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CLERK'S DISTRICT COURT DISTRICT OF ARIZONA	
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SEALED

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

13 United States of America,
14
15 Plaintiff,

16 v.

17 1. Willie Mitchell,
18 a.k.a. Blu Mitchell,
(Counts 1-21)
19
20 2. Jason Nolte,
(Counts 1-21)
21
22 Defendants.

No.	CR-21-00978-PHX-DLR
	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 3-21
	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)

23
24 THE GRAND JURY CHARGES:

25 **INTRODUCTION**

26 1. At all times relevant to this Indictment, defendants WILLIE MITCHELL,
27 a.k.a. BLU MITCHELL, and JASON NOLTE, purporting to do business as U.C.C.A.N!,
28 LLC, conspired and schemed, with each other and others, to prepare and submit a false and

1 fraudulent Paycheck Protection Program (“PPP”) loan application to Western State Bank,
2 a participating lender helping to provide government-backed, emergency financial
3 assistance to businesses suffering from the economic impact of the Covid pandemic.
4 Defendants submitted a loan application replete with false and fraudulent information,
5 including fake employment data and fictitious payroll. As a result, defendants obtained
6 \$1,320,000.00 in government-guaranteed loans, which were intended for real businesses
7 actually harmed by the COVID-19 pandemic. After receiving the loan proceeds,
8 defendants used the funds for personal expenses, disguised business expenses to enrich
9 themselves and confederates, and transferred funds to various bank accounts they
10 personally controlled.

11 **SMALL BUSINESS ADMINISTRATION**

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

19 **PAYCHECK PROTECTION PROGRAM BACKGROUND**

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

27 4. The first phase of the PPP loan process was implemented between March
28

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

7 **PPP LOAN APPLICATION PROCESS**

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

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

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

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

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

- 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

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

5 a. The dollar amount for which forgiveness is requested “was used to
6 pay costs that are eligible for forgiveness (payroll costs to retain
7 employees; business mortgage interest payments; business rent or
8 lease payments; or business utility payments)”;

9 b. “The borrower understands that if the funds were knowingly used for
10 unauthorized purposes, the federal government may pursue recovery
11 of loan amounts and/or civil or criminal fraud charge”; and

12 c. “The information provided in this application and the information
13 provided in all supporting documents and forms is true and correct in
14 all material respects.”

15 **DEFENDANTS AND RELATED ENTITY**

16 14. U.C.C.A.N!, LLC (“U.C.C.A.N!”) was a business incorporated on or about
17 May 29, 2018 in the State of Arizona. U.C.C.A.N! was incorporated by defendant JASON
18 NOLTE.

19 15. Defendant WILLIE MITCHELL, a.k.a. BLU MITCHELL (“MITCHELL”),
20 was a resident within the District of Arizona. Defendant MITCHELL controlled a bank
21 account with Chase (account #4912).

22 16. Defendant JASON NOLTE (“NOLTE”) was a resident within the District of
23 Arizona. Defendant NOLTE was manager and statutory agent of U.C.C.A.N! Defendant
24 NOLTE controlled a bank account with Navy Federal Credit Union.

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

1 insured by the Federal Deposit Insurance Corporation (“FDIC”). Western State Bank
2 participated in the SBA’s PPP as a lender, and as such, was authorized to lend funds to
3 eligible borrowers under the terms of the PPP.

4 **U.C.C.A.N!, LLC’S PPP LOAN APPLICATION**

5 18. On or about February 7, 2021, defendants submitted a PPP application with
6 Western State Bank on behalf of U.C.C.A.N!. Defendant NOLTE was listed as having
7 100% ownership in U.C.C.A.N! In the application, defendants falsely represented that
8 U.C.C.A.N! had an average monthly payroll of \$528,355, had 84 employees, and needed
9 the PPP loan to support its ongoing operation. But the application was false. U.C.C.A.N!
10 did not have the number of employees or the amount of monthly payroll as represented in
11 the application.

12 19. As part of the application, defendant NOLTE signed as U.C.C.A.N!’s
13 authorized representative and signed next to each of the following certifications:

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

25 20. Each of these certifications was false. Defendants knew U.C.C.A.N! did not
26 have the number of employees or the amount of monthly payroll as set forth in the loan
27 application.

