

UNITED STATES DISTRICT COURT

for the

Middle District of North Carolina

United States of America
v.
David Christopher Redfern

Case No.

1:20MJ 256

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April-June 2020 in the county of Randolph in the Middle District of North Carolina, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Rows include 18 U.S.C. § 1343 (Wire Fraud) and 18 U.S.C. § 1344(2) (Bank Fraud).

This criminal complaint is based on these facts:

See attached affidavit of TIGTA Special Agent Daniel Kwiatkowski.

[X] Continued on the attached sheet.

On this day, the applicant appeared before me via reliable electronic means, that is by telephone, was placed under oath, and attested to the contents of this Criminal Complaint and attached affidavit in accordance with the requirements of Fed. R. Crim. P. 4.1.

Date:

08/24/20

City and state: Greensboro, North Carolina

/s/ Daniel Kwiatkowski

Complainant's signature

Daniel Kwiatkowski, Special Agent

Printed name and title

[Handwritten signature of L. Patrick Auld]

Judge's signature

L. Patrick Auld, U.S Magistrate Judge

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA

v.

DAVID CHRISTOPHER REDFERN

Case No. 1:20MJ256

Filed Under Seal

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Daniel Kwiatkowski, being duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I am a Special Agent for the Treasury Inspector General for Tax Administration (“TIGTA”), where I have been employed since 2011. I am currently assigned to the Greensboro, North Carolina office. I have completed the Criminal Investigator Training Program, TIGTA Special Agent Basic Training Program, and the TIGTA Special Agent Advanced Training Program at the Federal Law Enforcement Training Center. My current duties include the investigation of financial crimes including wire and bank fraud, as well as other white-collar crimes.

2. Throughout the course of my career, I have conducted an array of criminal investigations involving money laundering, bank fraud, public corruption, organized crime, and many other illegal schemes impacting financial institutions. I have experience conducting search, seizure, and arrest warrant operations. 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 pandemic.

3. This affidavit is made in support of a criminal complaint charging DAVID CHRISTOPHER REDFERN (“REDFERN”) with violations of 18 U.S.C. § 1343 (Wire Fraud) and 18 U.S.C. § 1344(2) (Bank Fraud).

4. 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.

PROBABLE CAUSE

The CARES Act

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 who are suffering the 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 United States Small Business Administration (“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 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.

8. A PPP loan application must be processed by a participating financial institution (*i.e.*, the lender). If a PPP loan application is approved, the 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.

9. 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.

The Economic Injury Disaster Relief Program

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

11. The CARES Act also authorized the SBA to provide EIDLs of up to \$2 million to eligible small businesses experiencing substantial financial disruptions 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 is determined by the number of employees the applicant certifies having. The advances do not have to be repaid.

12. In order to obtain an EIDL and advance, a qualifying business must submit an application to the SBA and provide information about its operations, such as the number of employees, gross revenue 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. The applicant must also certify that all of the information in the application is true and correct to the best of the applicant's knowledge.

13. EIDL applications are submitted directly to the SBA and processed by the agency with support from a government contractor, Rapid Finance. The amount of the loan, if the application is approved, is determined based, in part, on the information provided by the application about the number of employees, gross revenue, and cost of goods, as described above. Any funds issued under an EIDL or advance are issued directly by the SBA. EIDL funds can be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rent, and mortgage payments. If the applicant also obtains a loan under the PPP, the EIDL funds cannot be used for the same purpose as the PPP funds.

Defendant and Related Entities and Individuals

14. According to public records, Wilder Effects LLC ("Wilder Effects") is a North Carolina company formed on or about January 17, 2020. The registered business address for Wilder Effects is on Cotton Road in Trinity, North Carolina, which appears to be a one-story single-family home, and is also the address appearing on REDFERN's North Carolina identification card. REDFERN is listed as Wilder Effects' registered agent and owner.

15. According to public records, Company 1 is a North Carolina company formed on or about January 13, 2020. The registered business address for Company 1 is on W. Vandalia Road in Greensboro, North Carolina, which appears to be a one-story single-family home. Individual 1 is listed as Company 1's registered agent and owner. Since on or about September 7, 2018, Individual 1 has been incarcerated at New Hanover Correctional Center in Wilmington, North Carolina. Individual 1's projected release date is in or about September 2020.

16. According to public records, Company 2 is a North Carolina company formed on or about January 21, 2020. The registered business address for Company 2 is the same address used by Wilder Effects. Individual 2 is listed as Company 2's registered agent and owner.

Overview of the Fraud

17. As described further below, evidence gathered in the investigation demonstrates that, from in or around April 2020 through in or around June 2020, REDFERN submitted, or caused to be submitted, fraudulent loan applications to approved lenders and the SBA in order to obtain funds through the PPP and EIDL programs, respectively.

18. Shortly after receiving EIDL and PPP loan proceeds, REDFERN made cash withdrawals and transferred funds to a personal bank account. Attempts were also made to transfer PPP loan proceeds between accounts in the names of Wilder Effects, Company 1, and Company 2.

Manner and Means

Fraudulent EIDL Applications Submitted to the SBA

19. On or about April 12, 2020, REDFERN applied electronically for an EIDL from the SBA ("EIDL Application -4729"). In connection with EIDL Application -4729, REDFERN affirmed, among other information, that Wilder Effects had two employees, had suffered \$3,000.00

in rental losses due to the disaster, and in the twelve months prior to the disaster, had \$21,000.00 in gross revenues and \$13,000.00 in cost of goods sold. On or about June 16, 2020, EIDL Application -4729 was approved for an EIDL (“EIDL Loan -7904”) in the amount of \$2,000.00. REDFERN certified that all of the information in EIDL Application -4729 was true and correct to the best of his knowledge.

20. On or about May 17, 2020, REDFERN applied electronically for an EIDL from the SBA (“EIDL Application -4452”). In connection with EIDL Application -4452, REDFERN affirmed, among other information, that Wilder Effects had nine employees, and in the twelve months prior to the disaster, had \$30,000.00 in gross revenues and \$27,500.00 in cost of goods sold. EIDL Application -4452 was not approved. Despite the inconsistencies with EIDL Application -4729, REDFERN certified that all of the information in EIDL Application -4452 was true and correct to the best of his knowledge.

Fraudulent PPP Loan Applications Submitted to Financial Institution 1

21. Financial Institution 1 is a privately owned, Utah-chartered bank insured by the Federal Deposit Insurance Corporation (“FDIC”). Financial Institution 1 is an SBA Preferred Lender and participated as a PPP lender to small businesses.

22. FinTech 1 is a financial technology (also known as “FinTech”) company based in California. FinTech 1 participated in the SBA’s PPP by, among other things, acting as a service provider between small businesses and certain lenders, including Financial Institution 1. Small businesses seeking PPP loans could apply through FinTech 1 for PPP loans. FinTech 1 would review the loan applications. If a loan application received by FinTech 1 was approved for funding, a partner lender, such as Financial Institution 1, disbursed the loan funds to the applicant.

23. On or about June 1, 2020, a PPP Borrower Application Form, also known as SBA Form 2483 (a "PPP Application"), in the name of Wilder Effects was electronically submitted to Financial Institution 1 that requested \$410,322 to support payroll. In the Wilder Effects PPP Application, REDFERN affirmed, among other information, that: (1) he is the sole owner of Wilder Effects; and (2) Wilder Effects has twenty employees and an average monthly payroll of \$164,129.00.

24. The Wilder Effects PPP Application appended as supporting documentation: (1) a purported IRS Form 941 (Employer's Quarterly Federal Tax Return) for the first quarter of 2020 showing \$492,389.01 paid in wages to twenty employees and signed by REDFERN; and (2) a purported bank statement for Wilder Effects dated February 27, 2020 showing a balance of \$290,028.70. The account statement was purportedly from Financial Institution 2, a bank insured by the FDIC.

25. On or about June 1, 2020, a PPP Application in the name of Company 1 was electronically submitted to Financial Institution 1 that requested \$403,120.00 to support payroll. In the PPP Application, Individual 1 purportedly affirmed, among other information, that: (1) he is the sole owner of Company 1; and (2) Company 1 has twenty-four employees and an average monthly payroll of \$161,240.00.

26. The Company 1 PPP Application appended as supporting documentation: (1) a purported IRS Form 941 for the first quarter of 2020 showing \$483,746.04 paid in wages to twenty-four employees and purportedly signed by Individual 1; and (2) a purported Financial Institution 2 bank account statement for Company 1 dated February 27, 2020 showing a balance of \$290,028.70.

27. According to IRS records, neither Wilder Effects nor Company 1 filed an IRS Form 941 for the first quarter of 2020.

28. The Financial Institution 2 account statements submitted in support of both PPP Applications were identical except for the account holder names, addresses, account numbers, and routing numbers listed on the first page of each eight-page statement. Although both statements listed the respective addresses of record for the entities, the statements note “Florida account terms and conditions apply.”

29. In response to a grand jury subpoena for records associated with Wilder Effects, Financial Institution 2 did not locate any account information for Wilder Effects or REDFERN.

30. In response to a grand jury subpoena for records associated with Company 1, Financial Institution 2 returned records for an account in Company 1’s name. These records show that Company 1’s account has different account and routing numbers than those that appear on the fraudulent statement submitted with Company 1’s PPP Application. Moreover, an account statement dated February 29, 2020 received in response to the subpoena showed a zero balance, not the balance of more than \$290,000 on the statement submitted as part of Company 1’s PPP Application. Likewise, the statement produced by Financial Institution 2 reads in part, “North Carolina account terms and conditions apply,” rather than Florida terms and conditions.

31. According to records obtained from Financial Institution 1, the first log-ins to the respective Wilder Effects and Company 1 accounts came from the same internet protocol address (“IP Address -.170”). The Wilder Effects Account logged in from IP Address -.170 on May 31, 2020 at 14:29 and on June 2, 2020 at 11:44. The Company 1 Account logged in from IP Address -.170 on June 1, 2020 at 06:09, 07:03, and 08:12 and on June 2, 2020 at 11:43.

32. IP Address -.170 is also associated with the activities of a confidential human source (“CHS”). On or about July 23, 2020, investigators interviewed the CHS regarding the CHS’ involvement in the Wilder Effects PPP fraud scheme. During the interview, the CHS told investigators that the CHS prepared a fraudulent Wilder Effects PPP Application on REDFERN’s behalf.

PPP and EIDL Funds

33. On or about January 23, 2020, REDFERN opened an account ending in 1411 in Wilder Effects’ name (“Wilder Effects Account”) at Financial Institution 3, a bank insured by the FDIC. The account statements for January through May 2020 reflect low or negative balances.

a. On or about May 5, 2020, EIDL funds totaling approximately \$2,000.00 were deposited into the Wilder Effects Account. Three separate cash withdrawals totaling \$1,400.00 were made on May 6, and an additional cash withdrawal of \$560.00 was made on May 10. The May 29 statement reflects a negative \$61.42 balance.

b. On or about June 2, 2020, \$410,322.00 in PPP funds were deposited into the Wilder Effects Account. That same day, an \$8,000.00 counter check written to “cash” was withdrawn from the Wilder Effects Account.

34. On or about January 14, 2020, an account ending in 5186 was opened at Financial Institution 3 in Company 1’s name (“Company 1 Account”), with Individual 1 as the authorized signer. The Company 1 Account statements dated January 1, February 28, March 31, April 30, and May 29, 2020 all reflect a \$1.00 balance. On or about June 2, 2020, \$403,120.00 in PPP loan funds were deposited into the Company 1 Account.

35. On or about June 2, 2020, an attempt was made to wire \$30,000 from the Wilder Effects account to an account in the name of Company 2 at an outside bank. On or about June 3,

2020, attempts were made to wire from the Company 1 Account (i) \$75,000 to the Company 2 Account; and (ii) \$75,000 to the Wilder Effects Account. The attempted wire transfer transactions were blocked due to potential fraud concerns.

36. On or about June 15, 2020, \$403,120.00 was transferred from the Company 1 Account back to Financial Institution 1 as a result of the fraud investigation, leaving a \$1.00 balance on the statement dated June 30, 2020.

37. On or about June 16, 2020, \$2,000.00 was transferred from the Wilder Effects Account back to the SBA. On or about June 17, 2020, the remaining account balance of \$400,194.63 was transferred back to Financial Institution 1. The Wilder Effects Account had a negative \$12.00 balance on the statement dated June 30, 2020.

38. On or about June 2, 2020, REDFERN opened a business account in Wilder Effects' name at Financial Institution 4, a bank insured by the FDIC. On or about June 18, 2020, \$2,000.00 in EIDL funds in connection with EIDL Loan -7904 were deposited into that account. That same day, \$800.00 was transferred to an individual account in REDFERN's name at Financial Institution 4. On or about June 21, 2020, an addition \$500.00 was transferred to REDFERN's individual account.

Recorded Calls to Defendant

39. On or about July 31, 2020, an undercover agent posing as a FinTech 1 customer service representative placed a recorded call to REDFERN at the telephone number listed on the PPP Application in the name of Wilder Effects ("Phone Number 1"). REDFERN answered the call but requested that the undercover agent posing as a FinTech 1 customer service representative to call back at a later time. Subsequent call attempts were not answered.

CONCLUSION

40. 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 April 2020 through in or around June 2020, within the Middle District of North Carolina, DAVID CHRISTOPHER REDFERN committed violations of 18 U.S.C. § 1343 (Wire Fraud) and 18 U.S.C. § 1344(2) (Bank Fraud).

Respectfully submitted,

/s/ Daniel Kwiatkowski
Daniel Kwiatkowski
Special Agent
Treasury Inspector General for Tax Administration

Dated: August 24, 2020

Pursuant to Rule 4.1 of the Federal Rules of Criminal Procedure, the affiant appeared before me via reliable electronic means (telephone), was placed under oath, and attested to the contents of this written affidavit.



L. Patrick Auld
United States Magistrate Judge
Middle District of North Carolina