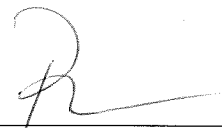


Approved:


Benjamin Allee / Kathryn Martin
Assistant United States Attorneys

Before: HONORABLE JUDITH C. McCARTHY
United States Magistrate Judge
Southern District of New York

----- x

UNITED STATES OF AMERICA :

-v.- :

MARK CINA, :

Defendant. :

----- x

17 mag 4785

SEALED COMPLAINT

Violation of 18 U.S.C. §§ 1341, 2

COUNTY OF OFFENSE:
DUTCHESS COUNTY

SOUTHERN DISTRICT OF NEW YORK, ss.:

GREG T. GHIOZZI, being duly sworn, deposes and says that he is a Postal Inspector with the United States Postal Inspection Service ("USPIS"), and charges as follows:

COUNT ONE

(Mail Fraud)

1. From in or about 2009, through in or about 2015, in the Southern District of New York and elsewhere, MARK CINA, 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, for the purpose of executing such scheme and artifice and attempting to do so, did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things, to be sent and delivered by private and commercial interstate carriers, and did take and receive therefrom such matters and things and knowingly did cause to be delivered by mail and such carriers according to direction thereon, such matters and things, and aided and abetted the same, to wit, CINA, as comptroller of two companies in Poughkeepsie, obtained millions of dollars of the companies' funds for purported business expenses, and in fact used the funds without authorization for personal expenditures, during which scheme CINA and others acting on his behalf sent checks through the United States mails.

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

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

2. I am a USPIS Inspector, and I have been personally involved in the investigation described below of mail fraud occurring in Dutchess County, along with other law enforcement agents and officers. This affidavit is based in part upon my conversations with other law enforcement agents and analysts, and my examination of reports and records, including my discussions with an investigator with the New York State Police who conducted some of the investigation, and reports prepared by that investigator. 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 my 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, except where otherwise indicated.

Relevant Entities and Individuals

3. Based on my participation in this investigation, I have obtained background information about, among other things, the following entities and individuals.

4. During all times relevant to this Complaint, two manufacturing companies were in operation, with plants located in the Town of Poughkeepsie ("Company-1" and "Company-2," collectively the "Companies"). Company-1 designed and manufactured solar energy products such as solar-powered roof shingles. Company-1's work included, for example, a solar-powered ring of lights encircling the top of MetLife Stadium, in New Jersey. Company-2 fabricated molded plastic.

5. The Companies were founded by an entrepreneur ("Victim-1"). During all times relevant to this Complaint, Victim-1 was the primary investor in and owner of the Companies.

6. In or about 2008, Victim-1 hired MARK CINA, the defendant, as a part-time bookkeeper for Company-1. In or about 2010, CINA became employed full-time for the Companies as comptroller. As comptroller, CINA was responsible for the day-to-day financial operations of the Companies. During some of the time period relevant to this Complaint, CINA had authority to sign checks for the Companies and to carry and use the Companies' credit cards and ATM cards. CINA remained so employed until in or about August 2015, when he was terminated.

The Fraud

7. In or about September 2015, Victim-1 appeared at a New York State Police barracks in Dutchess County. Victim-1 reported, in part and substance, that a former employee of the Companies had stolen company funds. Thereafter, the New York State Police commenced an investigation, which other federal law enforcement officers and I later joined. As summarized below, the investigation yielded myriad evidence showing that MARK CINA, the defendant, had defrauded Victim-1, via the Companies, of millions of dollars over the course of at least approximately seven years. CINA did so by, among other things, using the Companies' funds for

himself to gamble, pay his rent, drive rental cars, dine out, get his car washed, bail out an arrestee, and, in one instance, pay a phone charge for an inmate's call.

8. I have interviewed Victim-1. I have also reviewed reports of other interviews of Victim-1 by other law enforcement officers. From these interviews I have learned the following:

a. Victim-1 invested millions of dollars into the Companies. Among the investments were regular transfers of funds made by Victim-1 to Company-1. Victim-1 made these expenditures in response to regular phone calls from MARK CINA, the defendant, requesting provision of additional funds, which CINA claimed was in order to make payroll at the Companies.

b. In or about 2013 and 2014, Victim-1 suffered serious health problems. Victim-1 required treatment and time for recovery, and Victim-1's prognosis was poor. During this time period, Victim-1 was less involved in the operation of the Companies than Victim-1 had previously been. CINA was aware of Victim-1's health condition and prognosis, and during this time period was primarily responsible for handling the finances of the Companies.

