner of Victoria Company-3.

iii. The email address for DAT HO provided in the application was the Dat Email Account.

iv. The information provided in the loan application and all supporting documents and forms was "true and accurate in all material respects."

v. In order to support the representations regarding the number of employees and average monthly payroll for Victoria Company-3 in the loan application, Bank-1 was provided with the following documents:

1. An Excel spreadsheet listing 45 employees of Victoria Company-3 and a total of \$3,777,116 in wages paid to those employees in 2019 and of \$1,049,276 paid to those employees in the first quarter of 2020. The metadata of the spreadsheet indicates that it was created on or about April 18, 2020 and listed "Vicky Ho" as the author.

2. A purported IRS Form 940 for Victoria Company-3 for 2019, which appears to be signed by DAT HO and reported total payments of \$3,777,116 to employees in 2019.

3. A purported IRS Form 941 for Victoria Company-3 for the first quarter of 2020, which appears to be signed by DAT HO and reported total payments of \$1,049,276 to 45 employees in the first quarter of 2020.

e. On or about May 9, 2020, Bank-1 approved a \$874,395 PPP loan to Victoria Company-3. DAT HO purportedly signed the promissory note for the loan.

29. Based on my review of bank records relating to the Victoria Company-3, I have learned, in substance and in part, that the \$874,395 PPP loan to Victoria Company-3 was disbursed to an account in the name of Victoria Company-3 controlled by NGOC MANH NGUYEN, a/k/a "Peter Nguyen" and DAT TAT HO, the defendants.

30. Based on my review of records maintained by NYSDOL, I have learned, in substance and in part, that contrary to the representations made to Bank-1 that Victoria Company-3 had 45 employees and a total payroll of \$3,777,116 in 2019 and \$1,049,276 in the first quarter of 2020, Victoria Company-3 reported a total payroll to NYSDOL of only (i) \$82,225 for no more than six employees in 2019 and (ii) \$28,600 for eight employees in the first quarter of 2020.

31. Based on my review of tax records for Victoria Company-3 obtained from the IRS, I have learned, in substance and in part, that Victoria Company-3 reported \$82,225 in wages paid to employees in 2019, which is consistent with the amount reported to NYSDOL.

The PPP Applications for N T Nail Spa Inc.

32. Based on my review of records in connection with an EIDL application for N T Nail Spa Inc. ("Victoria Company-4") submitted to the SBA, PPP loan applications for Victoria

Company-4 submitted to Bank-1 and another FDIC-insured financial institution ("Bank-2"), and the Email Search Warrant Returns, I have learned the following, in substance and in part:

a. On or about April 2, 2020, the SBA received an online application for an EIDL for Victoria Company-4, which was a nail salon located at the Green Acres shopping mall in Valley Stream, New York. The application represented that Victoria Company-4 had 10 employees and the primary contact was NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant.

b. On or about April 18, 2020, the Vicky Email Account forwarded to the Nguyen Email Account an Excel spreadsheet listing the names, partial social security numbers, and wages paid to 21 purported employees of Victoria Company-4.

c. On or about April 18, 2020, Bank-2 received an online application for a PPP loan for Victoria Company-4 in the amount of \$259,300 submitted by NGUYEN. The application represented that Victoria Company-4 had 21 employees and a total payroll of \$1,150,800 in 2019.

d. On or about May 11, 2020, the Nguyen Email Account sent an email to a representative of Bank-2 requesting to withdraw the PPP loan for Victoria Company-4.

e. On or about May 12, 2020, Bank-1 received an online application for a PPP loan in the amount of \$1,384,680 for Victoria Company-4. The loan application represented, among other things, the following, in substance and in part:

i. Victoria Company-4 had 80 employees and a total average monthly payroll of \$553,872.

ii. The loan applicant was NGUYEN, who was the sole owner of Victoria Company-4.

iii. The email address for NGUYEN provided in the application was the Nguyen Email Account.

iv. The phone number for Victoria Company-4 and NGUYEN provided in the application was the 1999 Number.

v. The information provided in the loan application and all supporting documents and forms was "true and accurate in all material respects."

vi. In order to support the representations regarding the number of employees and average monthly payroll for Victoria Company-4 in the loan application, Bank-1 was provided with the following documents:

1. An Excel spreadsheet listing 76 employees of Victoria Company-4 and a total of \$6,646,469 in wages paid to those employees in 2019 and of \$2,154,494 paid to those employees from January 1, 2020 through April 15, 2020. The metadata of the spreadsheet indicates that it was created on or about April 18, 2020 and listed "Vicky Ho" as the author.

2. A purported IRS Form 940 for Victoria Company-4 for 2019, which appears to be signed by NGUYEN and reported total payments of \$6,646,469 to employees in 2019.

3. A purported IRS Form 941 for Victoria Company-4 for the first quarter of 2020, which appears to be signed by NGUYEN and reported total payments of \$1,846,709 to 76 employees in the first quarter of 2020.

f. On or about May 12, 2020, Bank-1 approved a \$1,384,680 PPP loan to Victoria Company-4. NGUYEN purportedly signed the promissory note for the loan.

