

Approved: J.P.A.
JOSEPH P. FACCIPONTI
Assistant United States Attorney

Before: HONORABLE DEBRA FREEMAN
United States Magistrate Judge
Southern District of New York

13 MAG 0329

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UNITED STATES OF AMERICA : SEALED COMPLAINT
-v.- : Violations of
 : 18 U.S.C. §§ 1341 & 2
CRAIG B. HABER, :
 : COUNTY OF OFFENSE:
Defendant. : NEW YORK

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SOUTHERN DISTRICT OF NEW YORK, ss.:

MELISSA ATKIN, being duly sworn, deposes and says that she is an Inspector with the United States Postal Inspection Service, and charges:

COUNT ONE

1. From in or about 2004, up to and including in or about July 2012, in the Southern District of New York and elsewhere, CRAIG B. HABER, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice and attempting to do so, placed and caused to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and deposited and caused to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and took and received therefrom such matters and things, and knowingly caused to be delivered, by mail and such carriers according to direction thereon, and at the places at which they were directed to be delivered by the persons to whom they were addressed, such matters and things, to wit, HABER, who was a partner at a global accounting firm,

fraudulently diverted to his own use millions of dollars in client payments that were intended for and that belonged to the accounting firm.

(Title 18, United States Code, Sections 1341 & 2).

The bases for my knowledge and for the foregoing charges are, in part, as follows:

2. I have been a Postal Inspector since September 2012. Prior to that, I worked as an analyst for the Postal Inspection Service for approximately 2 years. I am familiar with the facts and circumstances set forth below from my personal participation in the investigation, including interviews I have conducted, my examination of reports and records, and my conversations with law enforcement officers and other individuals. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, unless noted otherwise.

The Defendant

3. From at least in or about 1990 through in or about July 2012, CRAIG B. HABER, the defendant, worked for a global accounting firm that provides a variety of auditing, accounting, and tax preparation services to businesses and individuals in the United States and abroad (the "Accounting Firm"). The Accounting Firm is headquartered in Chicago, Illinois and maintains offices throughout the United States, including in New York, New York and in foreign countries. From in or about 1993 through in or about July 2012, HABER was a partner at the Accounting Firm. HABER worked at the Accounting Firm's offices in New York, New York and provided tax preparation and advisory services to clients of the Accounting Firm, primarily investment partnerships. In or about July 2012, HABER's partnership was terminated by the Accounting Firm.

Overview of the Scheme to Defraud

4. As detailed below, CRAIG B. HABER, the defendant, was a partner at the Accounting Firm who provided tax advice and services to clients of the Accounting Firm. Ordinarily, the

Accounting Firm's bills contained payment instructions directing clients to pay the Accounting Firm by wire transfer or by sending a check to the Accounting Firm in Chicago, Illinois. However, on multiple occasions between in or about 2004 through in or about July 2012, HABER instead provided payment instructions to clients directing them to mail checks directly to HABER at the Accounting Firm's offices in New York, New York. HABER then deposited many of the checks into a bank account that he had opened in the name of a sham business very similar to the name of the Accounting Firm. HABER later used the funds in that account to pay for his personal expenses, such as the mortgage for his apartment in New York, New York. To conceal his fraud, HABER concealed the existence of certain bills he sent to clients and also manipulated the Accounting Firm's billing system. From 2004 through 2012, HABER stole a total of nearly \$4 million of payments from clients.

The HABER Fraud Account

5. Based on bank records I have reviewed, I know the following, among other things:

a. In or about July 2004, an individual who identified himself as "Craig B. Haber" opened a business checking account (hereinafter the "HABER Fraud Account") at a bank in New York, New York ("Bank-1") in the name of a business that is similar to the name of the Accounting Firm.¹

b. The person who opened the HABER Fraud Account provided personal information such as, among other things, a mother's maiden name, social security number, date of birth, home address, and a New York State driver's license number that, based on my review of other records, including records from the State of New York Department of Motor Vehicles ("NYDMV"), match those of CRAIG B. HABER, the defendant. In addition, based on bank records, the signature of the "Craig B. Haber" who opened the HABER Fraud Account appears to match, based on the records I obtained from the NYDMV, HABER's signature on his New York driver's license. Accordingly, it appears that HABER opened the HABER Fraud Account.