28

1 21. Defendants also falsely and fraudulently represented that the funds sought in
2 the U.C.C.A.N! application would be “used to retain workers and maintain payroll or make
3 mortgage interest payments, lease payments, and utility payments” when, in fact, they
4 intended to divert the funds to their personal use and benefit.

5 22. Defendant NOLTE also signed a promissory note with Western State Bank
6 for the PPP loan in the amount of \$1,320,000 that was to be disbursed via cashier’s check.

7 23. The U.C.C.A.N! application included additional false and fraudulent
8 information about its purported payroll, as well as fraudulent documentation purporting to
9 establish that U.C.C.A.N! made substantial monthly payroll disbursements. For example:

10 a. The U.C.C.A.N! application included a fictitious payroll ledger
11 purporting to show the monthly wages of 82 U.C.C.A.N! employees
12 with an average monthly payroll of approximately \$528,355. In fact,
13 at the time the U.C.C.A.N! application was filed on February 7, 2021,
14 the Arizona Department of Economic Security did not have any tax or
15 wage reports for 2019 or 2020.

16 24. Despite these representations, it was not until the first quarter of 2021 that
17 U.C.C.A.N! submitted, for the first time, 25 employee wage submissions for a total of
18 approximately \$44,556.06 in wages paid in the first quarter. During the second quarter of
19 2021, U.C.C.A.N! submitted 21 employee wage submissions for a total of approximately
20 \$278,689.94 in wages paid in the second quarter. Defendants NOLTE and MITCHELL
21 were both listed as employees along with other individuals.

22 25. On or about February 16, 2021, Western State Bank approved U.C.C.A.N!’s
23 PPP application and funded the loan by issuing a cashier’s check for \$1,320,000.

24 26. On or about February 16, 2021, defendants opened an account at Western
25 State Bank (account #0355). Defendant NOLTE was the authorized signatory on account
26 #0355.

27 27. On or about February 16, 2021, a cashier’s check for \$1,320,000 for the
28

1 U.C.C.A.N! PPP loan was deposited in Western State Bank account #0355. At the time of
 2 the deposit, the account balance was approximately \$0.00.

3 28. On or about March 10, 2021, defendants opened two additional accounts at
 4 Western State Bank (accounts #0421 and #2371). Defendant NOLTE was the authorized
 5 signatory on accounts #0421 and #2371.

6 29. Prior to the PPP loan deposit, Western State Bank account #0355 showed no
 7 evidence of processing payroll. Only *after* the PPP loan deposit did transactions through
 8 a payroll provider finally begin. Indeed, defendants issued payroll for the *first time* on
 9 March 19, 2021, in anticipation of presenting this information to Western State Bank as
 10 part of a PPP Loan Forgiveness Application, which required that 60% of the funds be used
 11 on payroll costs.

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

	Before PPP Application	On PPP Application [Avg. Monthly]	After Loan Deposited [Avg. Jan.-Jun.]
Payroll	\$0	\$528,355	\$53,874.33
# of Employees	0	84	16

13
 14
 15
 16
 17 31. After the fraudulent loan proceeds were deposited into the Western State
 18 Bank #0355, U.C.C.A.N! diverted and caused to be diverted some of the fraudulently
 19 obtained funds for personal and unauthorized purposes, including but not limited to:

- 20 a. On or about February 16, 2021, defendants wire transferred \$50,000
- 21 from Western State Bank account #0355 to a Navy Federal Credit
- 22 Union account, which was controlled by defendant NOLTE.
- 23 b. On or about February 16, 2021, defendants wire transferred \$290,000
- 24 from Western State Bank account #0355 to Chase account #4912,
- 25 which was controlled by defendant MITCHELL.
- 26 c. On or about February 22, 2021, defendants wire transferred \$40,000
- 27 from Western State Bank account #0355 to a Navy Federal Credit
- 28

1 Union account, which was controlled by defendant NOLTE.

2 d. On or about March 29, 2021, defendants wire transferred \$500,000
3 from Western State Bank account #0355 to Western State Bank
4 account #2371, which was controlled by defendant NOLTE.

