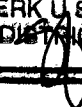


1 GLENN B. McCORMICK  
Acting United States Attorney  
2 District of Arizona

3 PETER SEXTON  
Arizona State Bar No. 011089  
4 KRISTEN BROOK  
Arizona State Bar No. 023121  
5 LEIGHANN THOMAS  
Illinois State Bar No. 6327687  
6 Assistant U.S. Attorneys  
Two Renaissance Square  
7 40 N. Central Ave., Ste. 1800  
Phoenix, Arizona 85004  
8 Telephone: 602-514-7500  
Emails: Peter.Sexton@usdoj.gov  
9 Kristen.Brook@usdoj.gov  
LeighAnn.Thomas @usdoj.gov  
10 Attorneys for Plaintiff

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> LODGED
<input type="checkbox"/> RECEIVED	<input type="checkbox"/> COPY
NOV 23 2021	
CLERK U.S. DISTRICT COURT DISTRICT OF ARIZONA	
BY 	DEPUTY

**SEALED**

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

14 United States of America,  
15  
16 Plaintiff,

17 v.

18 1. Willie Mitchell  
19 a.k.a. Blu Mitchell,  
20 (Counts 1-11)  
21 2. Darrell Lieteau,  
22 (Counts 1-11)  
23 Defendants.

No. **CR-21-00976-PHX-JJT**

**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 3-11  
  
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)

24  
25  
26 THE GRAND JURY CHARGES:

27 **INTRODUCTION**

28 1. At all times relevant to this Indictment, defendants WILLIE MITCHELL

1 a.k.a. BLU MITCHELL, and DARRELL LIETEAU, purporting to do business as Red Pill  
2 Infosec, LLC, conspired and schemed, with each other and others, to prepare and submit a  
3 false and fraudulent Paycheck Protection Program (“PPP”) loan application to Western  
4 State Bank, a participating lender helping to provide government-backed, emergency  
5 financial assistance to businesses suffering from the economic impact of the Covid  
6 pandemic. Defendants submitted a loan application replete with false and fraudulent  
7 information, including fake employment data and fictitious payroll. As a result, defendants  
8 obtained \$1,682,000.00 in government-guaranteed loans, which were intended for real  
9 businesses actually harmed by the COVID-19 pandemic. After receiving the loan  
10 proceeds, defendants used the funds for personal expenses, disguised business expenses to  
11 enrich themselves and confederates, and transferred funds to various bank accounts they  
12 personally controlled.

### 13 **SMALL BUSINESS ADMINISTRATION**

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

### 21 **PAYCHECK PROTECTION PROGRAM BACKGROUND**

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

1           4.     The first phase of the PPP loan process was implemented between March  
2           2020 and March 31, 2021. PPP loans had an interest rate of one percent. Loans issued  
3           prior to June 5, 2020, had a maturity of two years, while loans issued after June 5, 2020,  
4           had a maturity of five years. Each loan draw had a specific application process and  
5           requirements. SBA would forgive PPP loans if all employee retention criteria were met,  
6           and the funds were used for eligible expenses within a designated period as set forth in the  
7           PPP.

8                                       **PPP LOAN APPLICATION PROCESS**

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

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

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

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

- 25                     a.    The Application business was in operation on February 15, 2020 and  
26                             has employees for whom it paid salaries and payroll taxes or paid  
27                             independent contractors, as reported on Internal Revenue Services  
28                             ("IRS") Form(s) 1099-MISC;

- 1                   b. The funds would be used to retain workers and maintain payroll or  
2                   make mortgage interest payments, lease payments, and utility  
3                   payments, as specified under the PPP Rules; and  
4                   c. The information provided in the application and information provided  
5                   in all supporting documents and forms was true and accurate in all  
6                   material respects.

