AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Northern District of California

FILED
Feb 05 2021
SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO

United States of America
v.
Miranda Devlin

Defendant(s)

Case No.3:21-mj-70212 MAG

CRIMINAL COMPLAINT

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 from 11/7/2019 to 5/7/2020 in the county of San Francisco in the Northern District of California, the defendant(s) violated:

Code Section	*Offense Description*
18 U.S.C. § 1014	False Statements
18 U.S.C. § 1341	Mail Fraud

This criminal complaint is based on these facts:

See Affidavit.

☑ Continued on the attached sheet.

/s/ Rachael Grace
Complainant's signature

FBI Special Agent Rachael Grace
Printed name and title

Approved as to form Elise LaPunzina
AUSA Elise LaPunzina

Sworn to before me by telephone.

Date: 2/4/2021

Judge's signature

City and state: San Francisco, CA

Laurel Beeler, U.S. Magistrate Judge
Printed name and title

Attach

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Rachael Grace, Special Agent with the Federal Bureau of Investigation ("FBI"), being duly sworn state:

I. INTRODUCTION

A. Purpose of Affidavit and Overview

1. I make this affidavit in support of the issuance of a criminal complaint and an arrest warrant for Miranda DEVLIN ("DEVLIN") for false statements on an application for a Small Business Administration loan in violation of Title 18, United States Code Section 1014, and mail fraud in violation of Title 18, United States Code Section 1341.

2. In summary and as described further below, DEVLIN has impersonated multiple California licensed attorneys by using their names and State Bar of California license numbers in order to fraudulently act as an active State Bar of California licensed attorney. DEVLIN, who was retained by two defendants facing serious criminal charges in Marin County Superior Court, was arrested in November 2019 for impersonating a licensed attorney, Miranda Martin, in one of those cases. Prior to her arrest and after being confronted by the presiding judge, DEVLIN quickly attempted to assume the identity of another licensed attorney, Miranda Petrillo, whose State Bar of California card had been fraudulently ordered and misdirected to DEVLIN by mail. The true Miranda Martin and Miranda Petrillo have stated that they are in fact licensed attorneys who have been the victims of identity theft.

3. In the process of investigating these acts of false impersonation, I discovered that DEVLIN recently defrauded the Small Business Administration by submitting a Payment Protection Program loan application in the name of a shell business. DEVLIN made several false statements and submitted false tax documents in support of the loan application, as described in greater detail below.

B. Sources of Information

4. The facts set forth in this affidavit are based on my personal knowledge and my investigation into DEVLIN, knowledge obtained from other law enforcement officers or agents

and agencies who have participated in this investigation, my review of records related to this investigation, and my training and experience as an FBI agent. These form the basis of the opinions and conclusions set forth below.

5. I have not included each and every fact known to me concerning this investigation. Instead, I have only set forth the facts I believe are necessary to establish probable cause that DEVLIN has committed false statements on an application and mail fraud, in violation of federal law. My interpretations and explanations of the significance of certain events, records, and statements discussed herein may evolve or change as the investigation progresses and/or new information is discovered.

II. AFFIANT BACKGROUND AND APPLICABLE LAW

A. Agent Experience and Background

6. I am a Special Agent with the FBI. I have been employed by the FBI since March 2017 and successfully completed New Agents Academy in July 2017. I currently investigate criminal violations relating to complex financial crimes, identity theft, fraud against the government, cyber-crimes, frauds and swindles, securities fraud, and violent crimes. I have received additional training in the areas of cyber-crimes, complex financial crimes, and frauds and swindles. As a licensed Certified Public Accountant ("CPA"), I have received training specific to financial investigations. I have also participated in the execution of numerous federal and state search warrants, and in the seizure of computer systems and other types of digital evidence. Through my training and experience, I have become familiar with the methods used by people who commit offenses involving financial fraud, identity theft, cyber-crime and other crimes. My training and experience have given me an understanding of how people who commit offenses related to financial fraud, identity theft and cyber-crime use the Internet and cellular/electronic devices to facilitate and commit those offenses.

B. Summary of Applicable Law

7. The elements of false statements on an application in violation of 18 U.S.C. § 1014 include in relevant part: "Whoever knowingly makes any false statement or report…for the

purpose of influencing in any way the action of…a small business investment company, as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act, …any institution the accounts of which are insured by the Federal Deposit Insurance Corporation…upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, loan, or insurance agreement or application for insurance or a guarantee, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both…"

8. The elements of mail fraud in violation of 18 U.S.C. § 1341 include in relevant part: "Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, … for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. …"

III. FACTS ESTABLISHING PROBABLE CAUSE

A. Devlin's Submission of a Fraudulent PPP Loan Application

1. Background on Federal Loan Programs

9. The Coronavirus Aid, Relief, and Economic Security ("CARES") Act is a federal law enacted in or around March 2020 and designed to provide emergency financial assistance to

the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of up to $349 billion in forgivable loans to small businesses for job retention and certain other expenses, through a program referred to as the Paycheck Protection Program ("PPP"). In or around April 2020, Congress authorized over $300 billion in additional PPP funding. The PPP is administered by the U.S. Small Business Administration, which is an executive agency of the United States.