5 e. On June 11, 2021, defendants withdrew \$20,000 in cash from Western
6 State Bank account #0355.

7 f. On or about March 19, 2021, March 30, 2021, April 13, 2021, April
8 27, 2021, May 11, 2021, May 25, 2021, June 8, 2021, and June 22,
9 2021, defendants caused other withdrawals to be processed for
10 fictitious payroll.

11
12 **COUNT 1**
13 **Conspiracy**
14 **[18 U.S.C. § 371]**

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

17 33. Beginning on or about February 2021, and continuing through on or about
18 the date of the Indictment, in the District of Arizona and elsewhere, defendants
19 MITCHELL and NOLTE, did conspire, confederate, and agree with each other and others
20 known and unknown to the Grand Jury, to willfully and knowingly devise a scheme and
21 artifice to defraud Western State Bank and the United States Small Business
22 Administration by means of false and fraudulent pretenses, representation, and promises,
23 including preparing and submitting a false and fraudulent PPP loan application in order to
24 obtain \$1,320,000 in government-guaranteed loans through the PPP.

25 **OBJECT OF THE CONSPIRACY**

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

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

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

- 4 a. Defendants included a fictitious payroll ledger purporting to show monthly
5 wages for 84 U.C.C.A.N! employees, with an average monthly payroll of
6 approximately \$528,355. In fact, at the time the U.C.C.A.N! application was
7 filed, U.C.C.A.N! did not have the number of employees or amount of
8 monthly payroll as represented in the application.
- 9 b. Defendants falsely represented that U.C.C.A.N! needed the PPP loan to
10 support its ongoing operation. In fact, at the time the U.C.C.A.N! application
11 was filed, U.C.C.A.N! did not have the number of employees or amount of
12 monthly payroll as represented in the application.
- 13 c. After the PPP loan was deposited, defendants issued payroll through a
14 payroll provider - and funded it with fraudulent loan proceeds - to issue
15 fraudulent biweekly payroll disbursements to fictitious employees in a
16 fraudulent attempt to be eligible for PPP loan forgiveness.

17 **OVERT ACTS**

18 36. In furtherance of the conspiracy, and to effect the objects thereof, the
19 following overt acts, among others, were committed in the District of Arizona, and
20 elsewhere:

- 21 a. On or about February 7, 2021, defendants prepared and submitted, or caused
22 to be prepared and submitted, a fraudulent PPP application for U.C.C.A.N!
23 that was submitted to Western State Bank. Among other things, the PPP
24 application included false representations about U.C.C.A.N!’s number of
25 employees and average monthly payroll, and it also falsified tax
26 documentation.
- 27 b. On or about February 16, 2021, defendants caused \$50,000 of the \$1,320,000
28

1 fraudulently procured PPP loan to be wire transferred from Western State
2 Bank account #0335 to a Navy Federal Credit Union account, which was
3 controlled by defendant NOLTE.

4 c. On or about February 16, 2021, defendants caused \$290,000 of the
5 \$1,320,000 fraudulently procured PPP loan to be wire transferred from
6 Western State Bank account #0335 to Chase account #4912, which was
7 controlled by defendant MITCHELL.

8 d. On or about February 22, 2021, defendants caused \$40,000 of the \$1,320,000
9 fraudulently procured PPP loan to be wire transferred from Western State
10 Bank account #0335 to a Navy Federal Credit Union account, which was
11 controlled by defendant NOLTE.

12 e. On or about March 29, 2021, defendants caused \$500,000 of the \$1,320,000
13 fraudulently procured PPP loan to be wire transferred from Western State
14 Bank account #0355 to Western State Bank account #2371, which was
15 controlled by defendant NOLTE.

16 f. On or about June 11, 2021, defendants caused \$20,000 of the \$1,320,000
17 fraudulently procured PPP loan to be withdrawn via cash by defendant
18 NOLTE.

