AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	
JEAN R. LAVANTURE a/k/a RUDY LAVANTURE,	)	Case No. 1:20-MJ- 452 (CFH)
	)	
	)	
Defendant.	)	

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. Between on or about the dates of June 16, 2020 and July 22, 2020, in the county of Ulster, in the Northern District of New York, and elsewhere, the defendant violated:

Code Section	*Offense Description*
18 U.S.C. § 1344	Bank Fraud

This criminal complaint is based on these facts:
See attached affidavit.

☒ Continued on the attached sheet.

Complainant's signature

FBI Special Agent Matthew J. Wabby

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: September 9, 2020

Judge's signature

City and State: Albany, NY

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title

Affidavit in Support of a Criminal Complaint

Special Agent Matthew J. Wabby, of the Federal Bureau of Investigation (FBI), deposes and states as follows:

Introduction

1. I respectfully submit this affidavit in support of a criminal complaint charging Jean R. Lavanture, a/k/a Rudy Lavanture ("Lavanture"), with committing bank fraud in violation of 18 U.S.C. § 1344.

2. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have been so employed since September 2012. In June 2019, I was assigned to the FBI Albany Field Office's White Collar Squad, investigating corruption, fraud, money laundering, and related crimes. I am also part of the COVID-19 Fraud Response Working Group.

3. Previously I was assigned to the FBI's Plattsburgh Resident Agency and investigated a variety of crimes within the jurisdiction of the FBI, including corruption of federal officers, drug trafficking organizations, money laundering, financial crimes, and violent crimes. Prior to becoming a Special Agent, I worked in public accounting for approximately seven years, where I became a Certified Public Accountant (CPA). I am still a licensed CPA and also a Certified Fraud Examiner (CFE).

4. I am familiar with the facts of this case based on my personal involvement in this investigation and my conversations with law enforcement officers and agencies, my review of various reports and documents in connection with the matter, and my interviews of witnesses. Where statements of others are related in this affidavit, they are related in substance and in part. Because this affidavit is submitted for the limited purpose of showing probable cause for a complaint, I have not set forth every fact that I know concerning this investigation.

Statute

5. Section 1344 of Title 18 of the United States Code states:

Whoever knowingly executes, or attempts to execute, a scheme or artifice—

(1) to defraud a financial institution; or

(2) to obtain any of the moneys, funds, credits, assets, securities, or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises;

shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.

Basis for a Finding of Probable Cause

6. This is an investigation into a fraud scheme in which Lavanture obtained millions of dollars in Paycheck Protection Program ("PPP") loans and Economic Injury Disaster Loans ("EIDL") under false pretenses and then spent the loan proceeds on uses prohibited by the respective programs, in violation of 18 U.S.C. § 1344 and other federal laws.

7. ***Overview of the Loan Programs.*** The Coronavirus Aid, Relief, and Economic Security (CARES) Act is a federal law enacted in March 2020 and designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects of the COVID-19 pandemic. The CARES Act authorized forgivable loans to small businesses for job/employee retention and certain other expenses, through the PPP.

8. PPP loan proceeds must be used by the borrowing business only on certain, permissible expenses – specifically, payroll costs, interest on mortgages, rent, and utilities. Payroll costs are capped at $100,000 on an annualized basis for each employee. The PPP allows the interest and principal on the 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.

9. To obtain a PPP loan, a qualifying business must submit a loan application, which is signed by an authorized representative of the business. A PPP loan application is submitted to and processed by a participating lender (*e.g.*, a bank). If a loan application is approved, the participating lender funds the loan using its own monies, which are, in turn, fully guaranteed by the Small Business Administration (the "SBA"), a federal agency. Among other things, the borrowing business (through its authorized representative) must certify on its loan application that it was in operation as of February 15, 2020, and that it paid employees or independent contractors as of that date. To calculate the amount of money the business is eligible to receive, the business must certify on its loan application, among other things, its average monthly payroll expenses and number of employees. In addition, businesses applying for a PPP loan must provide documentation of their payroll expenses. Permissible forms of documentation can include U.S. Corporation Income Tax Returns (IRS Forms 1120), Employer's Quarterly Federal Tax Returns (IRS Forms 941), Employer's Annual Federal Unemployment Tax Returns (IRS Forms 940), and Wage and Tax Statements (IRS Forms W-3). The person submitting a PPP application must "certify that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects." They must further certify that they "understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law," including by criminal penalty.

10. The CARES Act also authorized EIDLs to be granted to small businesses and non-profit organizations experiencing substantial financial disruption due to the COVID-19 pandemic. These low-interest loans are designed to provide temporary relief to organizations suffering a

temporary loss of revenue. EIDLs are to be used to cover an array of expenses, such as rent, utilities, and fixed debt payments.

