

PFE/RBM/KSO: July 2021

GJ# 31

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

UNITED STATES OF AMERICA)
)
 v.) **Case No.**
)
CHRISTOPHER A. MONTALBANO)
and)
GUS ANTHONY MONTALBANO)
)
 Defendants.)

INDICTMENT

The Grand Jury charges that:

INTRODUCTION

1. The Defendant, **CHRISTOPHER A. MONTALBANO**, is an adult resident of the state of Alabama.
2. The Defendant, **GUS ANTHONY MONTALBANO**, is an adult resident of the state of Alabama.
3. On or about January 1, 2014, The Arete Group was registered with the Alabama Secretary of State with **CHRISTOPHER A. MONTALBANO** listed as the President.

4. On or about July 6, 2015, LSA Corporation was registered with the Alabama Secretary of State with **CHRISTOPHER A. MONTALBANO** identified as the Secretary.

5. On or about July 9, 2015, The Arete Group bank account ending -0083 at Heritage South Credit Union was opened with **CHRISTOPHER A. MONTALBANO** and **GUS ANTHONY MONTALBANO** listed as signatories.

6. On or about February 29, 2016, The Arete Group bank account ending -3251 was opened at Noble Bank & Trust with **CHRISTOPHER A. MONTALBANO** listed as the Vice President and **GUS ANTHONY MONTALBANO** listed as the President. Both Defendants were identified as signatories on the bank account.

7. On or about June 2, 2016, the LSA Corp., bank account ending -9473 at Southern States Bank was opened with **CHRISTOPHER A. MONTALBANO** and **GUS ANTHONY MONTALBANO** listed as signatories.

8. **CHRISTOPHER A. MONTALBANO** portrayed himself as the owner or affiliated with the following additional shell companies: Lima Sierra Alpha; LSA Leasing; Land Work Tractor & Equipment; LSA Autos, LLC; LSA AL I, LLC; LSA SEA I, LLC; LSA Development, LLC; Lunar Holdings, LLC, Indistinct Chatter, LLC and Iron House Holdings (collectively referred to as “Shell

Companies”). **CHRISTOPHER A. MONTALBANO** was a signatory on all of the corporate bank accounts for the Shell Companies.

9. Defendants **CHRISTOPHER A. MONTALBANO AND GUS ANTHONY MONTALBANO** have shared bank accounts in their personal names located at Heritage South Credit Union bank account ending -0079 and Southern States Bank bank account ending -5217.

COUNT ONE
Conspiracy to Commit Bank Fraud
[18 U.S.C. § 1349]

10. The United States re-alleges and incorporates as if fully set forth herein, Paragraphs 1 through 9 of this Indictment.

11. Between in or about 2015 and February 2020, within the Northern District of Alabama, and elsewhere, the Defendants,

CHRISTOPHER A. MONTALBANO and
GUS ANTHONY MONTALBANO

aided and abetted by others known and unknown to the Grand Jury, knowingly devised a scheme and artifice to defraud numerous financial institutions then insured by the Federal Deposit Insurance Corporation (“FDIC”) and National Credit Union Administration (“NCUA”), of money and funds which were owned by and under the custody and control of a financial institution by means of materially false and

fraudulent pretenses, representations, and promises and concealment of material facts, which scheme affected multiple financial institutions and is further described below.

MANNER AND MEANS

12. From in or around 2015 through in or around February 2020, Defendants **CHRISTOPHER A. MONTALBANO** and **GUS ANTHONY MONTALBANO** conspired with one another and others known and unknown to the Grand Jury to submit materially false and fraudulent information to financial institutions for the purported purpose of purchasing boats, luxury vehicles, or heavy equipment.

SCHEME AND ARTIFICE

13. It was a part of the scheme and artifice to defraud that Defendants made material misrepresentations regarding their income to the financial institutions and in furtherance of the scheme the Defendants would and did submit false and fraudulent personal and/or corporate financial statements, tax returns, pay stubs and W-2s to the financial institutions in support of numerous loan applications for boats, luxury vehicles or heavy equipment.

