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**UNITED STATES DISTRICT COURT**

**DISTRICT OF ARIZONA**

UNITED STATES OF AMERICA

v.

James Theodore Polzin (Counts 1 – 6)

Case No.:

21-052MS

**CRIMINAL COMPLAINT**

**SEALED**

I, the undersigned complainant, being duly sworn, state that the following is true and correct to the best of my knowledge and belief:

**Counts 1-3: Fraud in connection with major disaster or emergency benefits,  
18 U.S.C. § 1040**

Between May 2020 through at least July 2020, within the District of Arizona and elsewhere, the defendant, James Theodore Polzin (Polzin), did knowingly and willingly commit fraud in connection with a major disaster or emergency benefits in violation of Title 18, United States Code, Section 1040.

**Manner and Means of the Scheme to Defraud**

This scheme targeted the Small Business Administration (SBA) with the intention of defrauding the SBA of funds in connection to the Economic Injury Disaster Loan (EIDL) Program as authorized under the provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act by providing materially false loan applications claiming non-existent employees and revenues for business entities owned and operated by POLZIN. In furtherance of the scheme to defraud, POLZIN submitted supporting loan documents that contained contradicting information for the same business on each application. These representations were false and fraudulent. POLZIN made these misrepresentations with the intent to defraud the United States in order to obtain loan proceeds that he was not entitled to.

On or about the dates specified as to each count below, the defendant, POLZIN, for the purpose of executing the aforesaid scheme and artifice, did knowingly make materially

false, fictitious, or fraudulent statements or representations, or make or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or representation as more particularly described below.

**COUNT 1**

**(Transparen CPAS LLC Loan 5556727802)**

On or about May 30, 2020, POLZIN was approved for an EIDL in the amount of \$150,000. On the loan application, POLZIN stated that Transparen CPAS utilized EIN XX-XX19913. In addition, POLZIN stated that Transparen CPAS LLC had nine employees and revenues of \$645,000 for the 12 months prior to January 2020.

A query of EIN XX-XX19913 through the Arizona Department of Economic Security (DES) database showed no quarterly tax and wage reports for the third and fourth quarters of 2019. Two employees were shown for the first quarter of 2019, and three employees were listed for the second quarter of 2019, indicating that Transparen CPAS LLC—utilizing EIN XX-XX19913—does not have nine employees as indicated on its EIDL application.

**COUNT 2**

**(Transparen CPAS Loan 7800007909)**

On or about June 18, 2020, POLZIN was approved for an EIDL in the amount of \$150,000. On the loan application, POLZIN stated that Transparen CPAS, a Sole Proprietorship, utilized EIN XX-XX75306. POLZIN'S Social Security Number (SSN) is XXX-XX-5306. In addition, POLZIN stated that Transparen CPAS had 16 employees and revenues of \$1,205,401 for the 12 months prior to January 2020.

A query of POLZIN'S SSN through the Arizona Department of Economic Security (DES) database yielded negative results, indicating that Transparen CPAS utilizing EIN XX-XX75306 does not have 16 employees as indicated on its EIDL application.

**COUNT 3**

**(Polzin Holdings Loan 9193768002)**

On or about July 14, 2020, POLZIN was approved for an EIDL in the amount of \$150,000. On the loan application, POLZIN stated that Polzin Holdings LLC utilized EIN XX-XX90157. In addition, POLZIN stated that Polzin Holdings LLC had eight employees and revenues of \$554,650 for the 12 months prior to January 2020.

A query of EIN XX-XX90157 through the Arizona Department of Economic Security (DES) database yielded negative results, indicating that Polzin Holdings LLC—utilizing EIN XX-XX090157—does not have eight employees as indicated on its EIDL application.

All in violation of Title 18, U.S.C. § 1040.

**Counts 4-6: Wire Fraud, 18 U.S.C. § 1343**

Between about May 2020 and July 2020, in Maricopa County, in the District of Arizona, POLZIN did knowingly and willfully devise and intend to devise a scheme and artifice to defraud and obtain money and property by means of materially false and fraudulent promises, pretenses and representations, and concealment of material facts, in violation of Title 18, U.S.C. § 1343.

