

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 21-MJ-8099-WM

UNITED STATES OF AMERICA

v.

BARRY JAY WOLF,

Defendant


CRIMINAL COVER SHEET

1. Did this matter originate from a matter pending in the Northern Region of the United States Attorney's Office prior to August 9, 2013 (Mag. Judge Alicia O. Valle)? Yes No
2. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek M. Maynard)? Yes No
3. Did this matter originate from a matter pending in the Central Region of the United States Attorney's Office prior to August 8, 2019 (Mag. Judge Jared M. Strauss)? Yes No

Respectfully submitted,

ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY

By:



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AO 91 (Rev. 11/11) Criminal Complaint

FILED BY KJZ D.C.
Mar 18, 2021
ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - West Palm Beach

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

United States of America)
v.)
BARRY JAY WOLF)
)
)
)
)

Case No. 21-MJ-8099-WM

Defendant(s)

CRIMINAL COMPLAINT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

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 March 30 through June 15, 2020 in the county of Palm Beach in the Southern District of Florida, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 1343	Wire Fraud

This criminal complaint is based on these facts:
SEE ATTACHED AFFIDAVIT.

Continued on the attached sheet.

[Handwritten Signature]

Complainant's signature

FBI Special Agent Adam Joseph Weisenstine

Printed name and title

Attested to by the Applicant in accordance with the requirements of Fed.R.Crim. 4.1 by Telephone (Facetime).

Date: March 18, 2021

[Handwritten Signature]

Judge's signature

City and state: West Palm Beach Florida

Hon. William Matthewman, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Adam Joseph Weisenstine, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (“FBI”) and have been so employed since September 2019. I am currently assigned to the Economic Crimes Division of the West Palm Beach Office. I have received training and conducted investigations into financial crimes, to include money laundering, elder fraud, identity theft, access device fraud, and bank fraud.

2. For five years prior to becoming an FBI Special Agent I served as a commissioned officer in the United States Army. I have a Master’s Degree in Business Administration (MBA) from Boise State University and a Bachelor of Arts in Finance from the University of St. Thomas (Minnesota).

3. This affidavit is made in support of a criminal complaint charging Barry Jay Wolf (“WOLF”) with violating Title 18, United States Code, Section 1343 (Wire 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.

OVERVIEW OF CERTAIN CARES ACT RELIEF

5. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, Pub. L. 116-136, 134 Stat. 281, is a federal law enacted in or around March 2020 designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. Two sources of relief provided by the CARES Act were the Economic Injury Disaster Loan (“EIDL”) program and the Paycheck Protection Program (“PPP”).

6. The EIDL program is a U.S. Small Business Administration (“SBA”) program that provides low-interest financing to small businesses, renters, and homeowners in regions affected by declared disasters.

7. The CARES Act authorized the SBA to provide EIDLs of up to \$2 million to eligible small businesses experiencing substantial financial disruption 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 was determined by the number of employees the applicant certified having. The advances did not have to be repaid.

8. EIDL applications are submitted directly to the SBA and processed by the agency with support from a government contractor, Rapid Finance. In order to obtain an EIDL and advance, a qualifying business had to submit an application to the SBA and provide information about its operations, such as the number of employees, gross revenues for the 12-month period preceding the disaster, and cost of goods sold in the 12-month period preceding the disaster. 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.

9. EIDL funds can be used for payroll expenses, sick leave, production costs, and business obligations, such as debts, rent, and mortgage payments.

10. All EIDL-related payments are processed by the SBA from Denver, Colorado.

11. Within the SBA, the Office of Disaster Assistance was responsible for the EIDL program and was headquartered at 409 3rd Street SW, Washington, D.C., 20416.

12. The PPP was a program specific to the CARES Act that authorized up to \$349 billion in forgivable loans to small businesses for job retention and certain other expenses. In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

13. 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 to the lending institution showing their payroll expenses; typically, businesses would supply documents showing the amount of payroll taxes reported to the Internal Revenue Service (“IRS”).

14. A PPP loan application must be processed by a participating lender. If a PPP loan application is approved, the participating 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.

15. 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.

OVERVIEW OF WOLF'S SCHEME

16. Between approximately March 1, 2020, and July 1, 2020, WOLF submitted five fraudulent EIDL applications and two fraudulent PPP applications—seven applications in total, all rife with false and fraudulent misrepresentations. Nonetheless, WOLF received one EIDL advance and two PPP loans. He ultimately received over \$500,000 in relief benefits to which he was not entitled.

17. After receiving the funds, WOLF spent the majority of the proceeds on personal expenses and luxury items. For example, WOLF spent over \$100,000 of the fraud proceeds on one BMW vehicle and two Rolex watches.

18. While submitting these fraudulent applications and spending the proceeds on luxury items, WOLF also received hundreds of dollars a week in unemployment benefits from the Florida Department of Economic Opportunity. At the same time he submitted application after application claiming to be an employer of dozens, WOLF also repeatedly claimed to be unemployed and unable to find work.

Background on WOLF, Jack Wolf, and DAE

19. WOLF is a resident of Boca Raton, Florida, in the Southern District of Florida.

20. On May 17, 2001, WOLF pleaded guilty to twelve counts of mail fraud and one count of commodities fraud based on an investment fraud scheme he orchestrated that defrauded

numerous victims out of more than \$1.5 million. Plea Agreement, *United States v. Wolf*, 00-00871-CR, Dkt. No. 45 (N.D. Il. May 17, 2001). WOLF was subsequently sentenced to 60-months' incarceration. Sentencing Order, *United States v. Wolf*, 00-00871-CR, Dkt. No. 45 (N.D. Il. Sept. 13, 2000).

21. On approximately April 1, 2019, WOLF formed Jack Wolf LLC ("Jack Wolf") under the laws of Florida. WOLF is the company's registered agent and only listed officer. The company does not have an internet presence.

22. In approximately September 2019, WOLF formed Discipline Analysis Execution LLC ("DAE") under the laws of New Hampshire. The company had one principal, Jack Wolf, and listed its business address as WOLF's then home address in Boca Raton, Florida.

March 30, 2020 EIDL Applications

23. On approximately March 30, 2020, WOLF submitted three applications for EIDL advances and loans on behalf of DAE, Jack Wolf, and "Barry Wolf." All three applications were submitted from the same internet protocol ("IP") address ending in 73fc. All three applications were submitted using the SBA online portal accessible at covid19relief.sba.gov.

24. In his application on behalf of DAE, WOLF claimed that DAE provided "Medical Services" out of WOLF's home address, as listed on his Florida driver's license, in Boca Raton; employed 24 people; and earned a gross revenue of \$800,000 for the twelve months prior to January 31, 2020. WOLF listed his email address as "bjw@jackwolfllc.com," an email address he created on or about June 15, 2019 (the "BJW Email Address").¹

¹ WOLF created the email address by providing the email service provider with his name ("Barry Wolf") and information associated with a credit or debit card ending in 0624 bearing the name "Barry Wolf," among other information. As noted *supra*, WOLF's full name is Barry Jay Wolf

25. WOLF listed DAE's bank account as a business checking account in the name DAE and ending in 7417 at Bank 1 ("Account 7417"). WOLF had opened the account on September 16, 2019, using his valid Florida driver's license. He was the sole signatory on the account.

26. WOLF's request for the EIDL advance was approved. On April 18, 2020, WOLF received \$10,000 into Account 7417.

27. WOLF's application for the EIDL loan was declined because WOLF's credit score was too low.

28. WOLF's application on behalf of Jack Wolf claimed that the company was engaged in "Personal Services"; had 12 employees; and operated out of WOLF's home address in Boca Raton. WOLF claimed the company's gross revenue for the 12 months prior to January 31, 2020, was \$1,200,000. WOLF listed an account at Metabank ending in 0112 as Jack Wolf's account. WOLF listed the BJW Email Address as his email address.

29. WOLF's request for the EIDL advance was denied because the SBA could not verify the bank account. WOLF's application for the EIDL loan was denied because WOLF's credit score was too low.

30. Lastly, on March 30, 2020, WOLF applied for an EIDL advance and loan in his own name. He claimed that he had two employees and that his gross revenue for the 12 months prior to January 31, 2020, was \$180,000. He listed his home address as his primary business address and a "Bancorp" account ending in 2217 as his account.

and his initials are "BJW." On December 22, 2020, Magistrate Judge Jonathan Goodman issued a search warrant for the BJW Email Address. *See In the Matter of the Search of Information Associated With bjw@jackwolflc.com Stored at Premises Controlled by NameCheap, Inc.*, 20-04241-MJ-GOODMAN (S.D. Fla. Dec. 22, 2020) (SEALED).

31. The advance was denied because SBA could not verify the bank account. The loan was denied because of WOLF's low credit score.

DAE's PPP Application

32. On approximately April 14, 2020, WOLF applied for a PPP loan with Bank 1 on behalf of DAE. In his application, WOLF wrote that DAE had 12 employees, an average monthly payroll of \$64,922.08, and was entitled to a PPP loan of \$162,305.21.

33. As part of his application, WOLF certified that “[a]ll SBA loan proceeds will be used only for business-related purposes.”

34. Bank 1 granted WOLF's application. On approximately May 1, 2020, Bank 1 deposited \$1,696 into Account 7417. On approximately May 20, 2020, Bank 1 deposited an additional \$160,609. On approximately May 29, 2020, Bank 1 deposited an additional \$160,609. In total, Bank 1 deposited \$322,914 into Account 7417 in response to WOLF's PPP application on behalf of DAE.

Jack Wolf's PPP Application

35. On approximately May 11, 2020, WOLF applied with Lender 1 for a PPP loan on behalf of Jack Wolf. WOLF stated in the application that Jack Wolf had 24 employees—12 more than he had claimed one and a half months earlier—and an average monthly payroll of \$83,954.

36. WOLF included in his application color copies of both sides of his valid Florida driver's license. WOLF also included a series of documents that, as detailed below, were fraudulent and misleading.

- a. Copies of two separate Internal Revenue Service (IRS) forms that he purportedly filed with the IRS on behalf of Jack Wolf: a Form 940 (Employer's Annual Federal unemployment (FUTA) Tax Return) for 2019 and a Form 941 (Employer's

Quarterly Federal Tax Return) for the first quarter of 2020. The Form 940 claimed that Jack Wolf had paid \$1,007,448.00 to employees in 2019. The Form 941 claimed Jack Wolf had 24 employees in the first quarter of 2020 and paid \$261,834.18 in “wages, tips, and other compensation.”

- b. A copy of a check made out to the “United States Treasury” and dated March 19, 2020, for \$21,500, purportedly drawn on a PNC Bank account ending in 1025.

37. Lender 1 approved WOLF’s loan application. On May 21, 2020, Lender 1 wire transferred, from an account ending in 5588 at Capital One Financial in New York, \$209,800 into a bank account ending in 9463 at TAB Bank in the name Jack Wolf (“Account 9463”).

Additional EIDL Applications

38. In addition to the above, WOLF submitted two additional applications for EIDL advances and loans, both of which were denied.

39. On approximately April 15, 2020, WOLF submitted a second EIDL application on behalf of Jack Wolf. WOLF again claimed that the entity had 12 employees, a revenue of \$800,000 for the twelve months prior to January 31, 2020, and operated out of WOLF’s home.

40. On approximately June 15, 2020, WOLF applied for an EIDL advance and loan on behalf of “Barry Wolf,” a “Sole Proprietorship.” WOLF asserted that he worked in “Seminars” within “Educational Services” and had a gross revenue of \$457,000 for the twelve months prior to January 31, 2020.

Relevant Banks and Lenders

41. Bank 1 is a financial institution federally insured by the Federal Deposit Insurance Corporation (“FDIC”) and based in Charlotte, North Carolina. Bank 1 participated in the SBA’s

PPP as a lender and, as such, was authorized to lend funds to eligible borrowers under the terms of the PPP.

42. Lender 1 is headquartered in Lake Mary, Florida, and participated in the SBA's PPP as a lender and, as such, was authorized to lend funds to eligible borrowers under the terms of the PPP.

43. TAB Bank is a financial institution insured by the FDIC and based in Ogden, Utah.

False Statements on WOLF's Applications

44. Neither Jack Wolf nor DAE had any employees during the relevant time period. All of WOLF's representations to the contrary were false and fraudulent.

45. First, neither Jack Wolf nor DAE were registered to pay employment taxes in Florida, both companies' purported place of operation. Accordingly, there are no records of either entity paying such taxes.

46. Second, the IRS confirmed that, as of September 2020, no tax returns had been filed on behalf of DAE.²

47. Third, in his PPP application on behalf of Jack Wolf, WOLF included a misleading copy of a check intended to give the false and fraudulent impression that the company was paying taxes to the IRS. As noted above, WOLF included a copy of a check dated March 19, 2020, made out to "United States Treasury" and purportedly drawn on an account ending in 1025 at PNC Bank ("Account 1025"). Account 1025, however, was closed on or about December 18, 2019—

² A request to the IRS for information concerning tax returns filed on behalf of Jack Wolf is outstanding.

approximately three months before the check was dated. WOLF, therefore, could not have possibly paid employment taxes with a check drawn on Account 1025 in March 2020.³

48. Fourth, and lastly, the bank accounts opened in the names of Jack Wolf and DAE confirm that whatever money deposited into the accounts was not used to pay employees.

49. Records from three bank accounts opened in the name Jack Wolf do not show any paychecks to any employees, nor any payments to any payroll companies.

50. Records for Account 1025, which became effective on July 19, 2019, and closed on or about December 18, 2019, did not contain any paychecks or payments to payroll companies. Rather, account records showed debits that appeared to be personal expenses, including, *inter alia*, purchases at the La La Land in Boca Raton, Florida, Lyft, Amazon, and Rooms To Go, a furniture store.

51. Records for Account 9463, opened on May 11, 2020, and closed on or about December 30, 2020, did not contain any paychecks or payments to payroll companies, but did include debits that appear to be personal expenses, including, *inter alia*, Comcast Cable, Total Wine, and TD Ameritrade.

52. And records for account ending in 0405 at Bank 1 (“Account 0405”), opened on or about May 14, 2020, and closed on or about September 3, 2020, did not contain any paychecks or payments to payroll companies, but did include, *inter alia*, large cash withdrawals, at least one

³ Unsurprisingly, WOLF did not have the corresponding loan proceeds deposited into Account 1025. Instead, he had the proceeds deposited into Account 9463.

payment to a jewelry store in Boca Raton, Florida, and multiple transfers via Zelle to WOLF's ex-wife.⁴

53. Similarly, a review of two accounts in the name of DAE, Account 7417 and a JP Morgan Chase account ending in 0121 ("Account 0121"), reveal no paychecks to any employees, nor any payments to any payroll company.

**WOLF SPENT THE RELIEF PROCEEDS ON
PERSONAL EXPENSES AND LUXURY ITEMS**

54. WOLF spent over \$100,000 of the proceeds on luxury items.

55. On May 21, 2020, WOLF used proceeds from a PPP loan in Account 7417 to purchase a Rolex watch for approximately \$39,435.

56. On May 31, 2020, WOLF, or someone using his debit card, used proceeds from a PPP loan in Account 7417 to purchase a second Rolex watch for approximately \$13,724.

57. On June 12, 2020, WOLF transferred \$25,000 from Account 7417 to William Youngerman Inc., a seller of valuable coins, jewelry, gold bullion, and other items.

58. On June 25, 2020, WOLF purchased a 2018 BMW 745E sedan hybrid from BMW of Delray Beach. WOLF paid \$54,390.94 for the vehicle with a check drawn on Account 9463. WOLF listed the purchaser of the vehicle as DAE.

⁴ Account 0405 was opened by an associate of WOLF's in the name of "Jack Wolf LLC." Based on email correspondence recovered from the BJW Email Address, WOLF incorporated an entity with the name "Jack Wolf LLC" under the laws of Delaware on or about May 12, 2020, and had his associate serve as the entity's manager. WOLF, using the BJW Email Address, then corresponded with an employee of Bank 1 to open Account 0405. WOLF posed as his associate in his communications with the bank employee, for example by signing off on one email with the associate's initials "DA." Several days later, on or about May 27, 2020, WOLF wire transferred \$33,000 from Account 9463—proceeds of the PPP loan obtained from Lender 1 on behalf of Jack Wolf—to Account 0405.

59. In addition to luxury items, WOLF used loan proceeds to pay the rent for his personal residence. On approximately June 30, 2020, WOLF wire transferred \$50,000 from Account 0121 to an account in the name of “M.G.” The wire transfer instructions stated, “Rent Paid IN [sic] Full.” “M.G.” appears to be the landlord for WOLF’s current residence, reportedly a four-bedroom home with a pool. On July 1, 2020, WOLF wire transferred an additional \$13,020 from Account 9463 to “M.G.”

WOLF RECEIVED UNEMPLOYMENT BENEFITS

60. At the same time WOLF claimed he owned at least two separate businesses and employed dozens of employees, he also claimed that he was actively looking, and unable, to find employment.

61. Records from the Florida Department of Economic Opportunity show that WOLF received unemployment benefits beginning approximately February 23, 2020, and throughout 2020.

62. In total, in 2020, WOLF received approximately \$15,550 in unemployment benefits.

63. WOLF repeatedly certified that he was actively looking for work but unable to find any. For example, on or around May 16, 2020, approximately the same time when WOLF submitted a PPP application with Lender 1 on behalf of Jack Wolf, WOLF reported to the Florida Department of Economic Opportunity that he had applied online for five different jobs but was not hired for any of them. He subsequently received approximately \$600 in unemployment benefits for the week.

64. WOLF received at least the majority of his unemployment benefits on a Chime Visa Prepaid card ending in 3219. WOLF opened the account associated with the card on

approximately September 26, 2019. He provided his name, home address, email address, and phone number while opening the account.

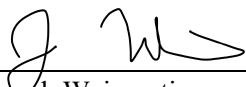
CONCLUSION

65. Based on my training and experience, and the information provided in this affidavit,

I respectfully submit that there is probable cause to believe that:

- From on or about March 30, 2020, through on or about June 15, 2020, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant, BARRY JAY WOLF, did knowingly, and with intent to defraud, devise, and intend 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, knowing that the pretenses, representations, and promises were false and fraudulent when made, and, for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, certain writings, signs, signals, punctures and sounds, in violation of title 18, United States code, Section 1343.

FURTHER YOUR AFFIANT SAYETH NAUGHT



Adam Joseph Weisenstine
Federal Bureau of Investigation
Special Agent

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by Telephone (Facetime) on this 18th day of March, 2021, in West Palm Beach, Florida.



HONORABLE WILLIAM MATTHEWMAN
UNITED STATES MAGISTRATE JUDGE