14. It was a part of the scheme and artifice to defraud that Defendants would and did conceal from the financial institutions that the transactions were not

arms length transactions because **CHRISTOPHER A. MONTALBANO** and/or **GUS ANTHONY MONTALBANO** were the owners or had control of the bank account for the purported seller of the boats, luxury vehicles, or heavy equipment.

15. It was a part of the scheme and artifice to defraud that Defendant **CHRISTOPHER A. MONTALBANO** would and did create false and fraudulent bills of sale for boats, vehicles, or heavy equipment to the financial institutions.

16. It was a part of the scheme and artifice to defraud that the Defendants would and did submit false, fraudulent or invalid Hull Identification Numbers (HINs) and/or Vehicle Identification Numbers (VINs) in support of the loan applications to the financial institutions for the various boats, luxury vehicles, or heavy equipment.

17. It was a part of the scheme and artifice to defraud that the Defendants would and did apply for and obtain multiple loans for the purpose of purchasing a luxury vehicle and the Defendants failed to disclose that the Defendants had already financed the purchase of the same luxury vehicle with a different financial institution.

18. It was part of the scheme and artifice to defraud that **CHRISTOPHER A. MONTALBANO** and **GUS ANTHONY MONTALBANO** fraudulently obtained loans from financial institutions and then used the loan proceeds, not for

the stated purpose, but rather they would use the loan proceeds to make loan payments due to other financial institutions.

19. It was part of the scheme and artifice to defraud that **CHRISTOPHER A. MONTALBANO** and **GUS ANTHONY MONTALBANO** would fraudulently obtain loan proceeds from financial institutions and then use the loan proceeds to pay for **CHRISTOPHER A. MONTALBANO, GUS ANTHONY MONTALBANO** and other known and unknown co-conspirators' personal living expenses.

All in violation of Title 18, United States Code, Sections 1349.

COUNT TWO
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

20. On or about June 21, 2016, in the Northern District of Alabama, Defendant,

GUS ANTHONY MONTALBANO,

knowingly made and caused to be made to Alliant Credit Union, a financial institution insured by the NCUA, false statements for the purpose of influencing the actions of Alliant Credit Union to provide the Defendant with a loan in the amount of approximately \$75,000 for the Defendant to purchase a 2015 Chevrolet Corvette. Defendant **GUS ANTHONY MONTALBANO** claimed, among other things, that

he earned over \$355,000 in personal annual income from his purported employer The Arete Group, Inc., as of July 2016.

All in violation of Title 18, United States Code Section 1014.

COUNT THREE
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

21. On or about August 10, 2016, in the Northern District of Alabama, Defendant,

GUS ANTHONY MONTALBANO,

knowingly made and caused to be made to Heritage South Credit Union, a financial institution insured by the NCUA, false statements for the purpose of influencing the actions of Heritage South Credit Union to provide the Defendant with a loan in the amount of approximately \$102,000 for the Defendant to purchase a 2016 Tesla Model S vehicle. Defendant **GUS ANTHONY MONTALBANO** claimed, among other things, to earn monthly income in excess of \$51,000 as the Vice-President of The Arete Group.

All in violation of Title 18, United States Code Section 1014.

COUNT FOUR
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

22. On or about September 2, 2016, in the Northern District of Alabama,
Defendant,

GUS ANTHONY MONTALBANO,

knowingly made and caused to be made to Alliant Credit Union, a financial institution insured by the NCUA, false statements for the purpose of influencing the actions of Alliant Credit Union to provide the Defendant with a loan in the amount of approximately \$91,000 for the Defendant to purchase a 2016 Mercedes G83 AMG. Defendant **GUS ANTHONY MONTALBANO** claimed, among other things, that he earned over \$355,000 in personal annual income from his purported employer The Arete Group, Inc., as of July 2016.

All in violation of Title 18, United States Code Section 1014.