11. An EIDL application is submitted directly to the SBA, which pays the loan directly. On its application, the borrowing business must provide information about its operations, including the number of employees, and gross revenues and cost of goods sold for the 12-month period preceding the disaster. For EIDLs applied for in response to the COVID-19 pandemic, the 12-month period was that preceding January 31, 2020. Finally, on its application to the SBA, the applicant must also certify under penalty of perjury that all of the information in the application is true and correct to the best of the applicant's knowledge.

12. ***Background on Lavanture.*** Lavanture, age 47, is a resident of Saugerties, Ulster County, New York. Lavanture has a criminal history that includes three felony convictions: (1) a 1999 trafficking in counterfeit devices conviction in the United States District Court for the District of New Jersey; (2) a 2002 grand larceny-second degree conviction in New York County Criminal Court; and (3) a 2003 misuse of federal agency names conviction in the United States District Court for the Southern District of New York.

13. Lavanture receives monthly Supplemental Security Income (SSI) payments deposited into a bank account in his name. From my research, I know that SSI is meant only for elderly or disabled individuals with limited financial resources and income.

14. The Internal Revenue Service (IRS) has disclosed that from 2017 through 2019, Lavanture has not filed a federal income tax return, nor have any employers or other organizations reported any income that he earned.

15. ***Background on the Lavanture Entities.*** From my investigation, I know that Lavanture controls the following entities that received PPP loans and/or EIDLs: Intrust Investment

Realty LLC ("Intrust"), Project Youth Exposure Inc. ("Project Youth Exposure"), Dreamcast Entertainment LLC ("Dreamcast"), Woodstock Torch Awards, and Provident Investment Realty LLC ("Provident") (collectively, the "Lavanture Entities").

16. The New York State Department of Labor ("NYDOL") has disclosed that none of the Lavanture Entities that received PPP loans has ever reported having employees or a payroll. The IRS has disclosed that from 2017 through 2019, none of the Lavanture Entities filed a federal income tax return, nor made any filings with the IRS indicating that any of the entities had employees or contractors during these years.

17. ***Fraudulent Loan Applications***. Between on or about June 16, 2020 and July 22, 2020, the Lavanture Entities applied for and received a total of four PPP loans and five EIDLs, totaling approximately $4,906,281, from the SBA and two private lenders, Bank of America, N.A. ("BoA") and Kabbage, Inc. ("Kabbage"). BoA is a financial institution insured by the Federal Deposit Insurance Corporation. All loan proceeds were deposited into BoA accounts standing in the names of the entities that received the loans; according to BoA, each entity's address is Lavanture's residential address in Saugerties. Lavanture was the sole signatory on each account.

18. Lavanture was also the sole signatory on all nine of the loan applications, each of which contained materially false representations regarding, among other things, the applicant company's number of employees and payroll. The following are examples of these materially false representations:

a. On or about July 8, 2020, in his application to Kabbage for a PPP loan in the amount of $1,309,897.00, Lavanture submitted a 2019 Wage and Tax Statement (Form W-3) that purported to document 61 employees, and total paid wages in the amount of $6,099,756.00, for Provident in 2019. Based on my training, experience, and

investigation to date, there is probable cause to conclude that this document, and the representations contained therein, were materially false and fraudulent, because the IRS has disclosed that Provident did not have tax filings in 2019, and NYDOL has disclosed that Provident has never reported having any employees.[1] For these reasons, there is also probable cause to conclude that Lavanture, on the PPP loan application for Provident, falsely certified that Provident was "in operation on February 15, 2020 and had employees for whom it paid salaries and payroll or paid independent contractors."

b. On or about July 10, 2020, in his application to BoA for a PPP loan in the amount of $1,354,112.00, Lavanture submitted a 2019 Employer's Annual Federal Unemployment Tax Return (Form 940), and a 1st-Quarter 2020 Employer's Quarterly Federal Tax Return (Form 941), that purported to document $6,499,740 in total paid wages in 2019, and $1,624,935 in total paid wages to 65 employees in the first quarter of 2020, for Intrust, respectively Based on my training, experience and investigation to date, there is probable cause to conclude that these documents, and the representations contained therein, were materially false and fraudulent, because the IRS has disclosed that Intrust did not have tax filings in 2019, and NYDOL has disclosed that Intrust has never reported having any employees.[2] For these reasons, there is also probable cause to conclude that Lavanture, on the PPP

[1] Additionally, in a separate EIDL application submitted to the SBA on or about June 19, 2020, Lavanture certified that Provident had 20 employees, as opposed to 61 employees as represented in the PPP loan application.

