

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
2021 JUL 22 PM 5:36
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

M.A. YAH,

Defendant.

8:21CR 205

INDICTMENT
18 U.S.C. § 1344

The Grand Jury charges that

At all times material in the Indictment:

The Defendant and Related Entity

1. The defendant, M.A. Yah, was a resident of Omaha, Nebraska in the District of Nebraska.
2. The defendant, M.A. Yah, is the director of The Heartland News. The Heartland News is a non-profit domestic corporation that was incorporated in the State of Nebraska in 2010. The Heartland News is a non-profit newspaper that is focused on doing work with and for the homeless.
3. On June 28, 2019, the Nebraska Secretary of State dissolved The Heartland News as a nonprofit corporation or revoked its certificate of authority to transact in business in Nebraska for failure to deliver its biennial report and pay its biennial fee to the Nebraska Secretary of State. The Heartland News was reinstated in March 2020.

The Small Business Administration and the CARES Act

3. The United States Small Business Administration (“SBA”) was an executive-branch agency of the United States government that provided support to entrepreneurs and small businesses. The mission of the SBA was to maintain and strengthen the nation's economy by enabling the to

maintain and strengthen the nation's economy by enabling the establishment and viability of small businesses and by assisting in the economic recovery of communities after disasters.

4. As part of this effort, the SBA enabled and provided for loans through banks, credit unions, and other lenders that had government-backed guarantees. The SBA also provided direct loans.
5. In or around March 2020, the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was enacted to provide emergency financial assistance to the millions of Americans suffering adverse economic effects caused by the COVID-19 pandemic. The CARES Act established several new temporary programs and provided for expansion of others, including programs created and/or administered by the SBA.

The Paycheck Protection Program

6. One source of relief provided by the CARES Act was the authorization of up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”). In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.
7. In order to obtain a PPP loan, a qualifying business was required to submit a PPP loan application, which was signed by an authorized representative of the business. The PPP loan application required the business (through its authorized representative) to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain the PPP loan. In the PPP loan application, the small business (through its authorized representative) was required to state, among other things, its: (i) average monthly payroll expenses; and (ii) number of employees. These figures were used to calculate the amount of money the small business was eligible to receive under the PPP. In addition, businesses

applying for a PPP loan were required to provide documentation showing their payroll expenses.

8. A PPP loan application was required to be processed by a participating financial institution (“lender”). If a PPP loan application was approved, the lender funded the PPP loan using its own moneys, which were 100% guaranteed by the SBA. Data from the PPP loan application, including information about the borrower, the total amount of the PPP loan, and the listed number of employees, was transmitted by the lender to the SBA in the course of processing the PPP loan.
9. PPP loan proceeds were required to be used by the business on certain permissible expenses: payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal on the PPP loan to be entirely forgiven if the business spent the loan proceeds on these expense items within a designated period of time after receiving the proceeds and used a certain amount of the PPP loan proceeds on payroll expenses.

The Financial Institution

10. Financial Institution 1 was a federally insured financial institution based in Omaha, Nebraska. Financial Institution 1 was an SBA Preferred Lender and participated as a PPP lender to small businesses.

The Scheme to Defraud

11. From or about April 1, 2020, through on or about May 30, 2020, the defendant M.A. Yah, devised a scheme to defraud by submitting and causing to be submitted a false and fraudulent PPP loan application to Financial Institution 1 in order to obtain funds through the PPP.

Manner and Means

12. On or about May 1, 2020, through on or about May 6, 2020, the defendant, M.A. Yah, caused an electronic PPP loan application in the name of The Heartland News to be sent to Financial Institution 1. The Heartland News application requested \$100,800 to support The Heartland News's purported payroll. In The Heartland News's application, the defendant, M.A. Yah, submitted supporting documentation to wit: a false and fraudulent purported IRS Form 941 (Employer's Quarterly Tax Return) for the months of January, February, and March of 2019 showing \$120,960.00 paid in wages to nine employees, another purported IRS Form 941 for the months of April, May, and June of 2019 showing \$120,960.00 paid in wages to nine employees, another purported IRS Form 941 for the months of July, August, and September of 2019 showing \$120,960.00 in wages to nine employees, and another purported IRS Form 941 for the months of October, November, and December of 2019 showing \$120,690.00 in wages to nine employees. These IRS Form 941's were purported to have been filed with the IRS. These submitted IRS Form 941s were false and fraudulent in that Heartland News had not filed an IRS Form 941 for any of the months in 2019 and the amount claimed to have been paid in payroll to employees was overstated and more than what had actually been paid to employees.

PPP Loan Proceeds

13. On or about May 6, 2020, \$100,800.00 in PPP funds were deposited in The Heartland News's account at Financial Institution 1.

Count I

14. Paragraphs 1 through 13 of the Indictment are incorporated by reference as if fully set forth herein.

15. From on or about May 1, 2020, through on or about May 6, 2020, in the District of Nebraska and elsewhere, the defendant, M.A. Yah, knowingly executed and attempted to execute a scheme and artifice to obtain moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, to wit: Financial Institution 1, by means of materially false and fraudulent pretenses, representations, and promises.

In violation of Title 18, United States Code, Section 1344.

A TRUE BILL.

FOREPERSON 

The United States of America requests that trial of this case be held in Omaha, Nebraska, pursuant to the rules of this Court.


SEAN P. LYNCH #25275

Assistant U.S. Attorney