COUNT FIVE
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

23. On or about November 16, 2016, in the Northern District of Alabama,
Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to USAA, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of USAA to provide the Defendant with a loan in the amount of approximately \$54,000 for the Defendant to purchase a 2015 Chevrolet Corvette. Defendant **CHRISTOPHER A. MONTALBANO** claimed, among other things, that he earned more than \$35,000 per month income from his purported employer The Arete Group, Inc.

All in violation of Title 18, United States Code Section 1014.

COUNT SIX
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

24. On or about November 26, 2016, in the Northern District of Alabama, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to Bank of the West, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of Bank of the West to provide the Defendant with a loan in the amount of approximately \$103,685 for **CHRISTOPHER A. MONTALBANO** to purchase a 2016 Mastercraft XST 24 boat. Defendant **CHRISTOPHER A. MONTALBANO** submitted a false and fraudulent Alabama boat registration certificate, with a false HIN number for the Mastercraft boat. The Defendant also submitted a false bill of

sale and misrepresented that he made a down payment in the amount of \$11,315 to the seller LSA.

All in violation of Title 18, United States Code Section 1014.

COUNT SEVEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

25. On or about March 16, 2017, in the Northern District of Alabama, Defendant,

GUS ANTHONY MONTALBANO,

knowingly made and caused to be made to Heritage South Credit Union, a financial institution insured by the NCUA, false statements for the purpose of influencing the actions of Heritage South Credit Union to provide the Defendant with a loan in the amount of approximately \$152,096.63 for the purchase a 2017 Mastercraft X26 boat. Defendant **GUS ANTHONY MONTALBANO** claimed, among other things, that he earned over \$47,000 in personal monthly income from his employer The Arete Group, Inc.

All in violation of Title 18, United States Code Section 1014.

COUNT EIGHT
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

26. On or about July 14, 2017, in the Northern District of Alabama, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to Southern States Bank, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of Southern States Bank to provide the Defendant with a loan in the amount of approximately \$115,000 for the Defendant to purchase a 2017 Mastercraft X26 boat. Defendant **CHRISTOPHER A. MONTALBANO** submitted a false and fraudulent HIN number for the Mastercraft boat. The Defendant **CHRISTOPHER A. MONTALBANO** claimed, among other things, that he had more than \$30,000 in monthly earnings from his purported employer and the Defendant also provided Southern States bank with false and fraudulent 2016 IRS 1040 purporting to have earned wages in excess of \$400,000 and a 2017 IRS 1040 purporting to have earned wages in excess of \$700,000.

All in violation of Title 18, United States Code Section 1014.

COUNT NINE
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

27. On or about July 14, 2017, in the Northern District of Alabama,
Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to AlaTrust Credit Union, a financial institution insured by the NCUA, false statements for the purpose of influencing the actions of AlaTrust Credit Union to provide the Defendant with a loan in the amount of approximately \$135,070 for the Defendant to purchase a 2017 Mastercraft X26 boat. Defendant **CHRISTOPHER A. MONTALBANO** submitted a false and fraudulent Marine Purchase Agreement with a HIN number for a fictitious Mastercraft boat. The Defendant **CHRISTOPHER A. MONTALBANO** claimed, among other things, that he had annual income in excess of \$400,000 as an Executive at LSA Corp.

All in violation of Title 18, United States Code Section 1014.

COUNT TEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

28. On or about February 6, 2018, in the Northern District of Alabama,
Defendant,

GUS ANTHONY MONTALBANO,

knowingly made and caused to be made to Southern States Bank, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of Southern States Bank to provide the Defendant with financing in the amount of approximately \$188,000 for the purchase of a 2016 John Deere bulldozer 750K LGP. Defendant **GUS ANTHONY MONTALBANO** submitted false and fraudulent tax documents in support of the loan application. Defendant **GUS ANTHONY MONTALBANO** submitted a false and fraudulent equipment identification number for the bulldozer.

All in violation of Title 18, United States Code Section 1014.

