
**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : Hon. Joseph A. Dickson
 :
 v. : Mag. No. 20-8452
 :
 ROCCO AMERICO MALANGA : **CRIMINAL COMPLAINT**
 :

I, Special Agent Vincent Flynn, being duly sworn, state that the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with Internal Revenue Service, Criminal Investigation, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached pages and made a part hereof.



Special Agent Vincent Flynn
Internal Revenue Service, Criminal Investigation

Special Agent Vincent Flynn attested to this Complaint by telephone pursuant to Federal Rule of Criminal Procedure 4.1(b)(2)(A) on November 17, 2020 in New Jersey.

HONORABLE JOSEPH A. DICKSON
UNITED STATES MAGISTRATE JUDGE



Signature of Judicial Officer

ATTACHMENT A

Counts One
(Wire Fraud)

In or around April 2020, in Warren County, in the District of New Jersey and elsewhere, defendant

ROCCO AMERICO MALANGA

did knowingly and willfully devise and intend 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, and for the purpose of executing and attempting to execute such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate commerce, certain writings, signs, signals, pictures, and sounds, to wit:

Count	Approximate Date	Description
1	April 28, 2020	Wire transfer of approximately \$564,632 representing a Payment Protection Program ("PPP") loan disbursement for Cloud Accounting LLC d/b/a Cedar Grove Transportation from an account at Bank 4 in Utah to an account at Bank 3 in New York.

In violation of Title 18, United States Code, Sections 1343 and 2.

Counts Two and Three
(Bank Fraud)

From at least in or around April 2020 through in or around August 2020, in Warren County, in the District of New Jersey and elsewhere, defendant

ROCCO AMERICO MALANGA

did knowingly and intentionally execute and attempt to execute a scheme and artifice to obtain moneys, funds, and credits owned by and under the custody and control of financial institutions, to wit: Bank 1 and Bank 2, the deposits of which are insured by the Federal Deposit Insurance Corporation, by means of materially false and fraudulent pretenses, representations, and promises, each constituting a separate count of this Complaint.

Count	Approximate Date	Description
2	June 3, 2020	The submission of an application on behalf of Cedar Grove Transportation Inc to Bank 1 for approximately \$441,260 in PPP funds.
3	August 3, 2020	The submission of an application on behalf of Pixie Hollow LLC d/b/a Pixie Technologies to Bank 2 for approximately \$810,204 in PPP funds.

In violation of Title 18, United States Code, Sections 1344(2) and 2.

Count Four
(Money Laundering)

On or about August 21, 2020, in Warren County, in the District of New Jersey and elsewhere, defendant

ROCCO AMERICO MALANGA

did knowingly engage and attempt to engage in a monetary transactions by, through, or to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a greater value than \$10,000, that is, the transfer of approximately \$275,000 of U.S. currency from an account in the name of Pixie Hollow LLC at Bank 2 to an account in the name of Cedar Grove Ventures LLC at Bank 3, such property having been derived from a specified unlawful activity, that is, bank fraud, in violation of Title 18, United States Code, Section 1344.

In violation of Title 18, United States Code, Sections 1957 and 2.

ATTACHMENT B

I, Vincent Flynn, am a Special Agent with the Internal Revenue Service, Criminal Investigation. Recently, I have been assigned to work with the U.S. Department of Justice and 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 program. I am fully familiar with the facts set forth herein based my conversations with other law enforcement officers, and my review of reports, documents, and evidence. Where statements of others are related herein, they are related in substance and part. Because this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I assert that an event took place on a particular date, I am asserting that it took place on or about the date alleged.

Overview

1. Defendant Rocco Americo Malanga (“MALANGA”) used a variety of false statements to fraudulently obtain approximately \$1.8 million in federal COVID-19 emergency relief funds meant for distressed small businesses. Specifically, MALANGA submitted at least three PPP loan applications on behalf of three different business entities that fabricated the number of employees and average monthly payroll. MALANGA then diverted the PPP loan funds to accounts under the control of his relatives, including his minor children and to another company that did not obtain a PPP loan.

Background

The Paycheck Protection Program

2. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted in or around March 2020 and 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 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 PPP. In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

3. In order to obtain a PPP loan, a qualifying business must submit a PPP loan application, which is signed by an authorized representative of the business. The PPP loan application requires 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) must state, among other things, its: (a) average monthly payroll expenses; and (b) number of employees. These figures are used to calculate the amount of money the small

business is eligible to receive under the PPP. In addition, businesses applying for a PPP loan must provide documentation showing their payroll expenses.

4. A PPP loan application must be processed by a participating lender. If a PPP loan application is approved, the participating lender funds the PPP loan using its own monies, which are 100% guaranteed by Small Business Administration (“SBA”). Data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, is transmitted by the lender to the SBA in the course of processing the loan.