On or about the dates specified as to each count below, POLZIN, for the purpose of executing the aforesaid scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, as more particularly described in the following table.

Count	Date	Requestor / Amount	IP Address	Receiving Server
4	5/30/2020	Transparen CPAS LLC / \$150,000	184.187.219.220 Chandler, AZ / 188.163.21.106 Chernihiv Ukraine 174.192.78.49 Green Bay, WI /	Rapid Finance, Central US Region, Iowa
5	6/17/2020	Transparen CPAS / \$150,000	104.143.92.249 San Francisco, CA 74.213.234.35 Gardena, CA /	Rapid Finance, Central US Region, Iowa
6	7/7/2020	Polzin Holdings LLC / \$150,000	184.187.219.220 Chandler, AZ	Rapid Finance, Central US Region, Iowa

All in violation of Title 18, U.S.C. § 1343.

I further state that I am a Special Agent with the Homeland Security Investigations, and this complaint is based on the following facts:

**See Attached Statement of Probable Cause Incorporated By Reference Herein.**

Continued on the attached sheet and made a part hereof:  Yes  No

AUTHORIZED BY: Kevin Rapp, AUSA

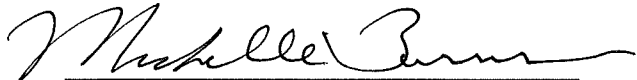
Special Agent Gregory N. Luethans  
Name of Complainant

**GREGORY N  
LUETHANS**  
Digitally signed by GREGORY N  
LUETHANS  
Date: 2021.03.17 10:19:48  
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Signature of Complainant

Sworn to telephonically  
March 17, 2021  
Date

at Phoenix, Arizona  
City and State

United States Magistrate Judge  
HONORABLE MICHELLE H. BURNS

  
\_\_\_\_\_  
Signature of Judicial Officer

**STATEMENT OF PROBABLE CAUSE**

I, Gregory Luethans, being first duly sworn, hereby depose and state as follows:

**I. Affiant's Background**

1. I am a Special Agent with U.S. Immigration and Customs Enforcement ("ICE") Homeland Security Investigations ("HSI") currently serving in the Phoenix Field Office, Financial Crimes Unit. I have been employed as a federal agent for over 11 years. I have conducted numerous criminal investigations involving violations of Immigration and Customs law committed against the United States, such as financial crimes, weapons violations, narcotics violations, document and benefit fraud, and human smuggling. Recently, I have been assigned to work with other law enforcement partners to investigate possible fraud associated with the stimulus and economic assistance programs created by the federal government in response to the COVID-19 pandemic.

**II. Purpose of Affidavit**

2. This affidavit is made in support of a criminal complaint charging James Theodore Polzin ("Polzin") with 18 U.S.C. § 1040 (fraud in connection with major disaster or emergency benefits) and 18 U.S.C. § 1343 (wire fraud).

3. This affidavit is based on my personal investigation and investigation by others, including federal and local law enforcement officials whom I know to be reliable and trustworthy. The facts contained herein have been obtained by interviewing witnesses and examining documents obtained in the course of the investigation as well as through other means. This affidavit does not include every fact known to me about this investigation but rather, only those facts sufficient to establish probable cause.

**III. Background Information and Summary of Criminal Activity**

4. On March 27, 2020, the U.S. President signed a \$2.2 trillion stimulus bill called the CARES Act, which was intended to ameliorate the economic impact of the COVID-19 Pandemic. *See* Pub. L. 116-136. Under the provisions of the CARES Act, \$2.2 trillion dollars in economic stimulus was passed by the 116th U.S. Congress and signed

into law by the President in March 2020 in response to the economic decline caused by the COVID-19 pandemic in the United States.

5. The provisions of the CARES Act, in conjunction with an officially declared disaster by the United States Government, allowed for the Small Business Administration (SBA) to offer Economic Injury Disaster Loan (EIDL) funding to business owners negatively affected by the COVID-19 pandemic. Using the SBA online portal, EIDL applicants submit personal and business information in support of each EIDL application, and they do not have to submit supporting documentation of any sort.

6. The application includes a jurat-like paragraph where the applicant affirms that the information submitted is true and correct under the penalty of perjury and applicable criminal statutes. The application process involves filling out assorted data fields relating to the size of the affected business entity, the ownership of said business, and other information such as the number of employees and gross business revenues realized in the 12 months prior to the COVID-19 impact on the national economy. This information, submitted by the applicant, is then used by SBA systems to calculate the principal amount of money the small business is eligible to receive in the form of an EIDL. However, in conjunction with the submission of an EIDL application, by simply clicking on and checking a box within the on-line application, an applicant may request and then receive up to \$10,000.00 in an EIDL Cash Advance Grant based on the number of employees claimed. The EIDL Cash Advance Grant need not be repaid to the SBA if the loan application is ultimately denied by the SBA, or if the applicant declines the EIDL that may be offered by the SBA at a later date.

7. The SBA Office of Disaster Assistance (ODA) controls the EIDL program and is headquartered at 409 3rd Street SW, Washington, DC 20416. The ODA has authority over all loans created and disbursed under the EIDL program. EIDL principal proceeds and available Cash Advance Grants (up to \$10,000) are solely funded by the SBA

and are disbursed from government-controlled accounts maintained with the U.S. Treasury at Federal Reserve Banks throughout the United States.

8. Pursuant to the provisions governing the EIDL program, loan proceeds must be used by that business on certain permissible expenses. The EIDL (working capital) loans may be used by the afflicted business, which must have existed in an operational condition on February 1, 2020, to pay fixed debts, payroll, accounts payable, and other bills that could have been paid had the COVID-19 disaster not occurred.

**A. EIDL APPLICATIONS SUBMITTED BY POLZIN**

**“Transparen CPAS LLC/Transparen CPAS/Polzin Holdings LLC”**

9. The Small Business Administration (SBA) is responsible for extending loans to businesses applying for loans associated with the EIDL program. The SBA provided me with loan documents submitted on or about May 2020 through July 2020 bearing the signature of Polzin, as referenced in Counts 4-6 of the complaint. Each application sought an EIDL loan for businesses identified as Transparen CPAS LLC, Transparen CPAS, and Polzin Holdings LLC. Separate loans were filed for Transparen CPAS and Transparen CPAS LLC as the former is Polzin’s Sole Proprietorship and the latter is his Limited Liability Company. Each application identified Polzin as owning 100% of the business. On each of the applications, Polzin listed his residential address as XXXX S. Val Vista Dr. #218 Mesa, AZ.

10. According to the Arizona Corporation Commission, Transparen CPAS LLC was formed/registered on or about May 22, 2017. In order to support an EIDL in the amount of \$150,000 for application 5556727802 utilizing EIN XX-XX19913, Polzin represented that the business, Transparen CPAS LLC, had revenue of \$645,000 and nine employees.

11. In order to support a second EIDL in the amount of \$150,000 for application 7800007909 utilizing EIN XX-XX75306, Polzin represented that the business, Transparen CPAS, had revenue of \$1,205,401 and 16 employees. In addition, Polzin provided the

SBA with an IRS Schedule C (Form 1040 or 1040-SR) which represented Transparen CPAS had wages of \$864,000.00.

12. According to the Arizona Corporation Commission, Polzin Holdings LLC was formed/registered on or about March 14, 2019. In order to support an EIDL in the amount of \$150,000 for application 9193768002 utilizing EIN XX-XX90157, Polzin represented that the business, Polzin Holdings LLC, had revenue of \$554,650 and eight employees.