COUNT ELEVEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

29. On or about February 14, 2018, in the Northern District of Alabama, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to USAA, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of USAA to provide the Defendant with a loan in the amount of approximately \$115,000 for the Defendant to purchase a 2017 Everglades boat. Defendant **CHRISTOPHER A.**

MONTALBANO claimed, among other things, that he earned more than \$44,000 per month income from his purported employer The Arete Group, Inc. Defendant **CHRISTOPHER A. MONTALBANO** submitted a false and fraudulent HIN for the Everglades boat.

All in violation of Title 18, United States Code Section 1014.

COUNT TWELVE
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

30. On or about September 17, 2018, in the Northern District of Alabama, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to Peoples Bank of Alabama, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of Peoples Bank of Alabama to provide the Defendant with two loans for the Defendant to purchase two pieces of John Deere construction equipment. Defendant **CHRISTOPHER A. MONTALBANO** submitted a fraudulent bill of sale; a fraudulent 2015 IRS Tax Return purporting to show annual wages in excess of \$619,000; a fraudulent 2015 IRS 1120 Corporate Income Tax Return for LSA Corp.; a fraudulent 2016 IRS Tax Return purporting to show annual wages in excess of

\$626,000; and a fraudulent 2016 IRS 1120 Corporate Income Tax Return for LSA Corp.

All in violation of Title 18, United States Code Section 1014.

COUNT THIRTEEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

31. On or about November 29, 2018, in the Northern District of Alabama, Defendants,

GUS ANTHONY MONTALBANO and
CHRISTOPHER A. MONTALBANO

knowingly made and caused to be made to Peoples Bank of Alabama, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of Peoples Bank of Alabama to provide the Defendant **GUS ANTHONY MONTALBANO** with a loan in the amount of approximately \$135,000 for the purported purchase a 2017 John Deere 210G excavator. Defendants **CHRISTOPHER A. MONTALBANO** and **GUS ANTHONY MONTALBANO** submitted a consumer loan application purporting **GUS ANTHONY MONTALBANO** to be the President of The Arete Group, a construction business, with a annual salary of \$675,000; a fraudulent 2016 IRS Tax Return purporting to show annual wages in excess of \$538,000, a fraudulent 2017 IRS Tax Return

purporting to show annual wages in excess of \$621,000, and a fraudulent 2017 W-2 for the The Arete Group purporting to show annual wages in excess of \$621,000.

All in violation of Title 18, United States Code Section 1014.

COUNT FOURTEEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

32. On or about January 28, 2019, in the Northern District of Alabama, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to BBVA Compass Bank, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of BBVA Compass Bank to provide the Defendant with a loan in the amount of approximately \$82,530.00 for the Defendant to purchase a 2017 Mastercraft X46 boat. Defendant **CHRISTOPHER A. MONTALBANO** submitted a false and fraudulent HIN number for the Mastercraft boat. Defendant **CHRISTOPHER A. MONTALBANO** claimed, among other things, that he earned more than \$700,000 annually from his purported employer, LSA Corp., and had a net worth of over \$6.9Million.

All in violation of Title 18, United States Code Section 1014.

COUNT FIFTEEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

33. On or about April 5, 2019, in the Northern District of Alabama, Defendants,

CHRISTOPHER A. MONTALBANO and
GUS ANTHONY MONTALBANO,

knowingly made and caused to be made to Southern States Bank, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of Southern States Bank to provide the Defendants with a loan in the amount of approximately \$130,000 in the name of the Defendants' company LSA Corp., to purchase a 2019 John Deere 550K bulldozer. Defendants submitted a false and fraudulent identification number for the bulldozer. Defendants **CHRISTOPHER A. MONTALBANO** and **GUS ANTHONY MONTALBANO** submitted a false and fraudulent bill of sale documentation representing that the equipment was initially purchased by **CHRISTOPHER A. MONTALBANO'S** company LSA Development in February 2019.

All in violation of Title 18, United States Code Section 1014.

COUNT SIXTEEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

34. On or about July 25, 2019, in the Northern District of Alabama, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to Bank of the West, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of Bank of the West to provide the Defendant with a loan in the amount of approximately \$151,000 for the Defendant to purchase a 2019 Mastercraft X24 boat. Defendant **CHRISTOPHER A. MONTALBANO** submitted a false and fraudulent HIN number for the Mastercraft boat. Defendant **CHRISTOPHER A. MONTALBANO** claimed, among other things, that he had a gross income of more than \$80,000 in earnings from LSA Corporation and he provided a false and fraudulent personal financial statement purporting to show that he had \$7.7 Million in assets. The Defendant represented to Bank of the West that he purchased the boat from Land Work Tractor and Equipment; however he failed to disclose that he was affiliated with the purported seller of the 2019 Mastercraft X24 boat and also that Land Work Tractor and Equipment was not a boat dealer.

All in violation of Title 18, United States Code Section 1014.

COUNT SEVENTEEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

35. On or about November 29, 2019, in the Northern District of Alabama and elsewhere, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to Equity Bank, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of Equity Bank to provide the Defendant with a loan in the amount of approximately \$2.215,000 for the Defendant to refinance the purchase of a Cessna Citation 750. Defendant **CHRISTOPHER A. MONTALBANO** submitted false and fraudulent tax return documents claiming, among other things, that in 2017 he had a wages in the amount of \$706,399, and in 2018 he had wages in the amount \$965,287.

All in violation of Title 18, United States Code Section 1014.

COUNT EIGHTEEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

36. In or about November 2019 and continuing through February 2020 in the Northern District of Alabama, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to BCI Capital, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of BCI Capital to provide the Defendant with financing for the purchase of approximately thirteen (13) pieces of construction equipment. Defendant submitted false and fraudulent 2016, 2017 and 2018 IRS Form 1120 U.S. Corporate Income Tax Returns in support of the loan application. Defendant **CHRISTOPHER A. MONTALBANO** submitted false and fraudulent equipment serial numbers or product identification numbers for the construction equipment. **CHRISTOPHER A. MONTALBANO** further represented to BCI Capital that the seller of the construction equipment was Land Work Tractor and Equipment, however **CHRISTOPHER A. MONTALBANO** failed to disclose that he was affiliated with the purported seller.

All in violation of Title 18, United States Code Section 1014.

COUNT NINETEEN
FALSE STATEMENTS TO OBTAIN A BANK LOAN
18 U.S.C. § 1014

37. In or about December 2019 and continuing through February 2020 in the Northern District of Alabama, Defendant,

CHRISTOPHER A. MONTALBANO,

knowingly made and caused to be made to PNC Bank, a financial institution insured by the FDIC, false statements for the purpose of influencing the actions of PNC Bank to provide the Defendant with financing for the purchase of approximately twelve (12) pieces of construction equipment. Defendant submitted false and fraudulent 2017 and 2018 IRS Form 1120 U.S. Corporate Income Tax Returns in support of the loan application. Defendant **CHRISTOPHER A. MONTALBANO** submitted false and fraudulent equipment serial numbers or product identification numbers for the construction equipment. **CHRISTOPHER A. MONTALBANO** represented to PNC that the seller of the construction equipment was Land Work Tractor and Equipment, however **CHRISTOPHER A. MONTALBANO** failed to disclose that he was affiliated with the purported seller.

All in violation of Title 18, United States Code Section 1014.

COUNT TWENTY
AGGRAVATED IDENTITY THEFT
18 U.S.C. § 1028A

38. On or about September 26, 2018, in Jefferson County in the Northern District of Alabama and elsewhere, the Defendant,

CHRISTOPHER A. MONTALBANO

did knowingly transfer and possess and use, without lawful authority, a means of identification of another person, specifically, the name and personal identifying

information of an individual whose initials are T.G. during and in relation to an application for a loan submitted to USAA Bank, during and in the commission of a felony offense, to wit, bank fraud in violation of 18 U.S.C. § 1344, knowing the means of identification belonged to another actual person.

