



UNITED STATES ATTORNEY'S OFFICE *Southern District of New York*

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MANHATTAN U.S. ATTORNEY AND FBI ASSISTANT DIRECTOR ANNOUNCE ARRESTS OF FIVE DEFENDANTS IN MULTIMILLION- DOLLAR CORPORATE ACCOUNTING FRAUD

Preet Bharara, the United States Attorney for the Southern District of New York, and George Venizelos, the Assistant Director-in-Charge of the New York Field Office of the Federal Bureau of Investigation ("FBI"), announced today the arrests of STEVEN KAITZ, LATCHMEE MAHATO, a/k/a "Robbie," JONATHAN WHEELER, and ZACHARY KAITZ, former executives and employees of a New Jersey-based company that provided in-store displays for retailers (the "Company"), and KATHLEEN SMITH, a former employee of a New York-based sports apparel and footwear retailer that was a major customer of the Company ("Customer-1"), in connection with an elaborate scheme to defraud the Company's lenders and customers out of millions of dollars. Among other things, the defendants fraudulently inflated the Company's sales and accounts receivables to secure millions of dollars in loans, and falsely verified to the Company's lenders and outside auditors false financial information about the Company. The defendants were arrested this morning and are expected to be presented later today in Manhattan federal court before United States Magistrate Judge James L. Cott. The defendants will be arraigned tomorrow at 4:00 p.m. before United States District Judge Jed S. Rakoff.

Manhattan U.S. Attorney Preet Bharara said: "As alleged, the defendants went to elaborate lengths to falsify company accounting data to defraud lenders and customers. To bolster the falsehoods, the defendants allegedly created fake email accounts for fictitious employees of the defrauded customers. Now they will be made to answer for the charged collusion and self-dealing that supplanted honest business practices."

FBI Assistant Director-in-Charge George Venizelos said: "As alleged, the defendants concocted a scheme to make millions of dollars and concealed their misdeeds by lying to customers and lenders. Their dishonesty resulted in unjust enrichment at the expense of

unsuspecting customers, burdening lenders with bad loans and weakening our financial markets. Those who engage in this type of financial fraud will be identified and held accountable.”

According to the allegations contained in the Indictment unsealed today in Manhattan federal court:

STEVEN KAITZ, WHEELER, and MAHATO (the “Management Defendants”) were the three owners and principals of the Company, and ZACHARY KAITZ served as the Company’s Vice President of Creative Services. SMITH worked for Customer-1 – one of the Company’s two largest customers – and was the director of a business unit that handled visual displays for Customer-1. From approximately 2012 to May 2014, in order to trick various lenders into lending millions of dollars to the Company, the defendants engaged in a scheme to falsely inflate the Company’s revenue and accounts receivables, and as part of the scheme, made and caused to be made materially false and misleading statements about the Company’s financial condition. To create the false impression of sales, the defendants created phony documents, including fake and falsely inflated purchase orders purporting to reflect sales to the Company’s customers. The defendants also tricked certain of the Company’s customers, including Customer-1, into paying falsely inflated invoices from the Company. For her role in the scheme, SMITH received substantial kickbacks from the Management Defendants that included cash payments, personal family vacations, and home renovations.

The defendants took elaborate steps to keep the scheme afloat and prevent the Company’s lenders and outside auditors from discovering the fraud. For example, STEVEN KAITZ, WHEELER, and MAHATO created fake email accounts purporting to belong to fictitious employees of Customer-1 and “Customer-2” (a multinational designer and manufacturer of athletic footwear, clothing, and accessories, with U.S. headquarters in Portland, Oregon). To do so, the defendants used domain names that were very similar to the actual domain names used by Customer-1 and Customer-2. These defendants operated the fake email accounts themselves, pretending to be employees of Customer-1 and Customer-2, and then used those fake email accounts to “verify” false information about the Company’s financial condition, including its sales and accounts receivables, to the Company’s lenders and outside auditors. Further, at the Management Defendants’ direction, and in exchange for kickbacks, SMITH also falsely “verified” to the Company’s lenders certain financial information concerning the Company, including the amounts of money that Customer-1 supposedly owed the Company, even though SMITH knew those amounts were false. SMITH also caused Customer-1 to pay invoices from the Company that she knew were falsely inflated.

As another example of the steps taken to keep their scheme afloat, STEVEN KAITZ, WHEELER, and MAHATO utilized shell companies to engage in “round-trip” transactions to create the false appearance that customers were paying the Company’s phony outstanding receivables. ZACHARY KAITZ, who was skilled in graphic design, helped carry out the fraud by creating fraudulent documentation, such as fake invoices, purchase orders, and bills of lading, to support the false representations to the lenders about the Company’s business.

STEVEN KAITZ, WHEELER, and MAHATO misappropriated approximately \$2.8 million of the loan proceeds for their own personal use, to pay for homes and luxury cars, private school tuition, and personal credit card bills, as well as kickbacks to SMITH.

As of May 2014, when the Company's lenders terminated their lending relationships with the Company after discovering the fraud, the Company had approximately \$18.6 million in loans outstanding.

STEVEN KAITZ and ZACHARY KAITZ are also charged in a separate mortgage fraud scheme based on their creation of fake documents that STEVEN KAITZ used to secure a mortgage for a vacation home in Martha's Vineyard, Massachusetts.

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STEVEN KAITZ, 56, of Jersey City, New Jersey, is charged with one count of conspiracy to commit bank fraud and wire fraud, and two counts of bank fraud, each of which carries a maximum sentence of 30 years in prison; and one count of conspiracy to commit honest services wire fraud, one count of wire fraud, and one count of conspiracy to commit money laundering, each of which carries a maximum sentence of 20 years.

LATCHMEE MAHATO, a/k/a "Robbie, 49, of Jamaica, Queens, is charged with one count of conspiracy to commit bank fraud and wire fraud, and one count of bank fraud, each of which carries a maximum term of 30 years; and one count of conspiracy to commit honest services wire fraud, one count of wire fraud, and one count of conspiracy to commit money laundering, each of which carries a maximum sentence of 20 years.

JONATHAN WHEELER, 46, of Southport, Connecticut, is charged with one count of conspiracy to commit bank fraud and wire fraud, and one count of bank fraud, each of which carries a maximum term of 30 years; and one count of conspiracy to commit honest services wire fraud, one count of wire fraud, and one count of conspiracy to commit money laundering, each of which carries a maximum sentence of 20 years.

KATHLEEN SMITH, 49, of South Plainfield, New Jersey, is charged with one count of conspiracy to commit bank fraud and wire fraud, and one count of bank fraud, each of which carries a maximum term of 30 years; and one count of conspiracy to commit honest services wire fraud and one count of wire fraud, each of which carries a maximum sentence of 20 years.

ZACHARY KAITZ, 31, of Brooklyn, New York, is charged with one count of conspiracy to commit bank fraud and wire fraud, and two counts of bank fraud, each of which carries a maximum sentence of 30 years; and one count of wire fraud, which carries a maximum sentence of 20 years.

Mr. Bharara praised the outstanding investigative work of the FBI.

The case is being prosecuted by the Office's Complex Frauds and Cybercrime Unit. Assistant U.S. Attorneys Joshua A. Naftalis and Rosemary Nidiry are in charge of the prosecution.

The maximum potential sentences in this case are prescribed by Congress and are provided here for informational purposes only, as any sentencing of the defendants will be determined by the judge.

The charges contained in the Indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

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