13. A review of the Department of Economic Security (DES) payroll records for Transparen CPAS LLC (EIN XX-XX19913) showed no quarterly tax and wage reports for the third and fourth quarters of 2019. The first quarter of 2019 listed two employees, Polzin and Leonard Pennock, with total wages of \$18,450.00. The second quarter listed three employees: Polzin, Leonard Pennock, and Roxanne Gates. Second quarter wages totaled \$21,100.00.

14. A review of DES payroll records for Polzin's SSN (XXX-X7-5306), which was used as his EIN for Transparen CPAS, showed no additional wages. Further, a review of DES payroll records for Polzin Holdings LLC (EIN XX-XX90157) revealed no records/wages.

15. A physical site check of the business address listed for Transparen CPAS and Polzin Holdings LLC, both located at 1 North Macdonald Suite B8, Mesa, AZ 85204, showed a business matching the name Transparen CPAS on the building directory. Access to Transparen CPAS floor and office was inaccessible to the general public and appeared to only be accessible via a keypad or access card.

16. On each of the EIDL applications, Polzin signed the Loan Authorization and Agreement documents using DocuSign technologies.

## **B. CNN ARTICLE**

17. On March 5, 2021, CNN published an article titled, "Fake tax preparer gets six Covid-19 bailout loans worth more than \$1 million." The article documents Polzin



obtained at least six Covid-19 bailout loans from the federal government totaling around \$1.2 million through the SBA's Paycheck Protection Program (PPP). Further, the article claims Polzin misrepresented himself as a CPA to multiple clients and that a complaint was filed with the Arizona State Board of Accountancy.<sup>1</sup>

**C. PURCHASE OF 902 N. CORONADO DR. GILBERT, ARIZONA 85234**

18. A review of Maricopa County Recorder documents showed Polzin purchased the property located at 902 N. Coronado Dr., Gilbert, Arizona 85234, on June 19, 2020, for \$385,000.00. Recorded documents show the house was purchased with cash.

19. A review of bank records provided by BMO Harris showed Polzin opened a BMO Harris Business Advantage Checking Account XXXXXX1088 (Account 1) on December 17, 2019, in the name of Transparen CPAS LLC. Also, on December 17, 2019, Polzin opened a BMO Harris Smart Advantage Account XXXXXX7848 (Account 2) in the name of James Polzin and Svitlana Popsii.

20. Account 1 was opened with a \$100.00 deposit and received no further deposits until April 27, 2020, when the account received a PPP loan disbursement of \$180,095.37. Between April and June 2020, Account 1 received approximately \$740,957.37 in EIDL and PPP loans. During the same time period, Account 1 received approximately \$161,114.45 in other deposits. Notably, approximately \$45,636.75 appears to be related to assisting two other companies with obtaining PPP loans.

21. Account 2 received a \$218,962.00 PPP loan disbursement on June 10, 2020, and a total of \$475,000.00 in transfers from Account 1 between May and June 2020. Bank records show on June 23, 2020, \$388,198.34 was wired to a title company from Account 2.

22. The loan applications signed by Polzin specifically require that the EIDL funds be used for working capital to alleviate economic injury caused by disaster occurring

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<sup>1</sup> <https://www.cnn.com/2021/03/05/business/polzin-tax-preparer-ppp-loan-invs/index.html>

in the months of January 31, 2020, and continuing thereafter and not for the purchase of a private residence or vacation home.

**IV. Conclusion**

23. Based on my training and experience and the information provided in this affidavit, I respectfully submit that there is probable cause to believe that, beginning on a date unknown but from at least in or around May 2020 to July 2020, within the District of Arizona, James Theodore Polzin committed violations of 18 U.S.C. § 1040 (fraud in connection with a major disaster or emergency benefits) and 18 U.S.C. § 1343 (wire fraud).

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

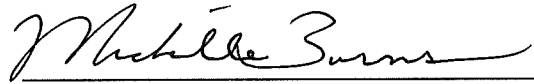
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LUETHANS

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Special Agent Gregory N. Luethans  
Homeland Security Investigations

Sworn to and subscribed telephonically this 17 day of March, 2021.



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HONORABLE MICHELLE H. BURNS  
United States Magistrate Judge