c. By in or about 2015, Victim-1's health and prognosis improved. Then and thereafter, Victim-1 looked more closely into the finances of the Companies, including the distribution and expenditures of the Companies' funds by CINA during the time Victim-1 was indisposed.

d. To look more closely at the Companies' finances, Victim-1 contacted the plant manager of Company-1 ("Individual-1") and advised Individual-1 that Victim-1 sought to review Company-1's bank accounts. Thereafter, Victim-1 was contacted by CINA, who asked, in part and substance, why Victim-1 wanted to review bank accounts. CINA did not provide Victim-1 with the records.

e. Thereafter, Victim-1 obtained bank account records of one or both of the Companies from a bank. Victim-1 found in the records copies of numerous checks totaling approximately \$194,000 made out to cash, signed by CINA, and Individual-1. The purported reason for issuance of the checks, according to entries on the memo lines of some of the checks, was "Frank loan repay." Victim-1, however, had not received any of the funds.

f. On or about August 11, 2015, in the offices of Company-1, Victim-1, accompanied by a friend, confronted and terminated CINA and Individual-1. CINA responded belligerently, saying in part and substance, that he was owed the money. Individual-1 responded by saying little or nothing and leaving without dispute.

g. In or about September 2015, Victim-1 appeared at the New York State Police to report the fraud.

h. In or about December 2015, Victim-1 retained an accounting firm ("Accounting Firm-1") to conduct, among other things, review and analysis of the Companies' finances, including disbursements of the Companies' funds by CINA.

9. I have reviewed a report prepared by Accounting Firm-1 ("Forensic Report-1"), including certain attachments to the report which include numerous business records obtained by Accounting Firm-1 in connection with its work. I have also participated in an interview of the accountant who authored Forensic Report-1. According to Forensic Report-1, Victim-1 reported to Accounting Firm-1 Victim 1's discovery that MARK CINA, the defendant, had stolen approximately \$300,000 of the Companies' funds (which comprised the checks to cash that Victim-1 had found and another prior theft of approximately \$100,000), and retained Accounting Firm-1 to review and analyze financial records in order to investigate the matter.

10. According to Forensic Report-1, Accounting Firm-1 obtained, reviewed, and analyzed financial records relating to the Companies, including bank records, credit card records, tax returns, receipts, invoices, and other records. Accounting Firm-1 concluded that MARK CINA, the defendant, had actually defrauded the Companies, from in or about 2009 through in or about 2015, of in excess of \$2,500,000. According to Forensic Report-1, CINA did so by making unauthorized disbursements of the Companies' funds to himself in several ways, some of which are set forth below.

11. I have also reviewed additional business and financial records obtained during this criminal investigation and spoken to others who have also reviewed these records. Based on my review of Forensic Report-1, business and financial records attached to Forensic Report-1, and additional business and financial records other law enforcement officers and I have obtained during the investigation, I have learned of the following disbursements of the Companies' funds by MARK CINA, the defendant, from in or about 2009 through in or about 2015, which were not authorized, and which had no apparent or recorded business purpose:

Payments to Mini-Mart

a. Approximately \$457,000 in payments were made to a mini-mart located in the City of Poughkeepsie (the "Mini-Mart"). The payments were in the form of credit card charges from multiple credit cards of the Companies (which charges were thereafter paid for with the Companies' funds), debit card charges, and checks.

b. For example, during the three months December 2012 through February 2013, credit cards of the Companies that were carried by CINA were used approximately 88 separate times at the Mini-Mart. The transactions were nearly always for several hundreds of dollars, ranged from \$182.50 to \$1,465.85, and totaled approximately \$52,995, as set forth in the attached chart (Attachment A).

c. According to multiple employees of the Companies with whom I and/or other law enforcement officers have spoken, CINA often was observed in possession of lottery scratch off tickets, which are sold at the Mini-Mart.

Payments to Gas Station

d. Approximately \$180,000 in payments were made to a gas station chain, the majority of which at the gas station's location in Poughkeepsie (the "Gas Station"). The

payments were in the form of debit card charges and credit card charges (which charges were thereafter paid for with the Companies' funds).

e. For example, during the three months November 2011 through January 2012, approximately 223 credit card transactions took place at the Gas Station with the Companies' credit cards, totaling approximately \$37,302, as set forth in the attached chart (Attachment B).

Payment of CINA's Rent

f. Approximately \$25,000 in checks were made payable to an apartment complex where CINA lived. Approximately \$8,900-worth of the checks were purportedly cosigned by Victim-1 and CINA. Victim-1 reviewed the checks, however, and said, in substance, that the signatures were not his.

Payment of CINA's Personal Credit Card Bills

g. Approximately \$125,000 in checks were made payable to a credit union (the "Credit Union"), as payments toward personal credit card bills of CINA.

Checks Payable to CINA

h. Approximately \$599,000 in checks were made payable to CINA. These checks were not payroll checks. Of the checks, approximately \$243,000-worth were signed solely by CINA. Approximately \$61,000 were purportedly signed solely or in part by Victim-1. Victim-1 reviewed these checks, however, and said, in substance, that the signatures were not his.

i. For example, during the three months June 2009 through August 2009, approximately 27 checks totaling approximately \$18,960 of Company-1's funds were made payable to CINA. The majority of the checks were purportedly for "Accting fee." The majority of the checks were cashed at the Mini-Mart, according to endorsements stamped on the checks.

j. For another example, during the three months June 2014 through August 2014, approximately 39 checks totaling approximately \$59,523 of the Companies' funds were made payable to CINA. The majority of the checks were purportedly for "medical reimbursement." Nearly all of the checks were in the amount of a round number (e.g. \$1,500, \$2,000). Several of the checks were cashed at the Mini-Mart, according to endorsements stamped on the checks.

Checks Payable to Cash

k. Approximately \$282,000 in checks were made payable to cash. Of the checks, approximately \$150,000-worth were signed solely by CINA. Approximately \$118,000-worth were signed jointly by CINA and Individual-1. One check, for approximately \$1,500, was purportedly signed jointly by Victim-1 and CINA. Victim-1 reviewed the check, however, and said, in substance, that the signature was not his.

l. For example, during the three months April 2015 through June 2015, approximately 16 checks totaling approximately \$16,177 of the Companies' funds were made payable to cash. The majority of the checks were purportedly for "[Victim-1] loan repay." All of the checks were cashed at the Mini-Mart, according to endorsements stamped on the checks.

m. Among the other checks to cash was a check with the notation that it was for bail for a particular employee of Company-1. Victim-1, however, had been aware at the time of the employee's arrest, and had specifically informed CINA not to pay the bail.

Cash Withdrawals

n. Approximately \$825,000 in cash withdrawals were made from the Companies' bank accounts, via ATM transactions, cash advances, and counter withdrawals. The majority of the ATM transactions were made in Poughkeepsie (where the Companies are located), Pleasant Valley (where CINA lives), and Huntsville, Alabama (where CINA's wife's family lived and where CINA traveled).

o. Many of the cash transactions were on the same day. For example, on or about five days in July 2013, 19 ATM withdrawals were made from Company-1's bank account totaling approximately \$8,400. All of the withdrawals were made in Huntsville, Alabama.

p. In addition, according to Victim-1, the Companies do not ordinarily make their legitimate purchases in cash.

Additional Unauthorized Charges

q. Hundreds of thousands of dollars-worth of additional expenditures of the Companies' funds were also recorded in the bank and credit card records, including charges to pharmacies, medical and dental facilities, a rental car company, a car wash facility, an inmate phone service, and for purported loans from family members of CINA.


12. Among the financial and business records that other federal law enforcement officers and I have reviewed are records received from the issuer of a credit card of Company-2. According to the records, MARK CINA, the defendant, was added as a cardholder in or about September 2010. Thereafter, CINA made nearly 1,000 unauthorized charges on the credit card, at gas stations, convenience stores, and pharmacies, totaling approximately \$131,040. Payments toward the credit card bills from December 2010 through March 2014 were made by checks drawn from the Companies' bank accounts. The check payments were mailed to a P.O. Box located in Newark, New Jersey.

WHEREFORE, deponent respectfully requests that warrants be issued for the arrest of MARK CINA, the defendant, and that he be arrested and imprisoned, or bailed, as the case may be.



GREG T. GHIOZZI
Postal Inspector
United States Postal Inspection Service

Sworn to before me this
23 day of June, 2017



UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

Attachment A: Credit Card Payments to Mini-Mart, December 2012 – February 2013

DATE OF TRANSACTION	AMOUNT (DOLLARS)
12/01/2012	493.50
12/04/2012	684.50
12/07/2012	727.25
12/11/2012	462.00
12/11/2012	703.50
12/11/2012	1,465.85
12/12/2012	610.50
12/13/2012	598.50
12/14/2012	736.25
12/15/2012	655.48
12/16/2012	715.75
12/17/2012	598.50
12/18/2012	577.50
12/19/2012	546.00
12/20/2012	630.00
12/21/2012	641.99
12/22/2012	630.00
12/23/2012	621.22
12/24/2012	556.50
12/25/2012	713.70
12/26/2012	577.50
12/27/2012	711.60
12/28/2012	706.75
12/28/2012	609.00
12/29/2012	631.75
12/30/2012	639.50
12/31/2012	323.25
01/09/2013	596.94
01/10/2013	309.00
01/10/2013	300.00
01/11/2013	631.49
01/12/2013	464.93
01/13/2013	603.48
01/14/2013	684.50
01/15/2013	527.50
01/15/2013	634.29
01/16/2013	735.00
01/17/2013	619.50
01/18/2013	702.50

01/19/2013	754.89
01/20/2013	200.00
01/20/2013	322.61
01/20/2013	640.50
01/21/2013	579.00
01/22/2013	716.75
01/23/2013	652.49
01/24/2013	651.00
01/25/2013	685.00
01/26/2013	704.75
01/27/2013	685.75
01/28/2013	697.29
01/29/2013	705.75
01/30/2013	651.00
01/31/2013	682.50
02/01/2013	681.50
02/02/2013	300.00
02/02/2013	405.50
02/03/2013	608.29
02/04/2013	611.46
02/05/2013	182.50
02/05/2013	500.00
02/06/2013	703.50
02/07/2013	719.50
02/08/2013	669.54
02/09/2013	690.25
02/10/2013	569.55
02/11/2013	382.50
02/11/2013	300.00
02/12/2013	682.50
02/13/2013	704.75
02/14/2013	664.24
02/15/2013	830.00
02/16/2013	546.00
02/16/2013	704.75
02/17/2013	547.25
02/18/2013	790.25
02/19/2013	748.24
02/20/2013	300.00
02/20/2013	493.04
02/21/2013	704.75

02/22/2013	815.94
02/23/2013	590.75
02/23/2013	735.00
02/24/2013	748.50
02/25/2013	666.25
02/27/2013	431.50
02/27/2013	261.50
TOTAL	52,995.55

Attachment B: Credit Card Payments to Gas Station, November 2011 – January 2012

DATE OF TRANSACTION	AMOUNT (DOLLARS)
11/01/2011	101.00
11/01/2011	110.00
11/01/2011	136.20
11/01/2011	152.85
11/02/2011	102.85
11/02/2011	153.24
11/03/2011	61.80
11/03/2011	182.00
11/03/2011	227.44
11/04/2011	184.00
11/04/2011	189.70
11/05/2011	143.00
11/05/2011	145.09
11/05/2011	154.00
11/06/2011	16.80
11/06/2011	152.00
11/06/2011	165.00
11/06/2011	199.10
11/06/2011	135.00
11/07/2011	122.45
11/07/2011	171.44
11/07/2011	165.24
11/08/2011	132.45
11/08/2011	169.00
11/09/2011	147.45
11/09/2011	91.00
11/09/2011	93.63
11/10/2011	205.00
11/10/2011	207.69
11/11/2011	197.38
11/11/2011	210.79
11/12/2011	110.00
11/12/2011	132.00
11/12/2011	190.03
11/12/2011	198.00
11/13/2011	104.43
11/13/2011	123.25
11/14/2011	87.01
11/14/2011	111.00
11/15/2011	111.13

11/15/2011	119.40
11/15/2011	122.00
11/16/2011	77.80
11/16/2011	82.00
11/17/2011	136.05
11/17/2011	181.94
11/17/2011	192.54
11/18/2011	202.00
11/18/2011	216.00
11/18/2011	6.55
11/19/2011	130.90
11/19/2011	169.05
11/20/2011	143.00
11/20/2011	199.00
11/21/2011	152.00
11/21/2011	185.65
11/22/2011	143.00
11/22/2011	74.50
11/23/2011	125.60
11/23/2011	112.35
11/24/2011	161.00
11/24/2011	232.40
11/25/2011	102.00
11/25/2011	198.40
11/25/2011	204.00
11/26/2011	154.00
11/26/2011	178.95
11/27/2011	106.63
11/27/2011	134.00
11/27/2011	200.01
11/28/2011	84.00
11/28/2011	71.00
11/28/2011	172.00
11/29/2011	51.00
11/29/2011	112.35
11/29/2011	176.60
11/30/2011	180.84
12/01/2011	78.00
12/01/2011	143.00
12/01/2011	211.85
12/01/2011	195.19