All in violation of Title 18, United States Code, Section 1028A.

COUNT TWENTY-ONE
AGGRAVATED IDENTITY THEFT
18 U.S.C. § 1028A

39. On or about March 4, 2019, in Jefferson County in the Northern District of Alabama and elsewhere, the Defendant,

CHRISTOPHER A. MONTALBANO

did knowingly transfer and possess and use, without lawful authority, a means of identification of another person, specifically, the name and personal identifying information of an individual whose initials are T.G. during and in relation to an application for a loan submitted to USAA Bank, during and in the commission of a felony offense, to wit, bank fraud in violation of 18 U.S.C. § 1344, knowing the means of identification belonged to another actual person.

All in violation of Title 18, United States Code, Section 1028A.

COUNT TWENTY-TWO through TWENTY-FIVE
MONEY LAUNDERING
18 U.S.C. § 1957

40. On or about the date set forth below for each count and for each respective Defendant as indicated in the chart below in the Northern District of Alabama, the Defendant knowingly engaged and attempted to engage, in a monetary transaction, by through or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, that is, the transfer of funds as set forth below, such property having been derived from a specified unlawful activity, that is bank fraud.

COUNT	DATE	DESCRIPTION OF FINANCIAL TRANSACTION	DEFENDANT	APPROXIMATE AMOUNT
22	09/08/2016	Check from Noble Bank account -3434 payable to LSA and deposited into the LSA account at Southern States Bank - 9473	GUS ANTHONY MONTALBANO	\$70,000.00
23	03/17/2017	Transfer from Heritage South account -0083 to Reli Settlement Solutions LLC	CHRISTOPHER A. MONTALBANO	\$178,305.70
24	02/15/2018	Transfer from Noble Bank account -3434 LSA Corp. and deposited into the Lunar Holdings LLC account at Wells Fargo -6038	CHRISTOPHER A. MONTALBANO	\$88,760.00

25	07/23/2018	Check from Noble Bank account -3434 payable to LSA Corp. and deposited into the LSA account at Southern States Bank -9473	CHRISTOPHER A. MONTALBANO	\$98,542.91
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All in violation of Title 18, United States Code Section 1957.

COUNT TWENTY-SIX
BANK FRAUD
18 U.S.C. § 1344

41. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law enacted in or about March 2020 and was designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief that the CARES Act provided for was the authorization of up to \$349 billion in forgivable loans to small businesses for payroll, mortgage interest, rent/lease, and utilities, through a program referred to as the Paycheck Protection Program (“PPP”).

42. In order to obtain a PPP loan, a qualifying business was required to submit a PPP loan application to a participating lender. An authorized representative of the business was required to sign an application. In the PPP loan application, the small business (through its authorized representative) had to state, among other things, its (a) average monthly payroll expenses and (b) number of employees.

These figures were used to calculate the amount of money the small business was eligible to receive under the PPP. The amount of a PPP loan that a small business may be entitled to receive was determined by the number of persons employed by the business and the business's average monthly payroll costs. In general, the more employees a business had and the higher its average monthly payroll cost, the larger a PPP loan the business was eligible to receive. In addition, businesses applying for a PPP loan were required to provide documentation establishing their payroll expenses.

43. The PPP loan application also required a business (through its authorized representative) to acknowledge its understanding of the program rules and make certain affirmative certifications. Businesses were required to use PPP loan proceeds for payroll costs, interest on mortgages, rent, and utilities.

44. The United States Small Business Administration ("SBA") oversaw the PPP. However, individual PPP loans were issued by private, SBA-approved lenders who received and processed PPP applications and supporting documentation and then made loans using the lenders' own funds. PPP loans were 100% guaranteed by the SBA. Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, was transmitted by the lender to the SBA in the course of processing the loan.

45. At all times material to this indictment Cross River Bank was a financial institution insured by the FDIC. Cross River Bank participated in the SBA's PPP as a lender, and as such, was authorized to lend funds to eligible borrowers under the terms of the PPP.