5. PPP loan proceeds must be used by the business on certain permissible expenses—payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be entirely forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses a certain amount of the PPP loan proceeds on payroll expenses.

Relevant Entities and Individuals

6. At various times relevant to this complaint:
- a. Defendant MALANGA was a resident of Hackettstown, New Jersey.
 - b. MALANGA was associated with various corporate entities that were used to apply for PPP loans, as follows:
 - i. Cloud Accounting LLC, d/b/a Cedar Grove Transportation (“Cloud Accounting”) was a New Jersey Corporation formed on or about April 13, 2016.¹ On or about May 15, 2020, the business name Cloud Accounting LLC was amended to the business name Cedar Grove Ventures LLC.
 - ii. Cedar Grove Transportation Inc.,² was a Florida Corporation formed on or about October 27, 2017.

¹ Initially, Cloud Accounting’s business purpose was listed as an internet retail store focusing on direct and auction-style sales. On or about March 28, 2017, the alternative business name “Cedar Grove Transportation” was added and the business purpose was listed as “transportation – provider of support activity for transportation.” On or about November 16, 2018, Cloud Accounting was suspended. On or about May 21, 2019, the company was reinstated.

² Incorporation records show the name of the company without the use of a period at the end of “Inc”.

iii. Pixie Hollow LLC, d/b/a Pixie Technologies (collectively “Pixie Hollow”) was a Florida Limited Liability Company formed on or about May 11, 2016.

c. Company 1 was a financial-technology company based in California. Company 1 participated in the SBA’s PPP by, among other things, acting as a service provider between small businesses and certain lenders. Small businesses seeking a PPP loan could apply through Company 1, which would review the PPP loan applications. If a PPP loan application received by Company 1 was approved for funding, a partner lender, such as Bank 4, disbursed the loan funds to the applicant.

d. Bank 1 was a FDIC-insured financial institution headquartered in Salk Late City, Utah.

e. Bank 2 was a FDIC-insured financial institution headquartered in Edgewater, New Jersey.

f. Bank 3 was a FDIC-insured financial institution headquartered in New York, New York.

g. Bank 4 was a FDIC-insured financial institution headquartered in Salk Late City, Utah.

The Scheme to Defraud

7. Evidence gathered in the investigation demonstrates that from in or around April 2020 through in or around August 2020, MALANGA submitted, or caused to be submitted, at least three fraudulent PPP loan applications in order to obtain funds through the PPP.

8. In connection with this fraud, MALANGA submitted or caused to be submitted, the following PPP loan applications:

Name of Business Applicant	Amount Approved	Lender	Approximate Application Date	Status
Cloud Accounting	\$564,632.00	Company 1 / Bank 4	April 27, 2020	Funded

Cedar Grove Transportation Inc	\$441,260	Bank 1	June 3, 2020	Funded
Pixie Hollow	\$810,204	Bank 2	August 3, 2020	Funded

Falsified Cloud Accounting Loan to Company 1 and Bank 4

9. On or about April 27, 2020, MALANGA submitted a PPP loan application on behalf of Cloud Accounting to Company 1 seeking a PPP loan in the amount of \$564,632 (“Application-1”). Application-1 was submitted in MALANGA’s name and listed MALANGA as the owner of Cloud Accounting.

10. Application-1 stated that Cloud Accounting’s average monthly payroll was \$225,853 and that the company had 41 employees. As purported documentation of Cloud Accounting’s payroll numbers, the PPP application included a 2019 Average Monthly Payroll Cost schedule listing Gross Payroll amounts ranging for \$101,742.88 to \$243,880.76.

11. Application-1 contained materially false and fraudulent information:

- a. Application-1 represented that Cloud Accounting had 41 employees. Records obtained from the Florida Department of Revenue (“FDOR”) reveal that Cedar Grove Transportation, which is the d/b/a for Cloud Accounting and has the same tax identification number, reported to the FDOR that the company had between two to six employees per quarter in 2019 and three to 14 employees in the first two quarters of 2020. Records obtained from the payroll company Gusto Company (“Gusto”) corroborate FDOR’s information. Specifically, Gusto records indicate that from January 1, 2020 through April 24, 2020, Cloud Accounting issued payroll to a total of 4 employees. In addition, three of those four employees were relatives of Malanga, including his spouse and his two minor children.
- b. Application-1 also represented that Cloud Accounting’s average monthly payroll was \$225,853. Records obtained from Gusto indicate that Cloud Accounting had a total payroll of only approximately \$110,000 for all of its employees for the tax year 2019. Records obtained from the Internal Revenue Service (“IRS”) also indicate that Cloud Accounting had a total payroll of

approximately \$110,000 for all of its employees for the tax year 2019.

11. On or about April 27, 2020, Application-1 was approved and Bank 4 disbursed approximately \$564,632 in PPP loan funds into an account ending in 9759 in the name of Cloud Accounting at Bank 3 (“Account #9759”).

Falsified Cedar Grove Transportation Inc’s Application to Bank 1

12. On or about June 3, 2020, MALANGA submitted a PPP loan application on behalf of Cedar Grove Transportation Inc to Bank 1 seeking a PPP loan in the amount of \$441,260 (“Application-2”). Application-2 was submitted in MALANGA’s name and listed MALANGA as the owner of Cedar Grove Transportation Inc.

13. Application-2 stated that Cedar Grove Transportation Inc’s average monthly payroll was \$176,504 and that the company had 30 employees. As purported documentation of Cedar Grove Transportation Inc payroll numbers, Application-2 included a purported IRS Form 940 for 2019.

14. Application-2 contained materially false and fraudulent information:

- a. Application-2 represented that Cedar Grove Transportation Inc had 30 employees. Records obtained from the FDOR indicate that FDOR has no record of any wages paid by Cedar Grove Transportation Inc to employees in 2019. Records from Gusto corroborate FDOR’s information.
- b. The purported Form 940 provided to Bank 1 claimed that Cedar Grove Transportation Inc. had paid employees \$2,118,058.56 for 2019. IRS records indicate that Cedar Grove Transportation Inc was established in October 2017. However, according to IRS records, Cedar Grove Transportation Inc has never filed any tax returns, including an IRS Form 940.

12. On or about June 3, 2020, Application-2 was approved and Bank 1 disbursed approximately \$441,260 in PPP loan funds into Account #9759.³

³ According to records from Bank 3, on or about June 5, 2020, Malanga changed the name on Account #9759 from Cloud Accounting to Cedar Grove Ventures LLC d/b/a Cedar Grove Group. This name change occurred approximately one week after Malanga obtained a PPP loan for Cloud Accounting, which was deposited into this account (Account #9795).

The Pixie Hollow Application to Bank 2

15. On or about August 3, 2020, MALANGA submitted PPP loan application on behalf of Pixie Hollow to Bank 2 seeking a PPP loan in the amount of \$810,294 (“Application-3”). Application-3 was submitted in MALANGA’s name and listed MALANGA as the owner of Pixie Hollow.

16. Application-3 stated that Pixie Hollow’s average monthly payroll was \$324,081 and that the company had 47 employees. As purported documentation of Pixie Hollow’s payroll numbers, Application-3 included a purported IRS Form 940 for 2019, an IRS Form W-3 for 2019, and IRS Form 941s for each quarter of 2019.

17. Application-3 contained materially false and fraudulent information:

- a. The purported Form 940 provided to Bank 2 claimed that Pixie Hollow had paid employees \$3,888,980.50 in total payments in 2019. IRS records indicate that Pixie Hollow did not file an IRS Form 940 in 2019. IRS records also indicate Pixie Hollow did not file an IRS Form W-3 or any IRS Form 941s in 2019. Pixie Hollow filed its first IRS Form 941 in September 2020.
- b. Furthermore, according to the IRS, in 2019, Pixie Hollow filed an IRS Form 1065. The IRS Form 1065 represented that Pixie Hollow paid no salaries or wages in 2019.

13. On or about August 10, 2020, Application-3 was approved and Bank 2 disbursed approximately \$810,204.28 in PPP loan funds into an account ending in 7427 in the name of Pixie Hollow at Bank 2 (“Pixie Hollow Account #7427”).

Use of PPP Loan Proceeds

18. Bank records show that upon receiving the PPP proceeds from Application-1, Application-2, and Application-3, MALANGA diverted a portion of the PPP loan proceeds to accounts under the control of his relatives, including accounts in the names of his two minor children and his wife.

19. Bank records also show that MALANGA transferred loan proceeds from Application-2 and Application-3, which were intended for use by his companies Cedar Grove Transportation Inc and Pixie Hollow, respectively, to accounts in the name of Cedar Grove Ventures LLC, a company that did not obtain a PPP loan.

- a. On or about August 10, 2020, Bank 2 disbursed approximately \$810,204 in PPP loan funds to Pixie Hollow Account #7427. On or

about August 14, 2020, MALANGA transferred approximately \$785,204.28 from Pixie Hollow Account #7427 to another Pixie Hollow account at Bank 2 ending in Account #7435 (“Pixie Hollow Account #7435”).

- b. On or about August 21, 2020, MALANGA transferred approximately \$275,000 from Pixie Hollow Account #7435 to an account ending in 2515 in the name of Cedar Grove Ventures LLC at Bank 3. Cedar Grove Ventures LLC did not obtain a PPP loan.