7                   **PPP LOAN FORGIVENESS APPLICATION PROCESS**

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

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

20                  11. Borrowers were eligible for forgiveness of eligible payroll costs if at least  
21                  60% of the loan proceeds were spent on actual payroll costs during the eight-week covered  
22                  period. Borrowers were also eligible for forgiveness of nonpayroll costs such as mortgage  
23                  payments, rent or lease payments, and utility payments. To be eligible, nonpayroll costs  
24                  could not exceed 25% of the total forgiveness amount.

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

28                  13. Like the PPP loan application, the PPP Loan Forgiveness Application

1 required the business (through its authorized representative) to make several affirmative  
2 certifications. Among them, the business's authorized representative was required to  
3 certify the following statements were true:

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

14 **DEFENDANTS AND RELATED ENTITY**

15 14. Red Pill Infosec, LLC ("Red Pill") was a business incorporated on or about  
16 November 22, 2017 in the State of Arizona. Red Pill was incorporated by defendant  
17 LIETEAU to assist smaller businesses with cyber security.

18 15. Defendant WILLIE MITCHELL, a.k.a. BLU MITCHELL ("MITCHELL"),  
19 was a resident within the District of Arizona. As of March 30, 2021, MITCHELL was the  
20 President of Red Pill. MITCHELL controlled a bank account with Mountain America  
21 Credit Union ("MACU") (account #8412).

22 16. Defendant DARRELL LIETEAU ("LIETEAU") was a resident within the  
23 District of Arizona. As of March 30, 2021, LIETEAU was the Managing Member of Red  
24 Pill.

25 **FINANCIAL INSTITUTION AND PARTICIPATING PPP LENDER**

26 17. Western State Bank is a financial institution headquartered in West Fargo,  
27 North Dakota, with branches located in the District of Arizona and whose deposits were  
28 insured by the Federal Deposit Insurance Corporation ("FDIC"). Western State Bank

1 participated in the SBA's PPP as a lender, and as such, was authorized to lend funds to  
2 eligible borrowers under the terms of the PPP.

3 **RED PILL INFOSEC, LLC'S PPP LOAN APPLICATION**

4 18. On or about March 17, 2021, defendants submitted a PPP application with  
5 Western State Bank on behalf of Red Pill. Defendant LIETEAU was listed as having 100%  
6 ownership in Red Pill. In the application, defendants falsely represented that Red Pill had  
7 an average monthly payroll of \$672,800, had 92 employees, and needed the PPP loan to  
8 support its ongoing operation. But the application was false. Red Pill had no employees  
9 and no payroll.

10 19. As part of the application, defendant Lieteau knew that defendant  
11 MITCHELL would be forging LIETEAU's name as Red Pill's authorized representative  
12 and to sign next to each of the following certifications:

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

24 20. Each of these certifications was false. Defendants knew Red Pill had zero  
25 employees and that it paid no salaries or payroll taxes to any employees or independent  
26 contractors.

27 21. Defendants also falsely and fraudulently represented that the funds sought in  
28 the Red Pill application would be "used to retain workers and maintain payroll or make

1 mortgage interest payments, lease payments, and utility payments” when, in fact, they  
2 intended to divert the funds to their personal use and benefit.

3 22. Defendant LIETEAU also knew that defendant MITCHELL would be  
4 forging LIETEAU’s name on the promissory note with Western State Bank for the PPP  
5 loan in the amount of \$1,682,000 that was to be disbursed via cashier’s check.

6 23. The Red Pill application included additional false and fraudulent information  
7 about its purported payroll, as well as fraudulent documentation purporting to establish that  
8 Red Pill made substantial monthly payroll disbursements. For example:

9 a. The Red Pill application included a false IRS Form 940 purporting to  
10 show that, in 2019, Red Pill paid \$8,073,607.00 in payments to  
11 employees. In fact, no such Form 940 was ever filed with the IRS on  
12 behalf of Red Pill.

13 b. The Red Pill application included a fictitious payroll ledger purporting  
14 to show the monthly wages of 92 Red Pill employees with an average  
15 monthly payroll of approximately \$672,800. In fact, at the time the  
16 Red Pill application was filed on March 17, 2021, the Arizona  
17 Department of Economic Security did not have any tax or wage  
18 reports for 2019, 2020, or in the first quarter of 2021.

19 24. Despite these representations, it was not until the second quarter of 2021 that  
20 Red Pill submitted for the first time seven employee wage submissions for a total of  
21 approximately \$142,747.11 in wages paid. Defendants LIETEAU and MITCHELL were  
22 both listed as employees along with five other individuals. None of these individuals  
23 actually worked for Red Pill.

24 25. On or about March 26, 2021, Western State Bank approved Red Pill’s PPP  
25 application and funded the loan by issuing a cashier’s check for \$1,682,000.

26 26. On or about March 30, 2021, defendants opened an account at Comerica  
27 Bank (account #2884). Defendants LIETEAU and MITCHELL were both authorized  
28 signatories on the account.

1           27. On or about March 30, 2021, a cashier's check for \$1,682,000 for the Red  
2 Pill PPP loan was deposited in Comerica account #2884. At the time of the deposit, the  
3 account balance was approximately \$100.00.

4           28. Prior to the PPP loan deposit, Comerica account #2884 showed no evidence  
5 of processing payroll. Only *after* the PPP loan deposit did transactions through a payroll  
6 provider finally begin. Indeed, defendants issued payroll for the *first time ever* on April  
7 16, 2021, in anticipation of presenting this information to Western State Bank as part of a  
8 PPP Loan Forgiveness Application, which required that 60% of the funds be used on  
9 payroll costs.

10           29. 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	\$672,800	\$23,791.19
# of Employees	0	92	2

15           30. After the fraudulent loan proceeds were deposited into the Comerica account  
16 #2884, Red Pill diverted and caused to be diverted some of the fraudulently obtained funds  
17 for personal and unauthorized purposes, including but not limited to:

- 18           a. On or about April 12, 2021, defendant MITCHELL wire transferred  
19           \$650,000 from Comerica account #2884 to MACU account #8412,  
20           which was controlled by MITCHELL.
- 21           b. On or about April 16, 2021, April 30, 2021, May 14, 2021, May 28,  
22           2021, June 11, 2021, and June 25, 2021, defendants caused other  
23           withdrawals to be 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.



1           32. Beginning on or about October 2020, and continuing through on or about the  
2 date of the Indictment, in the District of Arizona and elsewhere, defendants MITCHELL  
3 and LIETEAU, did conspire, confederate, and agree with each other and others known and  
4 unknown to the Grand Jury, to willfully and knowingly devise a scheme and artifice to  
5 defraud Western State Bank and the United States Small Business Administration by  
6 means of false and fraudulent pretenses, representation, and promises, including preparing  
7 and submitting a false and fraudulent PPP loan application in order to obtain \$1,682,000  
8 in government-guaranteed loans through the PPP.

9   **OBJECT OF THE CONSPIRACY**

10           33. It was the object of the conspiracy for defendants MITCHELL and  
11 LIETEAU, and their co-conspirators, to commit bank fraud in violation of 18 U.S.C. §  
12 1344, and transactional money laundering in violation of 18 U.S.C. § 1957.

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

14           34. The manner and means by which the defendants sought to accomplish the  
15 objectives of the conspiracy and fraud scheme included, among other things, the following:

- 16           a. The Red Pill PPP loan application contained a false IRS Form 940 purporting  
17 to show that in 2019, Red Pill paid \$8,073,607.00 in payments to employees.  
18 In fact, no such Form 940 was ever filed with the IRS on behalf of Red Pill.
- 19           b. Defendants included a fictitious payroll ledger purporting to show monthly  
20 wages of 92 Red Pill employees, with an average monthly payroll of  
21 approximately \$672,800. In fact, at the time the Red Pill application was  
22 filed, Red Pill had zero employees and no monthly payroll expenses.
- 23           c. Defendants falsely represented that Red Pill needed the PPP loan to support  
24 its ongoing operation. In fact, at the time the Red Pill application was filed,  
25 Red Pill was not doing any business and had no ongoing operations.
- 26           d. After the PPP loan was deposited, defendants set up a phony company  
27 payroll with a payroll provider - and funded it with fraudulent loan proceeds  
28 - to issue fraudulent biweekly payroll disbursements to fictitious employees

1 in a fraudulent attempt to be eligible for PPP loan forgiveness.

