

The Regulatory Alchemist

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Although the COVID pandemic may be official over, the ramifications of Coronavirus Aid, Relief, and Economic Security (CARES) Act violations are continuing. Take for example the following case published by the Knoxville FBI office:

On June 28, 2023, Sarrah Denton Willhite, 35, of Gatlinburg Tennessee was sentenced to 27 months in prison by the Honorable Thomas A. Varlan, United States District Judge, in the United States District Court for the Eastern District of Tennessee at Knoxville.

As part of a plea agreement filed with the court, Willhite agreed to plead guilty to an indictment charging her with one count of wire fraud related to the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, in violation of 18 U.S.C. § 1343. Judge Varlan ordered Willhite to pay restitution in the amount of \$346,600 and to complete a term of supervised release of two years following her release from prison.

The CARES Act is a federal law enacted in March 2020 to provide emergency financial assistance to the millions of Americans who suffered economic effects caused by the COVID-19 pandemic. Two primary sources of relief provided by the CARES Act

were the Paycheck Protection Program ("PPP") and the Economic Injury Disaster Loan ("EIDL") program. The EIDL program was administered by the Small Business Administration ("SBA") and provided low-interest loans to businesses to pay for items like accounts payable, rent, mortgage payments, and other bills that could not be paid as a result of the pandemic.

As set forth in the filed plea agreement, on November 27, 2021, Willhite submitted an electronic application to the SBA requesting an EIDL on behalf of Rescue Army Nation Ministries, a nonprofit organization purportedly owned and operated by Willhite for charitable or religious purposes. Willhite submitted false documents in support of her application, including a Profit and Loss Statement that Willhite fabricated solely for the purpose of obtaining the loan. She also falsely represented that Rescue Army Nation Ministries employed eight employees. In fact, as Willhite knew, it employed none. Willhite also falsely certified that she would use the loan proceeds solely for working capital, and she misrepresented that she was acting on behalf of a charitable or religious organization.

The SBA approved the application based on Willhite's fabricated documents and false statements. On December 17, 2021, the SBA transferred by wire \$346,600 in EIDL funds into a bank account Willhite controlled. Between December 17, 2021, and January 28, 2022, Willhite spent approximately all the EIDL funds on personal items or expenses, including a vacation to Disney World, to pay off student loans, to purchase land, and to purchase two vehicles and a travel trailer. She transferred the remainder of the proceeds to her personal checking account.

Accordingly, it may be prudent for employees to be reminded that if it is determined that a customer committed misrepresentations in order to obtain a PPP or EIDL loan and such activities may have involved your institution, then a Suspicious Activity Report may need to be filed. Such information could become apparent through ongoing due diligence efforts, comments made by customers, or through subsequent loan requests.

And the Really Fine Print....

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