¹ The business name on the HABER Fraud Account consists of a first initial that matches the first initial of the first word in Accounting Firm's name and a second word that is a slight misspelling of the second word in the Accounting Firm's name.

c. From in or about the time the HABER Fraud Account was opened through in or about the summer of 2012, nearly \$4 million was deposited into the HABER Fraud Account. Of these deposits, nearly all appear to be checks written by clients of the Accounting Firm (based on my review of records provided by the Accounting Firm, records provided by some of the Accounting Firm's clients, and bank records) and are made payable to the Accounting Firm.

d. From in or about the time the HABER Fraud Account was opened through in or about the summer of 2012, nearly \$4 million was withdrawn from the HABER Fraud Account. Nearly all of these withdrawals were made by checks made payable to "Craig Haber" or "Craig B. Haber," typically in amounts ranging between \$10,000 and \$80,000, and were signed by "Craig B. Haber" in a signature that appears to match, based on NYDMV records, HABER's signature on his New York driver's license. Nearly all of these checks (a total of approximately \$3.9 million) appear to have been deposited into two different checking accounts that appear to be controlled by HABER, as detailed below.

6. Based on my conversations with representatives of the Accounting Firm, CRAIG B. HABER, the defendant, was not authorized to open the HABER Fraud Account nor was he authorized to deposit payments from the Accounting Firm's clients into the HABER Fraud Account.

HABER's Personal Bank Accounts

7. Based on bank records I have reviewed, I know the following, among other things:

a. From in or about 2003 through in or about August 2007, an individual named "Craig B. Haber" held a personal checking account at Bank-1 (the "Bank-1 HABER Account"). Based on my review of bank records, publicly available New York real estate records, and my familiarity with the investigation, the address on the account matches the home address that CRAIG B. HABER, the defendant, had during that time. In addition, the signature of "Craig B. Haber" on checks issued from the Bank-1 HABER Account appears to match HABER's signature on his New York driver's license, based on NYDMV records. Accordingly, it appears that HABER held the Bank-1 HABER Account.

b. From in or about 2004 through in or about June 2007, approximately \$1.4 million in checks drawn on the HABER Fraud Account were deposited into the Bank-1 HABER Account.

c. From in or about 2004 through in or about 2007, funds from the Bank-1 HABER Account were used to pay primarily for things such as personal credit cards that appear to be held by HABER, a brokerage account that appears to be held by HABER, cash withdrawals, and transfers to other accounts that appear to be held by HABER. The Bank-1 HABER Account was closed in or about August 2007.

d. From in or about 2004 through the present, an individual named "Craig B. Haber" held a personal checking account at a bank I will refer to as "Bank-2" (the "Bank-2 HABER Account"). The home address, date of birth, mother's maiden name, and social security number, of the "Craig B. Haber" who held the Bank-2 HABER Account appear to match those of HABER, based on NYDMV and other records. In addition, the signature of "Craig B. Haber" on the signature card for the Bank-2 HABER Account appears to match HABER's signature on his New York driver's license, based on NYDMV records. Accordingly, it appears that HABER held the Bank-2 HABER Account.

e. From in or about 2007 through in or about 2012, at least \$2.5 million was transferred in checks from the HABER Fraud Account to the Bank-2 HABER Account.

f. From in or about 2007 through in or about 2012, funds from the Bank-2 HABER Account were used to pay primarily for things such as personal credit cards that appear to be held by HABER, the mortgage for an apartment in New York, New York that appears to be owned by HABER, cash withdrawals, travel, a gym membership and personal trainers, utilities, alimony and child support, a brokerage account that appears to be held by HABER, and transfers to other accounts that appear to be held by HABER.

HABER's Diversion of Client Payments to the Accounting Firm

8. I have interviewed a representative of the Accounting Firm who is familiar with the Accounting Firm's billing practices ("Representative-1"). Representative-1 made the following statements, in substance and in part:

a. The Accounting Firm generates revenue by billing clients for the services it performs for its clients. The bills are typically based upon the total number of hours the Accounting Firm's partners and employees spend performing services for its clients, although some of the Accounting Firm's clients have agreements with the Accounting Firm to pay a fixed fee for services, rather than pay an hourly rate for services.

b. Although partners ordinarily do not receive checks directly from clients, if a partner does receive a check from a client, the partner is responsible for sending the check to the Accounting Firm in Chicago, Illinois by Federal Express.

9. Based upon documents provided to me by the Accounting Firm, and statements by representatives of the Accounting Firm, bills issued by the Accounting Firm typically contained a page instructing clients to send payments to the Accounting Firm in Chicago, Illinois, and provided an address and wire transfer instructions. However, based on copies of some of the bills issued by CRAIG B. HABER, the defendant, which were provided to me by the Accounting Firm and some of the Accounting Firm's clients, it appears that in some instances HABER replaced the standard instructions with a sheet that instructed clients to mail their payments to "Craig B. Haber," "C/O" [care of] the Accounting Firm, and provided the street address of the Accounting Firm's offices in New York, New York. The sheet also provided a telephone number that, based on records from the Accounting Firm, was HABER's office phone number at the Accounting Firm.

10. Based on my familiarity with the investigation, CRAIG B. HABER, the defendant, also instructed clients to send their payments directly to him in other ways. For example, on or about April 17, 2007, HABER sent an email from his email account at the Accounting Firm to a representative of a client in Philadelphia, Pennsylvania ("Client-2"). The subject line of the email contained the statement "ADDRESS FOR [Accounting Firm] PAYMENT" and the body of the email included instructions to send Client-2's check to HABER at the Accounting Firm's offices in New York, New York. HABER also wrote, "This one [meaning a prior mailing from Client-2] did not have the Floor #, nor attention to Craig Haber."

Client-1

11. I have interviewed an individual who received tax services from the Accounting Firm from at least the 1990s through 2012 ("Client-1"). Client-1 stated the following, in substance and in part:

a. For many years, the Accounting Firm prepared the personal taxes for Client-1 and his/her family and Client-1's asset management company. CRAIG HABER, the defendant, was Client-1's primary contact at the Accounting Firm. Client-1 lives in a state outside of New York.

b. Client-1 received invoices for work performed by the Accounting Firm from HABER. These invoices contained a prepaid envelope addressed to the Accounting Firm's New York, New York office on which "Attn: Craig Haber" was occasionally handwritten.

12. Based on bank records from the HABER Fraud Account, it appears that, from in or about 2004 through in or about 2011, approximately, over \$120,000 in checks from Client-1 that were made payable to the Accounting Firm were deposited in the HABER Fraud Account.

13. From records provided to me by Client-1, I learned the following, among other things:

a. In or about December 2010, Client-1 and CRAIG B. HABER, the defendant, both signed an engagement letter indicating that the Accounting Firm would prepare the 2010 Federal Income Tax Return, Form 1040, for Client-1 and his/her spouse. Thereafter, HABER sent three invoices to Client-1 - dated February 1, 2011; April 12, 2011; and October 24, 2011. The invoices were all on Accounting Firm letterhead and indicated that they were bills for services rendered in the preparation of "2010 Individual tax returns." The February 1, 2011 bill was for \$9,000; the April 12, 2011 bill was for \$11,000; and the October 24, 2011 bill was for \$11,000. Shortly after receiving each of these bills, Client-1 wrote a check for the amount in the bill. However, according to the Accounting Firm's records, only one of those checks - for the April 12, 2011 bill - was deposited into the Accounting Firm's account. According to bank records, the other two checks - for the bills dated February 1, 2011 and October 24, 2011 - were deposited into the HABER Fraud Account.