[2] Additionally, in a separate EIDL application submitted to the SBA on or about June 19, 2020, Lavanture certified that Intrust had 5 employees, as opposed to 65 employees as represented in the PPP loan application.

loan application for Intrust, falsely certified that Intrust was "in operation on February 15, 2020 and had employees for whom it paid salaries and payroll or paid independent contractors."

c. On or about July 14, 2020, in his application to BoA for a PPP loan in the amount of $ 1,520,772.00, Lavanture submitted a 2019 Wage and Tax Statement (Form W-3), and 2019 Employer's Annual Federal Unemployment Tax Return (Form 940), that purported to document 73 employees and total paid wages in the amount of $7,299,708.00 for Project Youth Exposure in 2019. Based on my training, experience and investigation to date, there is probable cause to conclude that these documents, and the representations contained therein, were materially false and fraudulent, because the IRS has disclosed that Project Youth Exposure did not have tax filings in 2019, and NYDOL has disclosed that Project Youth Exposure has never reported having any employees.[3] For these reasons, there is also probable cause to conclude that Lavanture, on the PPP loan application for Project Youth Exposure, falsely certified that Project Youth Exposure was "in operation on February 15, 2020 and had employees for whom it paid salaries and payroll or paid independent contractors."

19. I have also reviewed a financial analysis of how Lavanture used the PPP and EDIL monies once they were deposited into BoA accounts he controlled. This analysis demonstrates that Lavanture has spent loan proceeds on property purchases, personal expenses and Person-to-

[3] Additionally, in a separate EIDL application submitted to the SBA on or about June 19, 2020, Lavanture certified that Project Youth Exposure had 12 employees, as opposed to 73 employees as represented in the PPP loan application.

Person (P2P) payments, and has also transferred loan proceeds to at least a dozen bank accounts he controls. Lavanture is also drawing on the loaned funds to withdraw an excessive amount of cash and issue large checks to himself and other companies he controls. For instance, bank records demonstrate that approximately $439,503.25 of the loaned funds was withdrawn in cash. These transactions further demonstrate that Lavanture fraudulently applied for the loans, knowing he would use the loaned funds for illegal purposes. To date, a review of financial records did not reveal that Lavanture appeared to use the loaned funds to authorize payroll for the number of employees listed on the loan applications.

20. The following are examples of how Lavanture has fraudulently spent the loan proceeds:

a. J Business Ventures LLC ("J Business Ventures") is another entity controlled by Lavanture. According to the New York Department of State Division of Corporations, J Business Ventures was registered with the state on June 29, 2020, listing Lavanture as its registered agent at his Saugerties residence.

b. On July 1, 2020, Lavanture opened an account at the JP Morgan Chase branch in Kingston, New York, in the name of J Business Ventures, with account number ending in 368 (the "Chase 368 Account"), with himself as the only signatory.

c. In July 2020, Lavanture transferred, to the Chase 368 Account, loan proceeds that were originally deposited into BoA accounts controlled by him, including but not limited to: $200,000 from Provident on July 1; $98,900 from Intrust on July 7 (check memo: "Back Rent"); $490,000 from Dreamcast Entertainment on July 13 (check memo: "Reimbursement Real Estate Closing"); $495,500 from Intrust on July 13 (check memo: "Back Rent/Real Estate"); $305,000 from Provident on July

23 (check memo: "Rent/Late Fees"); and $950,500 from Dreamcast Entertainment on July 22 (check memo: "Real Estate Reimbursement").

d. Lavanture drew on the loan proceeds transferred into the Chase 368 Account when, on July 29, 2020, he wired $952,000 to an attorney trust account, in reference to the purchase of a large estate in Byram Township, New Jersey, that has been advertised for sale. A public real estate listing for the 5.6-acre property describes it as having an 18-room Tuscan-style mansion.

e. Additionally, Lavanture drew on the loan proceeds transferred into the Chase 368 Account when, on or about July 14, 2020, he transferred $50,000 to a title company, in reference to the purchase of a motel in Rockaway Beach, Missouri, that has been advertised for sale.

Conclusion

21. I respectfully submit that this affidavit supports probable cause for a criminal complaint charging Jean R. Lavanture, a/k/a Rudy Lavanture, with committing bank fraud, in violation of 18 U.S.C. § 1344.

Attested to by the affiant:

Matthew J. Wabby
FBI Special Agent

I, the Honorable Christian F. Hummel, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on September 9, 2020 in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Hon. Christian F. Hummel
United States Magistrate Judge