33. Based on my review of bank records relating to the Victoria Company-4, I have learned, in substance and in part, that the \$1,384,680 PPP loan to Victoria Company-4 was disbursed to an account in the name of Victoria Company-4 solely controlled by NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant.

34. Based on my review of records maintained by NYSDOL, I have learned, in substance and in part, that contrary to the representations made to Bank-1 that Victoria Company-4 had 76 employees and a total payroll of \$6,646,469 in 2019 and \$1,846,709 in the first quarter of 2020, Victoria Company-4 reported a total payroll to NYSDOL of only (i) \$114,400 for no more than eight employees in 2019 and (ii) \$39,325 for eleven employees in the first quarter of 2020.

35. Based on my review of tax records for Victoria Company-4 obtained from the IRS, I have learned, in substance and in part, that Victoria Company-4 reported \$114,400 in wages paid to employees in 2019, which is consistent with the amount reported to NYSDOL.

The PPP Applications for William Property Realty Inc.

36. Based on my review of records in connection with an EIDL application for William Property Realty Inc. ("Victoria Company-5") submitted to the SBA, PPP loan applications for Victoria Company-5 submitted to Bank-1 and Bank-2, and the Email Search Warrant Returns, I have learned the following, in substance and in part:

a. On or about April 4, 2020, the SBA received an online application for an EIDL for Victoria Company-5, which was a purported real estate company located in a residential neighborhood of Hicksville, New York. The application represented that Victoria Company-5 had one employee and the primary contact was NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant.

b. On or about April 18, 2020, the Vicky Email Account forwarded to the Nguyen Email Account an Excel spreadsheet listing the names, partial social security numbers, and wages paid to five purported employees of Victoria Company-5.

c. On or about April 18, 2020, Bank-2 received an online application for a PPP loan for Victoria Company-5 in the amount of \$79,562 submitted by NGUYEN. The application represented that Victoria Company-5 had five employees and a total payroll of \$402,000 in 2019.

d. On or about May 8, 2020, the Nguyen Email Account sent an email to a representative of Bank-2 requesting to withdraw the PPP loan for Victoria Company-5 as well as other PPP loan applications submitted to Bank-2 for other Victoria Companies.

e. On or about May 9, 2020, Bank-1 received an online application for a PPP loan in the amount of \$991,897 for Victoria Company-5. The loan application represented, among other things, the following, in substance and in part:

i. Victoria Company-5 had 58 employees and a total average monthly payroll of \$991,897.

ii. The loan applicant was NGUYEN, who was the sole owner of Victoria Company-5.

iii. The email address for NGUYEN provided in the application was the Nguyen Email Account.

iv. The phone number for Victoria Company-5 and Nguyen provided in the application was the 1999 Number.

v. The information provided in the loan application and all supporting documents and forms was "true and accurate in all material respects."

vi. In order to support the representations regarding the number of employees and average monthly payroll for Victoria Company-5 in the loan application, Bank-1 was provided with the following documents:

1. An Excel spreadsheet listing 58 employees of Victoria Company-5 and a total of \$4,761,114 in wages paid to those employees in 2019 and of \$1,764,486 paid to those employees from January 1, 2020 through April 1, 2020. The metadata of the spreadsheet indicates that it was created on or about April 18, 2020 and listed "Vicky Ho" as the author.

2. A purported IRS Form 940 for Victoria Company-5 for 2019, which appears to be signed by NGUYEN and reported total payments of \$4,761,114 to employees in 2019.

3. A purported IRS Form 941 for Victoria Company-5 for the first quarter of 2020, which appears to be signed by NGUYEN and reported total payments of \$1,323,360 to 58 employees in the first quarter of 2020.

f. On or about May 18, 2020, Bank-1 approved a \$991,897 PPP loan to Victoria Company-5. NGUYEN purportedly signed the promissory note for the loan.

37. Based on my review of bank records relating to the Victoria Company-5, I have learned, in substance and in part, that the \$991,897 PPP loan to Victoria Company-5 was disbursed to an account in the name of Victoria Company-5 controlled by NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant.

38. Based on my review of records maintained by the NYSDOL, I have learned, in substance and in part, that the NYSDOL did not have any wage reporting records related to Victoria Company-5.

39. Based on my review of correspondence with the IRS, I have learned, in substance and in part, that the IRS did not have any tax records for Victoria Company-5 for tax year 2019.

The PPP Application for Top Ten Nails Spa 9 Inc.

40. Based on my review of records in connection with a PPP loan application for Top Ten Nails Spa 9 Inc. ("Victoria Company-6") submitted to Bank-1 and the Email Search Warrant Returns, I have learned the following, in substance and in part:

a. On or about May 2, 2020, the Vicky Email Account forwarded the following documents to an email account believed to belong to Nguyen Relative-1:

i. A purported IRS Form 940 for Victoria Company-6 for 2019, which was unsigned and reported total payments of \$2,733,330 to employees in 2019.

ii. A purported IRS Form 941 for Victoria Company-6 for the first quarter of 2020, which was unsigned and reported total payments of \$697,073 to 40 employees in the first quarter of 2020.

b. On or about May 5, 2020, Bank-1 received an online application for a PPP loan in the amount of \$569,442 for Victoria Company-6, which was a nail salon located at the Smith Haven shopping mall in Lake Grove, New York. The loan application represented, among other things, the following, in substance and in part:

i. Victoria Company-6 had 40 employees and a total average monthly payroll of 227,777.

ii. The loan applicant was another relative (the "Nguyen Relative-2") of NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants. Nguyen Relative-2 was the sole owner of Victoria Company-2.

iii. The information provided in the loan application and all supporting documents and forms was "true and accurate in all material respects."

iv. In order to support the representations regarding the number of employees and average monthly payroll

for Victoria Company-6 in the loan application, Bank-1 was provided with the following documents:

1. An Excel spreadsheet listing 40 employees of Victoria Company-6 and a total of \$2,733,330 in wages paid to those employees in 2019 and of \$697,073 paid to those employees in the first quarter of 2020. The metadata of the spreadsheet indicates that it was created on or about April 25, 2020 and listed "Vicky Ho" as the author. The figures in the spreadsheet are consistent with the tax forms emailed by the Vicky Email Amount described above in paragraph 40(a).

2. A purported IRS Form 940 for Victoria Company-6 for 2019, which appears to be signed by the Nguyen Relative-2 on or about January 20, 2020 and reported total payments of \$2,733,330 to employees in 2019.

3. A purported IRS Form 941 for Victoria Company-6 for the first quarter of 2020, which appears to be signed by the Nguyen Relative-2 on or about April 28, 2020 and reported total payments of \$697,073 to 40 employees in the first quarter of 2020.

c. On or about May 12, 2020, VICTORIA HO used the Vicky Email Account to write the following to a representative of Bank-1: "I submitted an application for our family business . . . for Top Ten Nails [Victoria Company-6]. I accidentally put incorrect email address so I haven't heard back anything from [Bank-1]. Is there any way I can go back and update the email address? Or would you be able to look into who at [Bank-1] has the application and help me with this? This loan is very very important to our business."

d. On or about May 15, 2020, in response to a representative of Bank-1 regarding why Victoria Company-2, Victoria Company-6, and another Victoria Company had different signatories and how they were related, VICTORIA HO used the Vicky Email Account to write the following to a representative of Bank-1: "We are all one family business, just have different companies."

e. On or about May 21, 2020, Bank-1 approved a \$569,442 PPP loan to Victoria Company-6.

41. Based on my review of records maintained by the NYS DOL, I have learned, in substance and in part, that the

NYS DOL did not have any wage reporting records related to Victoria Company-6.

Withdrawal of PPP Loan Applications from Bank-1

42. Based on my interview of representatives of Bank-1 and my review of email correspondence with Bank-1 and the Email Search Warrant Returns, I have learned the following, in substance and in part:

a. On or about May 23, 2020, Bank-1 placed a hold on accounts of the Victoria Companies at Bank-1 that received PPP loan funds due to suspicion of fraudulent activity.

b. On or about May 24 and 25, 2020, NGOC MANH NGUYEN, a/k/a "Peter Nguyen," the defendant, informed a Bank-1 representative based in White Plains, New York that he was withdrawing the applications for and/or repaying the PPP loans for Victoria Company-1 through Victoria Company-6 discussed above, as well as several other of the Victoria Companies, including HD New York Property Inc. ("Victoria Company-7"). After receiving a confirmation email from Bank-1 on or about May 25, 2020, NGUYEN forwarded the confirmation email to the Vicky Email Account and the Dat Email Account.

c. On or about May 24, 2020, DAT TAT HO, the defendant, used the Dat Email Account to inform Bank-1 that he was withdrawing the PPP loans for Victoria Company-3 and Victoria Company-7.

d. On or about May 24 and 25, 2020, the Dat Email Account conducted Internet searches for "PPP Fraud," "PPP Loan Fraud Arrests," and "How to get rid of a PPP Loan." In addition, the Dat Email account visited a website titled, in substance and in part, "Could you face PPP Fraud Charges," as well as websites for articles regarding prosecution of PPP loan fraud.

e. On or about May 24, 2020, the Vicky Email Account conducted multiple Internet searches relating to how to withdraw a PPP loan application, including specifically with respect to Bank-1.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of NGOC MANH NGUYEN, a/k/a "Peter Nguyen," VICTORIA DIEUY HO, a/k/a "Vicky Ho," and DAT TAT HO, the defendants, and that they be arrested and imprisoned or bailed, as the case may be.

/s/ Simon Dinitis

SIMON Y. DINITS
Special Agent
SBA, Office of the Inspector General

Sworn to me through the transmission of this Affidavit by reliable electronic means, pursuant to Federal Rules of Criminal Procedure 41(d)(3) and 4.1, this 2nd day of December, 2020

Katharine H Parker

THE HONORABLE KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK