

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:24-cr- 461 WF - NHA

STEPHEN L. GURBA

18 U.S.C. § 1343
(Wire Fraud)
18 U.S.C. § 1028A
(Aggravated Identity Theft)
18 U.S.C. § 1014
(False Statement to a Financial
Institution)

INDICTMENT

SEALED

The Grand Jury charges:

COUNTS ONE AND TWO
(Wire Fraud)

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FILED - USDC - FLMD - TPA

A. Introduction

At all times material to this Indictment:

1. STEPHEN L. GURBA (hereinafter: "GURBA") was a resident of the Middle District of Florida.

2. R.W. was a resident of Pennsylvania who died on December 26, 2019. Prior to his death, R.W. and GURBA were business partners in various businesses.

3. Big Red Express Trucking, LLC ("Big Red Express") was a Florida limited liability company managed by GURBA. R.W. had a 70% ownership interest and GURBA had a 30% ownership interest in Big Red Express.

SEALED

4. Zenith Express, LLC (“Zenith Express”) was a Florida limited liability company managed by GURBA.

5. 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 establishment and viability of small businesses and by assisting in the economic recovery of communities after disasters.

6. A “means of identification” was any name or number that could be used, alone or in conjunction with any other information, to identify a specific individual, including any name, social security number, date of birth, official State or government issued driver’s license or identification number, any unique electronic identification number, address or routing code, or any access device, such as card, account number, personal identification number, or other means of account access that could be used alone or in conjunction with another access device, to obtain money, goods, services, or other things of value, or could be used to initiate a transfer of funds.

The Economic Injury Disaster Relief Program

7. The Economic Injury Disaster Loan (“EIDL”) program was an SBA program that provided low-interest financing to small businesses, renters, and homeowners in regions affected by declared disasters.

8. The CARES Act authorized the SBA to provide EIDLs of up to \$2 million to eligible small businesses experiencing substantial financial disruption due

to the COVID-19 pandemic. In addition, the CARES Act authorized the SBA to issue advances of up to \$10,000 to small businesses within three days of applying for an EIDL. The amount of the advance was determined by the number of employees the applicant certified having. The advances did not have to be repaid.

9. To obtain an EIDL and advance, a qualifying business had to submit an application to the SBA and provide information about its operation, such as the number of employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. In the case of EIDLs for COVID-19 relief, the 12-month period was that preceding January 31, 2020. For EIDL applications submitted before May 4, 2020, an EIDL applicant was required to disclose whether the applicant had been convicted of a criminal offense. The applicant also had to certify that all the information in the application was true and correct to the best of the applicant's knowledge.

10. EIDL applications were submitted directly to the SBA. The amount of the loan, if the application was approved, was determined based, in part, on the information provided by the applicant about employment, revenue, and cost of goods, as described above. Any funds issued under an EIDL, or advance were issued directly by the SBA. EIDL funds could be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rents, and mortgage payments. If the applicant also obtained a loan under the Payment Protection Program, the EIDL funds could not be used for the same purpose as the Payment Protection Program funds.

The Paycheck Protection Program

11. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law enacted in or around March 2020 designed to provide emergency financial assistance to the millions of Americans who were suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program (“PPP”).

12. 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 (SBA Form 2483), the small business (through its authorized representative) was required 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. In addition, businesses applying for a PPP loan were required to provide documentation showing their payroll expenses. Individuals who operated under a sole proprietorship or as an independent contractor or eligible self-employment individual were also eligible to apply for a PPP loan.

13. PPP loan applications were processed by a participating lender. If a PPP loan application was approved, the participating lender funded the PPP loan using its own monies, which were 100% guaranteed by the SBA. Data from the application, including information from 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.

14. PPP loan proceeds were required to be used for certain permissible expenses, including payroll costs, mortgage interest, rent, and utilities. Under the applicable PPP rules and guidance, the interest and principal on the PPP loan was eligible for forgiveness if the business spent the loan proceeds on these expense items within a designated period of time and used a certain portion of the loan towards payroll expenses.

PPP Lender

15. Bank 1 was a financial institution federally insured by the Federal Deposit Insurance Corporation (“FDIC”) with offices and branches in the Middle District of Florida and elsewhere. Bank 1 participated in the SBA’s PPP as a lender and was authorized to lend funds to eligible borrowers under the terms of the PPP. Bank 1 was a member bank of the Federal Home Loan Bank of Atlanta.

Bank Accounts Controlled by the Defendant

16. GURBA controlled and maintained the following financial accounts at Bank 1:

- a. A Big Red Express business account ending in x7751 with GURBA as the sole signatory;
- b. A Zenith Express business account ending in x7769 with GURBA as the sole signatory; and
- c. A joint account ending in x0468 in the name of GURBA and his spouse. GURBA was the sole signatory on the bank account ending in x0468;

B. The Scheme and Artifice

17. Beginning on an unknown date, but no later than in or around March 2020, and continuing through at least May 2021, in the Middle District of Florida and elsewhere, the defendant,

STEPHEN L. GURBA,

knowingly devised and intended 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.

C. Manner and Means of the Scheme and Artifice

18. The manner and means by which the defendant sought to accomplish the scheme and artifice to defraud included, among others, the following:

- a. It was part of the scheme and artifice to defraud that the defendant would and did engage in a scheme to obtain money from the SBA and a PPP lender by submitting EIDL and PPP loan applications to the SBA and Bank 1 in the names of Big Red Express and Zenith Express.

b. It was further part of the scheme and artifice to defraud that the defendant would and did fraudulently use the means of identification of R.W., such as R.W.'s name, date of birth, and social security number, to submit, and cause the submission of, the Big Red Express and Zenith Express EIDL applications to the SBA.

c. It was further part of the scheme and artifice to defraud that the defendant would and did fraudulently use the means of identification of R.W., such as R.W.'s name and signature, to sign and submit, and cause to be signed and submitted, to the SBA under penalty of perjury, the following Big Red Express and Zenith Express EIDL forms:

- i. Loan Authorization and Agreement;
- ii. Loan Note; and
- iii. Loan Security Agreement

d. It was further part of the scheme and artifice to defraud that the defendant would and did fraudulently assert that R.W. had the capacity to contract with the SBA and personally guarantee the Big Red Express and Zenith Express EIDLs.

e. It was further part of the scheme and artifice to defraud that the defendant would and did impersonate R.W. when calling the SBA to inquire about the status of the Big Red Express EIDL.

f. It was further part of the scheme and artifice that the defendant would and did submit, and cause to be submitted, R.W.'s means of identification, specifically, R.W.'s Pennsylvania driver's license, to the SBA.

g. It was further part of the scheme and artifice to defraud that the defendant would and did use and cause EIDL and PPP funds to be used for unauthorized purposes and for his own personal enrichment.

h. It was further part of the scheme and artifice to defraud that the defendant would and did misrepresent, hide, and conceal, and cause to be misrepresented, hidden, and concealed, the purpose of the acts performed in furtherance of the scheme to defraud.

D. Execution of the Scheme and Artifice

19. On or about the dates set forth below, in the Middle District of Florida and elsewhere, the defendant,

STEPHEN L. GURBA,

for the purpose of executing the scheme and artifice described above, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce the writings, signs, signals, pictures, and sounds described below, each transmission constituting a separate count:

COUNT	DATE OF WIRE	INTERSTATE WIRE TRANSMISSION
ONE	March 31, 2020	Electronic transmission of fraudulent EIDL application in the name of Zenith Express, LLC, from the MDFL to the SBA's servers located outside the State of Florida
TWO	April 1, 2020	Electronic transmission of fraudulent EIDL application in the name of Big Red Express Trucking, LLC, from the MDFL to the SBA's servers located outside the State of Florida

In violation of 18 U.S.C. §§ 1343 and 2.

COUNT THREE
(Aggravated Identify Theft)

On or about March 31, 2020, in the Middle District of Florida and elsewhere, the defendant,

STEPHEN L. GURBA,

did knowingly transfer, possess, and use, without lawful authority, a means of identification of another person, that is the name, social security number, and date of birth of R.W., during and in relation to the felony offense of wire fraud, in violation of 18 U.S.C. § 1343, as charged in Count One of the Indictment.

In violation of 18 U.S.C. §§ 1028A(a)(1) and 2.

COUNT FOUR
(Aggravated Identify Theft)

On or about April 1, 2020, in the Middle District of Florida and elsewhere, the defendant,

STEPHEN L. GURBA,

did knowingly transfer, possess, and use, without lawful authority, a means of identification of another person, that is the name, social security number, and date of birth of R.W., during and in relation to the felony offense of wire fraud, in violation of 18 U.S.C. § 1343, as charged in Count Two of the Indictment.

In violation of 18 U.S.C. §§ 1028A(a)(1) and 2.

COUNT FIVE
(False Statement to a Financial Institution)

1. Paragraphs 1 through 16 of Part A of Count One of this Indictment are realleged and incorporated by reference as if fully set forth herein.

2. On or about May 9, 2020, in the Middle District of Florida and elsewhere, the defendant,

STEPHEN L. GURBA,

knowingly made and caused to be made a false statement, for the purpose of influencing the actions of the Bank 1, a financial institution, the accounts of which were insured by the FDIC, in connection with a \$995,448.75 PPP loan application by Big Red Express in that the defendant signed and initialed the PPP loan application representing SBA loan proceeds would only be used for business related purposes and certifying that the PPP funds would be used to retain workers and maintain payroll or make mortgage payments, lease payments, and utility payments on behalf of Big Red Express; when in truth and in fact, as the defendant well knew, all of the PPP loan proceeds would not only be used for business related purposes and that the PPP funds would not be exclusively used to retain workers and maintain

payroll or to make mortgage interest payments, lease payments, and utility payments on behalf of Big Red Express.

In violation of 18 U.S.C. §§ 1014 and 2.

FORFEITURE

1. The allegations contained in Counts One, Two, and Five, are incorporated by reference for the purpose of alleging forfeiture pursuant to 18 U.S.C. §§ 981(a)(1)(C) and 982(a)(2)(A), and 28 U.S.C. § 2461(c).

2. Upon conviction of violations of 18 U.S.C. § 1343, the defendant,
STEPHEN L. GURBA,
shall forfeit to the United States of America, pursuant to 18 U.S.C. § 981(a)(1) and 28 U.S.C. § 2461(c), any property constituting, or derived from, proceeds obtained directly or indirectly, as the result of such violations.

3. Upon conviction of a violation of 18 U.S.C. § 1014, the defendant,
STEPHEN L. GURBA,
shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(2)(A), any property constituting, or derived from, proceeds obtained, directly or indirectly, as a result of such violation.

4. The property to be forfeited includes, but is not limited to, an order of forfeiture in the amount of at least \$1,155,448.75, which is the amount of proceeds obtained by the defendant as a result of the commission of the offenses.

5. If any of the property described above, 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,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b)(1) and 28 U.S.C. § 2461(c).

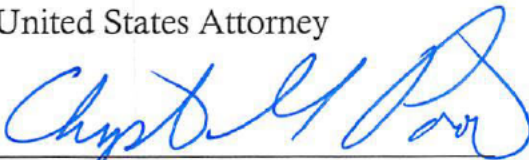
A TRUE BILL,



Foreperson

ROGER B. HANDBERG
United States Attorney

By:



Christopher Poor
Assistant United States Attorney

By:



For: Carlton C. Gammons
Assistant United States Attorney
Chief, Economic Crimes Section

October 24

No.

UNITED STATES DISTRICT COURT
 Middle District of Florida
 Tampa Division

THE UNITED STATES OF AMERICA

vs.

STEPHEN L. GURBA

INDICTMENT

Violations: 18 U.S.C. § 1343
 18 U.S.C. § 1028A
 18 U.S.C. § 1014

A true bill,



Foreperson

Filed in open court this 24th day

of October 2024.

Clerk

KARINA NIEVES

Bail \$ _____