14. Based on information provided to me by the Accounting Firm, shortly after his resignation in July 2012, CRAIG B. HABER, the defendant, consented, through his counsel, to a search of the materials in his office by the Accounting Firm. I have reviewed the materials obtained from HABER's office at the Accounting Firm, which were provided to me by the Accounting Firm. Attached to a folder labeled with the name of Client-1, there is a post-it note that contains the following handwritten notations:

2/1/11	9,000✓
4/12/11	11,000
10/12/11	11✓

Based on my training, experience, and familiarity with the investigation, it appears that this note refers to the three invoices sent by HABER to Client-1 in 2011 for work on Client-1's personal tax returns because the dates and amounts listed on the post-it note correspond to the dates and amounts of the invoices,² and has checkmarks (✓) placed next to the two payments that HABER diverted into the HABER Fraud Account.

15. According to the Accounting Firm's billing records, there is no record of any bills being sent to Client-1 on February 1, 2011 for \$9,000 and on October 24, 2011 for \$11,000.

Client-2

16. Based on my familiarity with the investigation, Client-2 is an investment management company. Based on bank records from the HABER Fraud Account, it appears that, from in or about 2004 through in or about 2011, approximately \$138,000

² The date of the last invoice on the post-it note does not correspond exactly to the date of the actual invoice, although the month and year match. In addition, although the amount listed on the post-it note for the last invoice is 11, it appears, based on my training, experience, and familiarity with this investigation, to be an abbreviation of \$11,000.

in checks from Client-2 that were made payable to the Accounting Firm were deposited in the HABER Fraud Account.

17. For example, on or about May 11, 2009, CRAIG B. HABER, the defendant, sent an invoice on Accounting Firm letterhead to Client-2 for \$100,484 for "tax services in accordance with tax engagement letter dated July 14, 2008 (revised on January 12, 2009), preparation of K-1 statements and preparation of partnership tax returns."³ Attached to the invoice is a schedule that allocates portions of the total bill (\$100,484) to 15 different investment funds managed by Client-2. Also included with the invoice are instructions that Client-2 should mail payment to HABER at the Accounting Firm's New York, New York Office. Client-2 prepared several different checks to pay the bill based upon the separate investment funds. According to the Accounting Firm's records and bank records, all but one of these checks was deposited in the Accounting Firm's account. The remaining check, made out to the Accounting Firm for \$24,610, was deposited into the HABER Fraud Account.

HABER's Statements to the Accounting Firm

18. On or about July 20, 2012, after he was terminated by the Accounting Firm, CRAIG B. HABER, the defendant, agreed to be interviewed, in the presence of his attorney, by attorneys for the Accounting Firm. Based on my discussions with the attorneys for the Accounting Firm who conducted the interview, and my review of a summary of HABER's statements at the interview, HABER stated the following, in substance and in part, at the interview:

- a. HABER diverted checks from the Accounting Firm's clients starting in 2004 or 2005.
- b. HABER opened the HABER Fraud Account for the purpose of depositing the diverted checks.
- c. The money that HABER deposited into the HABER Fraud Account belonged to the Accounting Firm.
- d. The total amount of money diverted was close to \$4 million.

³ I have reviewed the engagement letter dated July 14, 2008 and it appears to state that the Accounting Firm will provide tax services to Client-2.

e. HABER diverted the money because of financial pressure.

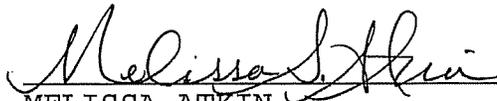
f. HABER diverted checks from fixed-fee clients for whom he provided services.

g. HABER did not overcharge clients for his services. Instead, HABER falsely informed the Accounting Firm that the amount of fees he collected from his clients was lower than the amount of fees he actually collected from his clients, and diverted the difference to the HABER Fraud Account.

h. HABER manipulated the Accounting Firm's billing system to conceal his conduct from the Accounting Firm.

i. In his bills to clients, HABER replaced the Accounting Firm's standard billing instructions with his own instructions. HABER specifically told his clients to mail their payment checks directly to him at the Accounting Firm's offices in New York, New York.

WHEREFORE, deponent prays that a warrant issue for the arrest of CRAIG B. HABER, the defendant, and that he be imprisoned or bailed, as the case may be.


MELISSA ATKIN
Postal Inspector
U.S. Postal Inspection Service

Sworn to before me this
5th day of February, 2013


HONORABLE DEBRA FREEMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK