

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

**Criminal Action No.** 23-CR-0416-CNS

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**BRIAN KAPLAN,**

**Defendant.**

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**INFORMATION**

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The United States of America charges that:

At all times material to this Information unless otherwise specified:

**Count 1: Conspiracy to Commit Wire Fraud (Title 18, United States Code, § 371)**

From on or about January 1, 2017, through on or about March 1, 2019, in the District of Colorado and elsewhere,

**BRIAN KAPLAN,**

did knowingly and voluntarily conspire and agree with others, known and unknown, to commit an offense against the United States, namely, wire fraud, that is, knowingly, willfully, and with the intent to defraud, having devised and intending 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, to transmit and to cause to be

transmitted, by means of wire communications in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, 1343.

### **BACKGROUND**

#### **Relevant Individuals and Entities**

1. Defendant, BRIAN KAPLAN, was a resident of Colorado.
2. Co-conspirator 1 (“CC-1”), was a resident of California.
3. Co-conspirator 2 (“CC-2”), was a resident of New York.
4. Co-conspirator 3 (“CC-3”), was a resident of Tennessee.
5. 8 Figure Dream Lifestyle (“8FDL”) was a Wyoming limited liability company with its principal place of business in Cookeville, Tennessee.
6. Online Entrepreneurial Academy, a/k/a OEA, LLC (“OEA”), was an Arizona limited liability company, with a principal place of business in Oro Valley, Arizona.

#### **Relevant background on Pyramid Schemes**

7. A “pyramid scheme” is a marketing or sales program in which, among other things, participants pay money in return for the opportunity to be compensated for recruiting other people to join the program. Pyramid schemes typically involve a seemingly legitimate business that may in fact sell a product, but they derive the bulk of their revenue from new participants buying into the program, not from legitimate sales of a product. These schemes typically promise substantial returns for doing little beyond paying to join the program and convincing others to do the same.

### **OVERVIEW OF THE CONSPIRACY**

8. From at least in or around January 2017 and continuing until at least in or around March 2019, KAPLAN, CC-1, CC-2, CC-3, and others operated 8FDL as an illegal pyramid scheme. In operating this illegal scheme, KAPLAN and his co-conspirators used marketing materials that contained false and misleading statements regarding the earning potential for victim members of the scheme and material omissions regarding the costs required to earn any income from buying into the scheme.

### **PURPOSE OF THE CONSPIRACY**

9. The purpose of the conspiracy was for Defendant and his co-conspirators to unlawfully enrich themselves by (a) operating an illegal pyramid scheme; (b) making false and material misrepresentations and omissions to sell memberships in 8FDL; and (c) concealing the conspiracy.

### **MANNER AND MEANS**

Acting interdependently, KAPLAN and his co-conspirators carried out the conspiracy using the following manner and means:

10. Beginning in or around January 2017 through in or around March 2019, KAPLAN and the co-conspirators agreed to and did operate 8FDL, which they claimed to be an online-marketing business that could generate millions in income for those who joined the company. Individuals who joined the company were called members and, by buying into the company, members purchased the right to sell memberships to others. A member was entitled to keep all or a portion of the new fees generated by a sale of a membership to a new victim-participant.

11. KAPLAN and his co-conspirators designed 8FDL to have a tiered membership structure, with the fees for a membership ranging from \$2,000 to \$21,000. A member was only permitted to keep the fees for new sales he or she generated up to the amount of his or her own membership level. Any fees in excess of their membership level would be passed up the pyramid to a member at the higher level. This encouraged all members to buy in at the highest tier. Additionally, all new members were required to pay an administrative fee, ranging from \$395 to \$1,495, depending on the membership tier being purchased. The administrative fees were paid to CC-3 and divided among KAPLAN, CC-1, CC-2, and CC-3.

12. In furtherance of the conspiracy, KAPLAN and his co-conspirators sent and caused to be sent marketing materials via interstate wires to potential victim-participants, including emails, robocalls, videos, and social media posts, with the intention of inducing those victim-participants to purchase 8FDL memberships.

13. As part of the conspiracy, the marketing materials made material misrepresentations regarding the amounts members could earn by selling 8FDL memberships. For example, emails targeting new victim-participants falsely indicated that typical consumers with no prior skills or experience could easily earn between \$5,000 and \$10,000 in 10 to 14 days after joining the program, and that most members were averaging 2-3 sales in their first 30-45 days. Additionally, the marketing materials falsely represented to victim-participants that 8FDL was not a pyramid scheme. CC-1 was largely responsible for drafting scripts used in audio and video recordings and emails that were used to disseminate these false representations to victim-participants.

14. In furtherance of the conspiracy, KAPLAN and his co-conspirators also posted videos and hosted webinars for interested victim-participants in which the same false representations were made regarding the financial success of 8FDL members. These videos were coordinated among the co-conspirators and were made to induce victim-participants to purchase memberships in 8FDL.

15. Also, in furtherance of the conspiracy, the marketing materials described above were materially misleading because they failed to disclose to victim-participants the substantial fees that members had to pay to successfully use the 8FDL marketing tools, including by purchasing lead lists to send emails and robocalls, automated dialing and email services, and for purchasing marketing copy. These fees could cost several thousands of dollars a month.

16. In reality, and at all times known to KAPLAN and his co-conspirators, a very small minority of members in 8FDL made a single sale. Furthermore, an even smaller percentage of members earned the amounts described in the marketing materials. KAPLAN and his co-conspirators nonetheless disseminated these fraudulent marketing materials to induce victim-participants to purchase 8FDL memberships.

17. As a result of the conspiracy, KAPLAN and his co-conspirators obtained millions of dollars from the sales of 8FDL memberships.

18. In furtherance of the conspiracy, in or around November 2018, CC-1 decided to restructure and rebrand 8FDL to OEA, due in part to online complaints about 8FDL and the negative reputation of 8FDL. KAPLAN, CC-2, and others agreed to form and operate OEA and ultimately cease operating 8FDL. CC-1, KAPLAN, and others planned to operate OEA similarly to 8FDL as an illegal pyramid scheme.

19. In furtherance of the conspiracy, on or around December 7, 2018, KAPLAN filed an Articles of Amendment to Articles of Organization for OEA with the Arizona Corporation Commission.

20. OEA ultimately ceased operations in or around June 2019.

### **OVERT ACTS**

In furtherance of the conspiracy's objectives, one or more of the conspirators committed one or more of the following acts, among others, in the District of Colorado and elsewhere:

21. On or about February 22, 2017, KAPLAN sent an 8FDL marketing email blast from within the District of Colorado to various email accounts outside the District of Colorado, falsely indicating that "most" of 8FDL's members "are averaging 2-3 sales in their first 30-45 days!"

22. On or about November 15, 2018, CC-2 sent an email from outside the District of Colorado to CC-1 and KAPLAN (within the District of Colorado), in response to an email from CC-1, stating, "[f]or months now planning OEA, [KAPLAN] and I both had concerns in good faith still promoting and enrolling new members into 8FDL especially since we knew what was to come." In response to the same email from CC-1, KAPLAN sent an email to CC-1 and CC-2 on or about November 13, 2018, stating, "I can't not make money."

All in violation of Title 18, United States Code, Section 371.

### **Forfeiture Allegation**

1. The allegations contained in Count 1 of this Information are hereby realleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the violation alleged in Count 1 of this Information, involving the commission of conspiracy to commit wire fraud, Defendant BRIAN KAPLAN shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) any and all of the Defendant's right, title, and interest in all property constituting and derived from any proceeds the Defendant obtained directly and indirectly as a result of such offense, including, but not limited to, a sum of money representing the amount of proceeds the Defendant obtained as a result of the fraudulent scheme.

3. 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 subdivided without difficulty,

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it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the Defendant up to the value of the forfeitable property.

GLENN S. LEON  
Chief, Fraud Section



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Attorneys for the Government

DEFENDANT: BRIAN KAPLAN

AGE/YOB: 52

COMPLAINT  
FILED? \_\_\_\_\_ Yes \_\_\_\_X\_\_\_\_ No

If Yes, MAGISTRATE CASE NUMBER \_\_\_\_\_

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? \_\_\_\_ Yes \_\_\_\_X\_\_\_\_ No

OFFENSE(S): Count 1: 18 U.S.C. § 371 (Conspiracy to Commit Wire Fraud)

LOCATION OF  
OFFENSE: Denver, Colorado, and elsewhere

PENALTY: Count 1: NMT 5 years' imprisonment, \$250,000 fine, or both; NMT 3 years' supervised release.

AGENT: SA Misty Racimo, USPIS

AUTHORIZED  
BY: Brandon Burkart and Andrew Jaco  
U.S. Department of Justice Trial Attorneys

ESTIMATED TIME OF TRIAL:

X five days or less; \_\_\_\_ over five days

THE GOVERNMENT

\_\_\_\_ will seek detention in this case based on 18 U.S.C. § 3142(f)

The statutory presumption of detention is not applicable to this defendant.