

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
ANA SOTO,)
)
Defendant.)

Criminal Action No. 21- 49

REDACTED

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE
2021 JUL -6 PM 3:38

INDICTMENT

The Grand Jury for the District of Delaware charges that:

Background

1. The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) provides for two sources of funding for small businesses affected by the economic downturn associated with the Coronavirus Pandemic, Paycheck Protection Program Loans and Economic Injury Disaster Loans.

2. The Paycheck Protection Program Loans (“PPP”) is designed for payroll costs, mortgage interest and rent, and utilities. To be eligible for a PPP Loan, borrowers must have been in operation on February 15, 2020, had fewer than 500 employees, and had monthly payroll expenses. Approved PPP borrowers receive a loan amount equal to up to 2.5 times the monthly payroll stated in the borrower’s application. Applicants for PPP Loans submit applications through traditional lenders, many who already participate in other U.S. Small Business Administration (“SBA”) guaranteed loan programs.

3. Economic Injury Disaster Loans (“EIDL”) are designed for working capital needs – broadly defined as short-term business expenses, such as accounts payable and interest on fixed

debts. The date of disaster for CARES Act purposes is January 31, 2020 (“Date of Disaster”). A business may apply for both PPP and EIDL, but cannot hold funds from both programs for the same purpose. The EIDL program explicitly prohibits the spending of loan proceeds on the expansion of facilities or the acquisition of fixed assets such as equipment. Applicants for EIDLs submit an on-line application directly to the SBA.

4. Between on or about March 30, 2020 and on or about January 24, 2021, ANA SOTO (“SOTO”) submitted seventeen (17) fraudulent applications to the SBA and its authorized lenders in order to obtain loans through the small business loan programs established by the CARES Act. These seventeen loan applications were made on behalf of five entities controlled by SOTO and/or her boyfriend. Each of the loan applications falsely stated the amount of gross revenues, cost of goods sold, or number of employees and, in some instances, falsely claimed the businesses were in operation at the start of the Coronavirus Pandemic.

5. As a result of these false applications, SOTO obtained approximately \$246,000, connected to five (5) approved loan applications.

COUNT 1

(Wire Fraud- New Bar)

6. On or about June 12, 2020, SOTO submitted a fraudulent online application for an EIDL to the SBA in the name of New Bar 674 Sports Bar and Grill (“New Bar”), a business purportedly located in Wimauma, Florida. In this application, SOTO represented that in the twelve months prior to the Date of Disaster, New Bar grossed \$280,000 in revenues, incurred cost of goods sold of \$250,000, and employed eleven (11) individuals as of the date of disaster.

7. Contrary to the fraudulent representations made by SOTO, New Bar had been closed since 2018 and therefore was not eligible to receive an EIDL.

8. As a result of this fraudulent application made by SOTO, the SBA approved the EIDL and deposited \$15,000.00 into Bank of America Account ending 6993 (“BOA 6993 Account”), a personal account held in the name of SOTO.

Charging Paragraph

9. From on or about June 12, 2020 through on or about June 26, 2020, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, as described in paragraphs 6 through 8 above, incorporated herein by reference, and for the purposes of executing such scheme, did knowingly transmit and cause to be transmitted by means of a wire communication in interstate commerce, the following:

- On or about June 12, 2020, an electronic loan application sent to the SBA through a server in Iowa from SOTO’s residence in Delaware.

All in violation of Title 18, United States Code, Section 1343.

COUNT 2

(Wire Fraud- 2020 Soto Cleaning)

10. On or about May 16, 2020, SOTO submitted a fraudulent online application to Citizens Bank for a PPP Loan on behalf of Soto Cleaning Service, LLC (“Soto Cleaning”), falsely claiming six (6) employees and a monthly payroll of approximately \$31,800.

11. As a result of this fraudulent application, on or about May 19, 2020, Citizens Bank approved the PPP Loan and deposited \$79,500.00 into BOA 6993 Account, a personal account belonging to SOTO.