BANK FRAUD SCHEME

46. On or about April 29, 2020, in the Northern District of Alabama, the Defendant,

CHRISTOPHER A. MONTALBANO,

did knowingly execute a scheme and artifice to defraud Cross River Bank, the deposits of which were insured by the FDIC, 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 the financial institutions, and caused the financial institutions to deposit funds into an account controlled by the Defendant.

MANNER AND MEANS

47. On or about April 29, 2020, **CHRISTOPHER A. MONTALBANO** submitted to Cross River Bank a PPP loan application for LSA Corp. In the application, **CHRISTOPHER A. MONTALBANO** claimed that LSA Corp was a

business in operation on February 15, 2020 that paid payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC.

48. **CHRISTOPHER A. MONTALBANO** falsely and fraudulently represented that the funds he sought for LSA Corp. would “be used to retain workers and maintain payroll or make mortgage interest payments, lease payments, and utility payments” when, in fact, he intended to divert the funds he obtained from the PPP to his personal use and benefit.

49. **CHRISTOPHER A. MONTALBANO** falsely and fraudulently asserted he was not engaged in any activity that is illegal under federal, state or local law.

50. **CHRISTOPHER A. MONTALBANO** electronically signed the LSA Corp., application.

51. On or about April 30, 2020, Cross River Bank approved and paid LSA Corp in the amount of \$58,153.00.

52. On or about April 30, 2020, the SBA Loan funds were deposited into the LSA Corp., bank account at Wells Fargo ending -6978. On the same day, the Defendant transferred a total of \$56,000.00 of the funds from the LSA Corp., bank account and deposited them into the Lunar Holdings LLC account at Wells Fargo account ending -6038.

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

NOTICE OF FORFEITURE:

**18 U.S.C. § 981(a)(1)(C), § 982(a)(2)(A),
and 28 U.S.C. §2461(c)**

1. The allegations in Counts One through Nineteen and Twenty-Six of this Indictment are re-alleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States pursuant to the provisions of Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2)(A), and Title 28 United States Code, Section 2461(c).

2. Upon conviction of the offenses described in Counts One through Nineteen and Twenty-Six of this Indictment, the Defendants,

**CHRISTOPHER A. MONTALBANO and
GUS ANTHONY MONTALBANO,**

shall forfeit to the United States, any property, real or personal, that constitutes or is derived from, directly or indirectly, proceeds traceable to the commission of the said violations, including but not limited to the following:

JUDGMENT FOR PROCEEDS:

A sum of money equal to at least \$10,000,000.00 in United States currency, representing the amount of proceeds obtained as a result of the offenses alleged.

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

- 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;

the United States States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

NOTICE OF FORFEITURE
18 U.S.C. § 982(a)(1)

1. The allegations contained in Counts Twenty-Two through Twenty-Five of this Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeiture to the United States pursuant to Title 18, United States Code, Section 982(a)(1).

2. Upon conviction of the offenses described in Counts Nineteen through Twenty-Three of this Indictment, the Defendants,

**CHRISTOPHER A. MONTALBANO and
GUS ANTHONY MONTALBANO,**

shall forfeit to the United States of America any property, real or personal, involved in such violations, and any property traceable to such property, including but not limited to the following:

JUDGMENT FOR VALUE OF PROPERTY INVOLVED IN THE OFFENSES:

A sum of money equal to the value of the property involved in the offenses, and property traceable thereto.

3. If any of the property described above, as a result of any act or omission of the Defendants:

- 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,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title

18, United States Code, Section 982(b)(1) and Title 28, United States Code, Section 2461(c).

A TRUE BILL

/s/electronic signature

FOREPERSON OF THE GRAND JURY

PRIM F. ESCALONA
United States Attorney

/s/electronic signature

ROBIN B. MARK
Assistant United States Attorney

/s/electronic signature

KRISTEN S. OSBORNE
Assistant United States Attorney