12/02/2011	34.42
12/02/2011	164.70
12/02/2011	191.25
12/02/2011	196.25
12/03/2011	132.00
12/03/2011	154.00
12/03/2011	209.80
12/04/2011	108.20
12/04/2011	135.30
12/04/2011	153.23
12/05/2011	153.00
12/05/2011	113.85
12/05/2011	127.00
12/06/2011	53.20
12/06/2011	87.36
12/07/2011	73.65
12/07/2011	109.00
12/08/2011	154.00
12/08/2011	145.85
12/08/2011	246.70
12/09/2011	113.00
12/09/2011	189.70
12/09/2011	200.00
12/09/2011	238.95
12/10/2011	196.30
12/10/2011	211.70
12/10/2011	7.35
12/11/2011	196.45
12/11/2011	204.00
12/11/2011	214.00
12/12/2011	155.30
12/13/2011	239.00
12/14/2011	92.00
12/14/2011	175.35
12/15/2011	177.35
12/15/2011	209.00
12/15/2011	250.90
12/16/2011	173.85
12/16/2011	182.85
12/16/2011	190.00
12/17/2011	176.00

Attachment B: Credit Card Payments to Gas Station, November 2011 – January 2012

12/17/2011	205.55
12/18/2011	165.00
12/18/2011	182.05
12/19/2011	66.45
12/19/2011	154.85
12/20/2011	76.00
12/20/2011	111.00
12/21/2011	118.00
12/22/2011	222.85
12/22/2011	224.45
12/22/2011	239.35
12/22/2011	243.10
12/23/2011	184.00
12/24/2011	231.00
12/24/2011	209.90
12/25/2011	97.00
12/26/2011	75.40
12/27/2011	63.70
12/28/2011	212.00
12/29/2011	100.00
12/29/2011	160.00
12/29/2011	212.00
12/29/2011	213.35
12/30/2011	112.95
12/30/2011	276.50
12/30/2011	205.35
12/31/2011	68.95
12/31/2011	141.45
12/31/2011	153.87
01/01/2012	130.57
01/02/2012	185.85
01/03/2012	110.55
01/04/2012	167.12
01/04/2012	191.20
01/05/2012	276.50
01/05/2012	333.87
01/05/2012	25.35
01/05/2012	318.00
01/06/2012	203.55
01/06/2012	275.35
01/06/2012	276.90

01/08/2012	199.35
01/08/2012	202.00
01/08/2012	261.75
01/08/2012	264.20
01/08/2012	149.95
01/09/2012	214.00
01/09/2012	286.45
01/10/2012	206.90
01/10/2012	223.00
01/10/2012	224.30
01/11/2012	92.30
01/11/2012	101.40
01/12/2012	76.50
01/12/2012	266.50
01/12/2012	347.90
01/12/2012	153.50
01/12/2012	156.70
01/13/2012	263.77
01/13/2012	308.20
01/14/2012	190.45
01/14/2012	235.30
01/15/2012	205.00
01/15/2012	315.15
01/16/2012	134.50
01/16/2012	114.35
01/16/2012	197.00
01/17/2012	124.85
01/18/2012	140.25
01/19/2012	136.68
01/19/2012	194.85
01/19/2012	123.00
01/20/2012	177.54
01/20/2012	271.30
01/21/2012	180.35
01/22/2012	189.00
01/22/2012	205.00
01/22/2012	220.20
01/23/2012	159.37
01/23/2012	228.72
01/23/2012	223.00
01/24/2012	174.35

01/25/2012	122.00
01/25/2012	190.00
01/25/2012	195.45
01/26/2012	253.00
01/26/2012	232.10
01/26/2012	276.35
01/27/2012	156.85
01/27/2012	266.18
01/27/2012	295.35
01/28/2012	198.00
01/28/2012	247.70
01/29/2012	170.00
01/29/2012	249.45
01/29/2012	203.55
01/30/2012	122.00
01/30/2012	142.00
01/30/2012	153.00
01/31/2012	107.65
01/31/2012	116.70
TOTAL	37,302.89