12. Citizens Bank then requested documentation to verify that the PPP loan proceeds had been spent on payroll expenses. On or about June 22, 2020, SOTO delivered to a Citizens Bank

branch a fraudulent list of employees and wages paid for three separate weeks in May 2020. Each included the same ten (10) employees and columns showing amounts withheld for federal taxes, social security, and Medicare.

13. Contrary to the fraudulent representations made by SOTO, at the time SOTO applied for this PPP Loan on behalf of Soto Cleaning, the business was inactive and not eligible for a PPP loan.

14. Between on or about March 31, 2020 and on or about July 15, 2020, the SBA received four (4) EIDL applications on behalf of Soto Cleaning. Each of these applications listed a different amount of gross revenues for the prior year, ranging from \$110,000 to \$950,000 and differing numbers of employees, ranging from five to twelve. None of these applications was approved.

Charging Paragraph

15. From on or about May 16, 2020, through on or about June 22, 2020, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, as described in paragraphs 10 through 14 above, incorporated herein by reference, and for the purposes of executing such scheme, did knowingly transmit and cause to be transmitted by means of a wire communication in interstate commerce, the following:

- On or about May 16, 2020, an electronic loan application sent to Citizens Bank from SOTO's residence in Delaware.

All in violation of Title 18, United States Code, Section 1343.

COUNT 3

(Wire Fraud- 2021 Soto Cleaning)

16. On or about January 24, 2021, SOTO submitted another fraudulent online application to Citizens Bank for a PPP Loan on behalf of Soto Cleaning. In the application, SOTO falsely represented that Soto Cleaning was established in 2018, employed ten (10) people, and paid an average monthly payroll of \$31,800.

17. As a result of this fraudulent application, on or about January 27, 2021, Citizens Bank approved the PPP Loan and deposited \$79,500.00 into BOA 6993 Account, a personal account belonging to SOTO.

18. Contrary to the fraudulent representations made by SOTO, at the time SOTO applied for this PPP Loan on behalf of Soto Cleaning, the business was inactive and not eligible for a PPP loan.

Charging Paragraph

19. From on or about January 24, 2021, through on or about January 27, 2021, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, as described in paragraphs 16 through 18 above, incorporated herein by reference, and for the purposes of executing such scheme, did knowingly transmit and cause to be transmitted by means of a wire communication in interstate commerce, the following:

- On or about January 24, 2021, an electronic loan application sent to Citizens Bank from a location in Wilmington, Delaware.

All in violation of Title 18, United States Code, Section 1343.

COUNT 4

(Wire Fraud- Sybaritic)

20. On or about May 13, 2020, SOTO submitted a fraudulent online application to Citizens Bank for a PPP Loan on behalf of Sybaritic Multicenter LLC (“Sybaritic”). SOTO submitted the application using the electronic signature of an individual, F.C.V., who had no affiliation with Sybaritic. The application falsely claimed a monthly payroll of \$5,800 for seven (7) employees.

21. As a result of this fraudulent application, on or about May 18, 2020, Citizens Bank approved the PPP Loan and deposited \$14,500.00 into Citizens Bank Account ending 4660 (“Citizens 4660 Account”), a business account in the name of Sybaritic, for which SOTO was the sole signatory.

22. SOTO did not use the proceeds of the PPP loan for a permissible business purpose under PPP loan terms. On or about May 29, 2020, SOTO used the funds in the Citizens 4660 Account to wire \$16,800 to a drywall company in Florida, as a loan to her friend who owned that drywall company. When the loan was repaid, the funds were not returned to the Citizens 4660 Account, but instead to an account belonging to SOTO’s son.

Charging Paragraph

23. From on or about May 13, 2020, through on or about May 29, 2020, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, as described in paragraphs 20 through 22 above, incorporated herein by reference, and for the purposes of executing such scheme, did knowingly transmit and cause to be transmitted by means of a wire communication in interstate

commerce, the following:

- On or about May 13, 2020, an electronic loan application sent to Citizens Bank from SOTO's residence in Delaware.

All in violation of Title 18, United States Code, Section 1343.

COUNT 5

(False Statement on Small Business Loan Application)

24. On or about June 16, 2020, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, knowingly made a false statement for the purpose of influencing the action of the SBA in connection with an application for an EIDL on behalf of New Bar in that the defendant falsely claimed:

- gross revenues of \$350,000 in the twelve months prior to the Date of Disaster;
- cost of goods sold of \$280,000 in the twelve months preceding the Date of Disaster; and
- sixteen (16) individuals were employed as of the Date of Disaster

when in truth and in fact as defendant well knew, the gross revenues, costs of goods sold, and number of employees were overstated in the application, and New Bar was not an operational business at the Date of Disaster.

All in violation of Title 15, United States Code, Section 645(a).

COUNT 6

(False Statement on Small Business Loan Application)

25. On or about July 16, 2020, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, knowingly made a false statement for the purpose of influencing the action of the SBA in connection with an application for an EIDL on behalf of Nix Azteca LLC ("Nix Azteca") in that the defendant falsely claimed:

- gross revenues of \$1,800,000 in the twelve months prior to the Date of Disaster;
- cost of goods sold of \$1,710,000 in the twelve months preceding the Date of Disaster;
- twenty-eight (28) individuals were employed as of the Date of Disaster; and
- Nix Azteca had been established on March 15, 2017

when in truth and in fact as defendant well knew, the gross revenues, costs of goods sold and number of employees were overstated in the application and Nix Azteca had not been established until July 2020, more than five months after the Date of Disaster.

All in violation of Title 15, United States Code, Section 645(a).

COUNTS 7-10

(False Statement on Small Business Loan Application)

26. On or about the dates set forth below, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, knowingly made false statements for the purpose of influencing the action of the SBA in connection with applications for EIDLs on behalf of Soto Cleaning as set forth below:

	<i>Date of Application</i>	<i>Gross Revenues</i>	<i>Cost of Goods Sold</i>	<i>Number of Employees</i>
Count 7	March 31, 2020	\$110,000	\$60,000	5
Count 8	June 26, 2020	\$450,000	\$410,000	10
Count 9	June 27, 2020	\$375,000	\$370,000	1
Count 10	July 15, 2020	\$950,000	\$930,000	12

when in truth and in fact as defendant well knew, the gross revenues, costs of goods sold, and number of employees were overstated in the applications, and Soto Cleaning was not an operating

business as of the Date of Disaster as represented in the application.

All in violation of Title 15, United States Code, Section 645(a).

COUNTS 11-14

(False Statement on Small Business Loan Application)

27. On or about the dates set forth below, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, knowingly made false statements for the purpose of influencing the action of the SBA in connection with applications for EIDLs on behalf of Sybaritic as set forth below:

	<i>Date of Application</i>	<i>Gross Revenues</i>	<i>Cost of Goods Sold</i>	<i>Number of Employees</i>
<i>Count 11</i>	March 30, 2020	\$230,000	\$115,000	4
<i>Count 12</i>	June 18, 2020	\$230,000	\$180,000	6
<i>Count 13</i>	June 24, 2020	\$745,000	\$690,000	6
<i>Count 14</i>	June 26, 2020	\$310,000	\$300,000	6

when in truth and in fact as defendant well knew, the gross revenues, costs of goods sold, and number of employees were overstated in the applications.

All in violation of Title 15, United States Code, Section 645(a).

COUNTS 15-17

(False Statement on Small Business Loan Application)

28. On or about the dates set forth below, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, knowingly made a false statements for the purpose of influencing the action of the SBA in connection with applications for EIDLs on behalf of CF Auto Dealer and Repair LLC as set forth below:

	<i>Date of Application</i>	<i>Gross Revenues</i>	<i>Cost of Goods Sold</i>	<i>Number of Employees</i>
<i>Count 15</i>	June 16, 2020	\$450,000	\$390,000	7
<i>Count 16</i>	June 23, 2020	\$450,000	\$395,000	9
<i>Count 17</i>	June 26, 2020	\$250,000	\$240,000	8

when in truth and in fact as defendant well knew, the gross revenues, costs of goods sold, and number of employees were overstated in the applications.

All in violation of Title 15, United States Code, Section 645(a).

COUNT 18

(Money Laundering)

29. Paragraphs 1-5 and 10-15 are fully incorporated herein.

30. On or about August 10, 2020, in the District of Delaware and elsewhere, ANA SOTO, defendant herein, did knowingly engage in and attempt to engage in a monetary transaction by, through, or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is, SOTO made a checkcard purchase in the amount of \$28,450, from BOA Account 6993, payable to Enterprise Car, such property having been derived from specified unlawful activity, that is wire fraud as set forth in Count Two above. All in violation of Title 18, United States Code, Sections 1957.

NOTICE OF FORFEITURE

Upon conviction of the offenses alleged in Counts One through Four of this Indictment, ANA SOTO, defendant herein, shall forfeit to the United States, pursuant to 18 U.S.C. Section 981(a)(1)(c) and 28 U.S.C. Section 2461, any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violation, including but not limited to:

- 2019 Toyota RAV4, VIN 2T3P1RFV4KC018276; and
- \$74,416.82 seized from Bank of America Account ending 6993.

Upon conviction of the offense alleged in Count Eighteen of this Indictment, ANA L. SOTO, defendant herein shall forfeit to the United States, pursuant to 18 U.S.C. Section 982(a)(1), any property involved in the violation or traceable to property involved in said violation, including but not limited to:

- 2019 Toyota RAV4, VIN 2T3P1RFV4KC018276.

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

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

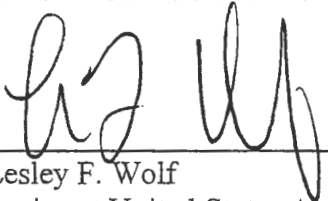
it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

A TRUE BILL:

Foreperson

DAVID C. WEISS
UNITED STATES ATTORNEY

BY:



Lesley F. Wolf
Assistant United States Attorney

Dated: July 6, 2021

REDACTED

DEFENDANT INFORMATION SHEET

CR 21-49

TO: Clerk, U.S. District Court Felony Class A Misdemeanor

DEFENDANT: Ana Soto Indictment Information

DOB (Year Only) 1980 COUNTY OF OFFENSE: New Castle

OFFENSE(S) & CITATION(S):

MAXIMUM PENALTY:

Counts 1 and 4 – Wire Fraud, in violation of 18 U.S.C. § 1343	Maximum 20 years imprisonment, a \$250,000 fine, 3 years supervised release and a \$100 special assessment
Counts 5 - 17 – False Statement on Small Business Loan Application, in violation of 15 U.S.C. § 645(a)	Maximum 2 years imprisonment, a \$250,000, 1 year supervised release, a \$5,000 fine, and a \$100 special assessment.
Count 18 – Money Laundering, in violation of 18 U.S.C. § 1957	Maximum 10 years imprisonment, 3 years supervised release, a \$250,000 fine, and a \$100 special assessment

INSTRUCTIONS

Order to Produce for Arraignment on: _____ at 1:00 p.m.

Issue Arrest Warrant upon signing of Order

Issue Summons for Initial Appearance on: _____ at _____

Interpreter Needed _____ Language _____

DEFENDANT INFORMATION

Defendant's Address: _____

City: Newark County: New Castle State: DE Zip: _____

Date of Arrest: _____ Date of 1st Appearance in this District _____

Bail Set: _____ Date Made: _____ Remains in Federal Custody

/s/ Lesley F. Wolf
Assistant United States Attorney

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