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SEALED

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE DISTRICT OF ARIZONA  
13

14 United States of America,  
15 Plaintiff,

16 v.

17  
18 1. Willie Mitchell,  
a.k.a. Blu Mitchell  
19 (Counts 1-4)  
20  
21 2. Navarro Whitaker,  
(Counts 1-4)  
22  
23 3. Sean Swaringer,  
(Counts 1-4)  
24 Defendants.

No. **CR-21-00980-PHX-SPL**  
**INDICTMENT**  
VIO: 18 U.S.C. § 371  
(Conspiracy)  
Count 1  
18 U.S.C. § 1344  
(Bank Fraud)  
Count 2  
18 U.S.C. § 1957(a)  
(Transactional Money Laundering)  
Counts 3-4  
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)

25  
26  
27 THE GRAND JURY CHARGES:  
28

1 **INTRODUCTION**

2 1. At all times relevant to this Indictment, defendants WILLIE MITCHELL,  
3 a.k.a. BLU MITCHELL, and NAVARRO WHITAKER, purporting to do business as  
4 Sigma Cuts School of Beauty and defendant SEAN SWARINGER, conspired and  
5 schemed, with each other and others, to prepare and submit a false and fraudulent Paycheck  
6 Protection Program (“PPP”) loan application to Western State Bank, a participating lender  
7 helping to provide government-backed, emergency financial assistance to businesses  
8 suffering from the economic impact of the Covid pandemic. Defendants submitted a loan  
9 application replete with false and fraudulent information, including fake employment data  
10 and fictitious payroll. As a result, defendants obtained \$1,614,800.00 in government-  
11 guaranteed loans, which were intended for real businesses actually harmed by the COVID-  
12 19 pandemic. After receiving the loan proceeds, defendants used the funds for personal  
13 expenses, disguised business expenses to enrich themselves and confederates, and  
14 transferred funds to various bank accounts they personally controlled.

15 **SMALL BUSINESS ADMINISTRATION**

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

23 **PAYCHECK PROTECTION PROGRAM BACKGROUND**

24 3. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a  
25 federal law enacted in March 2020 and was designed to provide emergency financial  
26 assistance to the millions of Americans suffering from the economic effects caused by the  
27 COVID-19 pandemic. One source of relief the CARES Act provided, through a program  
28 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 4. The first phase of the PPP loan process was implemented between March  
5 2020 and March 31, 2021. PPP loans had an interest rate of one percent. Loans issued  
6 prior to June 5, 2020, had a maturity of two years, while loans issued after June 5, 2020,  
7 had a maturity of five years. Each loan draw had a specific application process and  
8 requirements. SBA would forgive PPP loans if all employee retention criteria were met,  
9 and the funds were used for eligible expenses within a designated period as set forth in the  
10 PPP.

#### 11 **PPP LOAN APPLICATION PROCESS**

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

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

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

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

28 a. The Application business was in operation on February 15, 2020 and

1 has employees for whom it paid salaries and payroll taxes or paid  
2 independent contractors, as reported on Internal Revenue Services  
3 (“IRS”) Form(s) 1099-MISC;

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

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

10 **PPP LOAN FORGIVENESS APPLICATION PROCESS**

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

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

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

28 12. If borrowers did not apply for forgiveness within ten months after the last

1 day of the covered period, then PPP loan payments were no longer deferred, and borrowers  
2 were required to repay their loans to their PPP lender.  
3

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

- 8 a. The dollar amount for which forgiveness is requested "was used to  
9 pay costs that are eligible for forgiveness (payroll costs to retain  
10 employees; business mortgage interest payments; business rent or  
11 lease payments; or business utility payments)";  
12 b. "The borrower understands that if the funds were knowingly used for  
13 unauthorized purposes, the federal government may pursue recovery  
14 of loan amounts and/or civil or criminal fraud charge"; and  
15 c. "The information provided in this application and the information  
16 provided in all supporting documents and forms is true and correct in  
17 all material respects."

18 **DEFENDANTS AND RELATED ENTITY**

19 14. Sigma Cuts School of Beauty was a business incorporated on or about  
20 August 14, 2017 in the State of Arizona. Sigma Cuts School of Beauty was incorporated  
21 by defendant MITCHELL as a beauty school, training, and educational institution.

22 15. Defendant WILLIE MITCHELL, a.k.a. BLU MITCHELL ("MITCHELL"),  
23 was a resident within the District of Arizona. MITCHELL was the President of Sigma  
24 Cuts School of Beauty. MITCHELL controlled a bank account with Mountain America  
25 Credit Union ("MACU") account #8412.

26 16. Defendant NAVARRO WHITAKER ("WHITAKER") was a resident within  
27 the District of Arizona. WHITAKER was the CEO and Director of Sigma Cuts School of  
28 Beauty.

1           17. Defendant SEAN SWARINGER (“SWARINGER”) was a resident within  
2 the District of Arizona. SWARINGER controlled U.S. Bank account #2039.

3  
4                   **FINANCIAL INSTITUTION AND PARTICIPATING PPP LENDER**

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

10                   **SIGMA CUTS SCHOOL OF BEAUTY’S PPP LOAN APPLICATION**

11           19. On or about March 16, 2021, defendants submitted a PPP application with  
12 Western State Bank on behalf of Sigma Cuts School of Beauty. WHITAKER was listed  
13 as having 85% ownership in Sigma Cuts School of Beauty. In the application, defendants  
14 falsely represented that Sigma Cuts School of Beauty had an average monthly payroll of  
15 \$645,958, had 89 employees, and needed the PPP loan to support its ongoing operation.  
16 But the application was false. Sigma Cuts School of Beauty had no employees and no  
17 payroll.

18           20. As part of the application, defendant signed as Sigma Cuts School of  
19 Beauty’s authorized representative and signed next to each of the following certifications:

- 20                   a. Sigma Cuts School of Beauty “was in operation on February 15, 2020  
21 and had employees for whom it paid salaries and payroll taxes or paid  
22 independent contractors, as reported on Form(s) 1099-MISC”;
- 23                   b. “The funds will be used to retain workers and maintain payroll or  
24 make mortgage interest payments, lease payments, and utility  
25 payments... [and] if the funds are knowingly used for unauthorized  
26 purposes, the federal government may hold [applicant] liable, such as  
27 for charges of fraud”; and
- 28                   c. “[T]he information provided in the application and in the information

1 provided in all supporting documents and forms is true and accurate  
2 in all material respects.”  
3

4 21. Each of these certifications was false. Defendants knew Sigma Cuts School  
5 of Beauty had zero employees and that it paid no salaries or payroll taxes to any employees  
6 or independent contractors.

7 22. Defendants also falsely and fraudulently represented that the funds sought in  
8 the Sigma Cuts School of Beauty application would be “used to retain workers and  
9 maintain payroll or make mortgage interest payments, lease payments, and utility  
10 payments” when, in fact, they intended to divert the funds to their personal use and benefit.

11 23. Defendant WHITAKER signed a promissory note with Western State Bank  
12 for the PPP loan in the amount of \$1,614,800 that was to be disbursed via cashier’s check.

13 24. The Sigma Cuts School of Beauty application included additional false and  
14 fraudulent information about its purported payroll, as well as fraudulent documentation  
15 purporting to establish that Sigma Cuts School of Beauty made substantial monthly payroll  
16 disbursements. For example:

17 a. The Sigma Cuts School of Beauty application included a false IRS  
18 Form 940 purporting to show that, in 2020, Sigma Cuts School of  
19 Beauty paid \$7,751,500.00 in payments to employees. In fact, no  
20 such Form 940 was ever filed with the IRS on behalf of Sigma Cuts  
21 School of Beauty.

22 b. The Sigma Cuts School of Beauty application included a fictitious  
23 payroll ledger purporting to show the monthly wages of 88 Sigma  
24 Cuts School of Beauty employees with an average monthly payroll of  
25 approximately \$645,958. In fact, at the time the Sigma Cuts School  
26 of Beauty application was filed on March 16, 2021, the Arizona  
27 Department of Economic Security did not have any tax or wage  
28 reports for 2019, 2020, or in the first quarter of 2021.

1           25. Despite these representations, it was not until the second quarter of 2021 that  
 2 Sigma Cuts School of Beauty submitted, for the first time, three employee wage  
 3 submissions for a total of approximately \$47,884.58 in wages paid. Defendant  
 4 MITCHELL was listed as an employee along with two other individuals. None of these  
 5 individuals actually worked for Sigma Cuts School of Beauty.

6           26. On or about March 30, 2021, Western State Bank approved Sigma Cuts  
 7 School of Beauty's PPP application and funded the loan by issuing a cashier's check for  
 8 \$1,614,800.

9           27. On or about March 30, 2021, defendants opened an account at Comerica  
 10 Bank (account #3429). Defendant MITCHELL was the authorized signatory on the  
 11 account.

12           28. On or about March 30, 2021, a cashier's check for \$1,614,800 for the Sigma  
 13 Cuts School of Beauty PPP loan was deposited in Comerica account #3429. At the time  
 14 of the deposit, the account balance was approximately \$0.00.

15           29. Prior to the PPP loan deposit, Comerica account #3429 showed no evidence  
 16 of processing payroll. Only *after* the PPP loan deposit, did transactions through a payroll  
 17 provider finally begin. Indeed, defendants issued payroll for the *first time* on April 16,  
 18 2021, in anticipation of presenting this information to Western State Bank as part of a PPP  
 19 Loan Forgiveness Application, which required that 60% of the funds be used on payroll  
 20 costs.

21           30. In sum, defendants' fraudulent representations are summarized as follows:

	<b>Before PPP Application</b>	<b>On PPP Application [Avg. Monthly]</b>	<b>After Loan Deposited [Avg. Jan.-Jun.]</b>
Payroll	\$0	\$645,958	\$7,980.76
# of Employees	0	89	2

22  
 23  
 24  
 25  
 26           31. After the fraudulent loan proceeds were deposited into the Comerica account  
 27 #3429, Sigma Cuts School of Beauty diverted and caused to be diverted some of the  
 28 fraudulently obtained funds for personal and unauthorized purposes, including but not



1 limited to:

- 2 a. On or about April 12, 2021, defendants wire transferred \$110,000  
3 from Comerica account #3429 to U.S. Bank account #2039, which  
4 was controlled by defendant SWARINGER.
- 5 b. On or about June 8, 2021, defendants wire transferred \$88,300 from  
6 Comerica account #3429 to Title Solution.
- 7 c. On or about April 16, 2021, April 30, 2021, May 14, 2021, May 28,  
8 2021, June 11, 2021, and June 25, 2021, defendants caused a total of  
9 \$52,255.61 to be withdrawn to be processed for fictitious payroll.

10  
11 **COUNT 1**  
12 **Conspiracy**  
13 **[18 U.S.C. § 371]**

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

16 33. Beginning on or about March 2021, and continuing through on or about the  
17 date of the Indictment, in the District of Arizona and elsewhere, defendants MITCHELL,  
18 WHITAKER, and SWARINGER did conspire, confederate, and agree with each other and  
19 others known and unknown to the Grand Jury, to willfully and knowingly devise a scheme  
20 and artifice to defraud Western State Bank and the United States Small Business  
21 Administration by means of false and fraudulent pretenses, representation, and promises,  
22 including preparing and submitting a false and fraudulent PPP loan application in order to  
23 obtain \$1,614,800 in government-guaranteed loans through the PPP.

24 **OBJECT OF THE CONSPIRACY**

25 34. It was the object of the conspiracy for defendants MITCHELL,  
26 WHITAKER, and SWARINGER, and their co-conspirators, to commit bank fraud in  
27 violation of 18 U.S.C. § 1344, and transactional money laundering in violation of 18 U.S.C.  
28 § 1957.

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



1 or caused to be prepared and submitted, a fraudulent PPP  
2 application for Sigma Cuts School of Beauty that was submitted  
3 to Western State Bank. Among other things, the PPP application  
4 included false representations about Sigma Cuts School of  
5 Beauty's number of employees and average monthly payroll, and  
6 it also falsified tax documentation.

7 b. On or about April 12, 2021, defendants caused \$110,000 of the  
8 \$1,614,800 fraudulently procured PPP loan to be wire transferred  
9 from Comerica account #3429 to U.S Bank account #2039, which  
10 was controlled by defendant SWARINGER.

11 c. On or about June 8, 2021, defendants caused \$88,300 of the  
12 \$1,614,800 fraudulently procured PPP loan to be wire transferred  
13 from Comerica account #3429 to Title Solution.

14 d. On or about April 14, 2021, April 30, 2021, May 14, 2021, May  
15 28, 2021, June 11, 2021, and June 25, 2021, defendants caused  
16 withdrawals from the \$1,614,800 fraudulently procured PPP loan  
17 to be processed to a payroll provider for fictitious payroll.

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

19  
20 **COUNT 2**  
21 **Bank Fraud**  
22 **[18 U.S.C. § 1344]**

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

25 38. On or about the date set forth below, in the District of Arizona and elsewhere,  
26 defendants MITCHELL, WHITAKER, SWARINGER, and others known and unknown to  
27 the Grand Jury, did knowingly execute a scheme and artifice to defraud Western State  
28 Bank, the deposits of which were insured by the Federal Deposit Insurance Corporation,  
and to obtain, by means of materially false and fraudulent pretenses, representations, and

1 promises, moneys, funds, credits, assets, securities, and other property owned by and under  
2 the custody and control of Western State Bank, and caused Western State Bank to issue a  
3 cashier's check for deposit into an account controlled by the defendants.

Count	Date	Monetary Transaction	Transaction Amount	Institution
2	3/30/2021	Deposit by cashier's check of PPP Loan Funds	\$1,614,800	Comerica Bank account #3429

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

8  
9 **COUNTS 3-4**  
10 **Transactional Money Laundering**  
11 **[18 U.S.C. § 1957(a)]**

12 39. The factual allegations in the preceding paragraphs of this Indictment are re-  
13 alleged and incorporated as though fully set forth herein.

14 40. On or about the dates listed below, in the District of Arizona and elsewhere,  
15 defendants MITCHELL, WHITAKER, SWARINGER, and others known and unknown to  
16 the Grand Jury, knowingly engaged in monetary transactions, of a value greater than  
17 \$10,000, occurring within the United States, with funds criminally derived from the bank  
18 fraud alleged in Count 2 of this Indictment, with each transaction being a separate count of  
19 this Indictment:

Count	Date	Monetary Transaction	Transaction Amount
3	4/12/2021	Withdrawal from Comerica Bank account #3429 to Swaringer, U.S. Bank account #2039	\$110,000
4	6/8/2021	Withdrawal from Comerica Bank account #3429 to Title Solution	\$88,300

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

26  
27 **FORFEITURE ALLEGATION**  
28 **[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           41. The factual allegations in Counts 1 through 4 in the preceding paragraphs of  
2 this Indictment are re-alleged and incorporated as though fully set forth herein.

3           42. 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 4 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 or  
13 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 \$1,614,800.00 in United States currency,  
17 representing 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 A TRUE BILL

5  
6 s/  
7 FOREPERSON OF THE GRAND JURY  
8 Date: November 23, 2021

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

12 s/  
13 LEIGHANN THOMAS  
14 KRISTEN BROOK  
15 PETER SEXTON  
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