2 **OVERT ACTS**

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

- 6 a. On or about March 17, 2021, defendants prepared and submitted, or caused  
7 to be prepared and submitted, a fraudulent PPP application for Red Pill that  
8 was submitted to Western State Bank. Among other things, the PPP  
9 application included false representations about Red Pill's number of  
10 employees and average monthly payroll, and it also falsified tax  
11 documentation.
- 12 b. On or about April 14, 2021, defendants caused \$650,000 of the \$1,682,000  
13 fraudulently procured PPP loan to be wire transferred from Comerica  
14 account #2884 to MACU account #8412, which was controlled by defendant  
15 MITCHELL.
- 16 c. On or about April 14, 2021, April 30, 2021, May 14, 2021, May 28, 2021,  
17 June 11, 2021, and June 25, 2021, defendants caused withdrawals from the  
18 \$1,682,000 fraudulently procured PPP loan to be processed to a payroll  
19 provider for fictitious payroll.

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

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

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

26 37. On or about the date set forth below, in the District of Arizona and elsewhere,  
27 defendants MITCHELL and LIETEAU, did knowingly execute a scheme and artifice to  
28 defraud Western State Bank, the deposits of which were insured by the Federal Deposit

1 Insurance Corporation, and to obtain, by means of materially false and fraudulent  
 2 pretenses, representations, and promises, moneys, funds, credits, assets, securities, and  
 3 other property owned by and under the custody and control of Western State Bank, and  
 4 caused Western State Bank to issue a cashier's check for deposit into an account controlled  
 5 by the defendants.

Count	Date	Monetary Transaction	Transaction Amount	Institution
2	3/30/2021	Deposit by cashier's check of PPP Loan Funds	\$1,682,000	Comerica Bank account #2884

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

10  
 11 **COUNTS 3-11**  
 12 **Transactional Money Laundering**  
 13 **[18 U.S.C. § 1957(a)]**

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

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

Count	Date	Monetary Transaction	Transaction Amount
3	4/12/2021	Withdrawal from Comerica Bank account #2884 to Mitchell via Sigma Cuts, MACU account #8412	\$650,000
4	4/16/2021	Withdrawal from Comerica Bank account #2884 to a payroll provider	\$12,743
5	4/30/2021	Withdrawal from Comerica Bank account #2884 to a payroll provider	\$23,393
6	4/30/2021	Withdrawal from Comerica Bank account #2884 to a payroll provider	\$17,633
7	5/14/2021	Withdrawal from Comerica Bank account	\$12,552

		#2884 to a payroll provider	
8	5/28/2021	Withdrawal from Comerica Bank account #2884 to a payroll provider	\$13,062
9	6/11/2021	Withdrawal from Comerica Bank account #2884 to a payroll provider	\$16,916
10	6/11/2021	Withdrawal from Comerica Bank account #2884 to a payroll provider	\$16,682
11	6/25/2021	Withdrawal from Comerica Bank account #2884 to a payroll provider	\$20,279

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

A sum of money equal to at least \$1,682,000.00 in United States currency, representing the amount of money involved in the offenses.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

- (1) cannot be located upon the exercise of due diligence,
- (2) has been transferred or sold to, or deposited with, a third party,
- (3) has been placed beyond the jurisdiction of the court,
- (4) has been substantially diminished in value, or
- (5) has been commingled with other property which cannot be divided without

difficulty,

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

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

A TRUE BILL

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

GLENN B. McCORMICK  
Acting United States Attorney  
District of Arizona

s/  
LEIGHANN THOMAS  
KRISTEN BROOK  
PETER SEXTON  
Assistant U.S. Attorneys