19 g. On or about March 19, 2021, March 30, 2021, April 13, 2021, April 27, 2021,
20 May 11, 2021, May 25, 2021, June 8, 2021, and June 22, 2021, defendants
21 caused withdrawals from the \$1,320,000 fraudulently procured PPP loan to
22 be processed to a payroll provider for fictitious payroll.

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

24
25 **COUNT 2**
26 **Bank Fraud**
27 **[18 U.S.C. § 1344]**
28

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

38. On or about the date set forth below, in the District of Arizona and elsewhere, defendants WMITCHELL and NOLTE, and others known and unknown to the Grand Jury, did knowingly execute a scheme and artifice to defraud Western State 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 promises, moneys, funds, credits, assets, securities, and other property owned by and under the custody and control of Western State Bank, and caused Western State Bank to issue a cashier's check for deposit into an account controlled by the defendants.

Count	Date	Monetary Transaction	Transaction Amount	Institution
2	2/16/2021	Deposit by cashier's check of PPP Loan Funds	\$1,320,000	Western State Bank account #0355

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

COUNTS 3-21
Transactional Money Laundering
[18 U.S.C. § 1957(a)]

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

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

Count	Date	Monetary Transaction	Approx. Trans. Amt.
3	2/16/2021	Withdrawal from Western State Bank account #0355 to Nolte via Navy Federal Credit Union	\$50,000

4	2/16/2021	Withdrawal from Western State Bank account #0355 to Mitchell via Chase account #4912	\$290,000
5	2/22/2021	Withdrawal from Western State Bank account #0355 to Nolte via Navy Federal Credit Union	\$40,000
6	3/19/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$11,717
7	3/19/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$30,902
8	3/29/2021	Withdrawal from Western State Bank account #0355 to Nolte via Western State Bank account #2371	\$500,000
9	3/30/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$13,017
10	3/30/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$36,053
11	4/13/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$12,187
12	4/13/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$34,817
13	4/27/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$11,212
14	4/27/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$32,373
15	5/11/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$11,039
16	5/11/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$31,860
17	5/25/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$10,849
18	5/25/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$31,523
19	6/8/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$28,754
20	6/11/2021	Cash withdrawal from Western State Bank account #0355	\$20,000
21	6/22/2021	Withdrawal from Western State Bank account #0355 to a payroll provider	\$26,768

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)

1
2 41. The factual allegations in Counts 1 through 21 in the preceding paragraphs
3 of this Indictment are re-alleged and incorporated as though fully set forth herein.

4 42. Pursuant to Title 18, United States Code, Sections 981 and 982, Title 21,
5 United States Code, Section 853, and Title 28, United States Code, Section 2461(c), and
6 upon conviction of one or more of the offenses alleged in Counts 1 through 21 of this
7 Indictment, defendant(s) shall forfeit to the United States all right, title, and interest in any
8 and all property, real or personal, involved in such offense(s), or any property traceable to
9 such property involved in the offense(s), or conspiracy to commit such offense(s),
10 including the following: (a) all money or other property that was the subject of each
11 transaction, transportation, transmission or transfer in violation of a statute listed in Title
12 18, United States Code, Section 982, (b) all other property constituting proceeds obtained
13 as a result of those violations, and (c) all property used in any manner or part to commit
14 or to facilitate the commission of those violations including, but not limited to the sum of
15 money representing the amount of money involved in the offense(s) and the property
16 named below.

17 A sum of money equal to at least \$1,320,000.00 in United States currency,
18 representing the amount of money involved in the offenses.

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

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

1 it is the intent of the United States to seek forfeiture of any other property of said
2 defendant(s) up to the value of the above-described forfeitable property, pursuant to Title
3 21, United States Code, Section 853(p).

4 All in accordance with Title 18, United States Code, Sections 981 and 982, Title 21,
5 United States Code, Section 853, Title 28, United States Code, Section 2461(c), and Rule
6 32.2, Federal Rules of Criminal Procedure.

7 A TRUE BILL

8
9 s/
10 FOREPERSON OF THE GRAND JURY
Date: November 23, 2021

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

13 s/
14 LEIGHANN THOMAS
15 KRISTEN BROOK
16 PETER SEXTON
Assistant U.S. Attorneys