10. To obtain a PPP loan, a business ("the Applicant") must submit a PPP loan application (SBA Form 2483), 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 to make certain affirmative certifications regarding its eligibility.

11. The PPP loan application requires the authorized representative to certify in good faith the Applicant's operating status by initialing on a line next to the statement:

a) "The Applicant was in operation on February 15, 2020 and had employees for whom it paid salaries and payroll taxes or paid independent contractors, as reported on Form(s) 1099-MISC."

12. The PPP loan application also requires the authorized representative to certify, in good faith, the accuracy of information and documents submitted by initializing next to the statement:

a) "I further 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. I understand that knowingly making a false statement to obtain a guaranteed loan from SBA is punishable under the law, including under 18 USC 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to $250,000;

under 15 USC 645 by imprisonment of not more than two years and/or a fine of not more than $5,000; and, if submitted to a federally insured institution, under 18 USC 1014 by imprisonment of not more than thirty years and/or a fine of not more than $1,000,000."

13. In the application, the authorized representative of the Applicant must also provide, among other things, the business (a) average monthly payroll expenses; and (b) the number of employees. These figures are used to calculate the business's eligibility and the amount of money it may receive under the PPP. Additionally, a business applying for a PPP loan must provide documentation showing their payroll expenses.

14. A PPP loan application must be processed by a participating financial institution. If the participating financial institution approves a loan application, it funds the loan using its monies, which are l00% guaranteed by the SBA. Participating financial institutions require the information provided in PPP loan applications to be truthful, including information supplied in support of the application, information about the business employees and payroll expenses.

15. Information from the application, including information about the borrower, the total amount of the loan, and the listed number of employees, is transmitted by the lending financial institution to the SBA in the course of processing the loan.

16. PPP loan proceeds must be used by the business for payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be forgiven if the business spends the loan proceeds on these items within a designated period of time (usually within twenty-four weeks of receiving the proceeds) and uses at least 60% of the PPP loan proceeds for payroll expenses.

17. The FBI and the Treasury Inspector General for Tax Administration ("TIGTA") have been conducting an investigation involving fraud committed by DEVLIN on an SBA PPP loan application. As discussed below, the funds disbursed from the PPP program went to an account controlled by DEVLIN.

2. <u>DEVLIN's loan application</u>

18. On or about April 27, 2020, an SBA PPP loan application was submitted online

through Centerstone SBA Lending, Inc. ("Centerstone") by "Miranda Martin" on behalf of Common Nucleus of Cancer, LLC ("CNC") for the amount of $32,700. Centerstone is an authorized SBA lender located in Los Angeles, California. The loan application, and an addendum signed electronically on May 7, 2020, contained false statements and the documents supporting the false statements were fake.

a) The "borrower" listed on the form was "Miranda Martin." The company was CNC. On the application, CNC listed an average monthly payroll of $13,115 with two employees. The address listed on the PPP loan application for CNC was [redacted], California, which is DEVLIN's true home address. The address listed in the addendum to the application was [redacted], California, a building owned by DEVLIN's husband. Under the Applicant Ownership Section of the PPP application, the application listed the name "Miranda Martin" as "Managing Member" with 100% ownership, and the business Employer Identification Number ("EIN") as [redacted]. Based on my experience as a licensed CPA, I know that an EIN is a number assigned by the IRS for businesses to report taxes, similar to an individual using his/her social security number on personal tax returns. The application also listed DEVLIN's true social security number, and DEVLIN's personal phone number as CNC's business phone number.

b) To support the application, among other records, the applicant submitted copies of CNC's IRS Forms 941 for the first, second, third and fourth quarters of 2019 as well as IRS Form 1065 U.S. Return of Partnership Income for the year 2019 bearing the Employer Identification Number (EIN) [redacted]. All of the IRS Forms contained the business address as [redacted], California, DEVLIN's true home address.

19. On the SBA application, the applicant certified CNC was in operation on February 15, 2020, and had employees for whom it paid salaries and payroll taxes or paid independent contractors. Based on these certifications and supporting documentation, the PPP

loan was approved. The loan was funded by Centerstone's bank, Pacific Western Bank which is FDIC insured, and wired to CNC's bank account at Wells Fargo -5904 on May 22, 2020.

20. TIGTA Agents reviewed IRS databases that disclosed on February 25, 2020, "Miranda Martin" applied for an EIN on behalf of CNC and listed the business address as [redacted], California, DEVLIN's home address. There are no prior records of CNC in the IRS records. On February 25, 2020, the IRS assigned CNC EIN [redacted]. The 2019 IRS Forms 941 DEVLIN provided to Centerstone and SBA purporting to be quarterly forms from 2019 precede the February 2020 date that CNC obtained an EIN from the IRS. According to IRS records, CNC never filed any IRS Forms 941 to report payroll taxes, nor has CNC ever filed an IRS Form 1065 to report partnership income for the year 2019. Therefore, the IRS has no records of the quarterly forms that DEVLIN submitted in support of CNC's PPP application. Based on my training and experience, entities that have not historically filed IRS Forms 941 do not have employees or payroll expenses because they would otherwise be required to do so by law.

21. Furthermore, law enforcement agents reviewed the CNC account application and discovered that CNC's business bank account -5904 at Wells Fargo was opened on March 25, 2020 at a branch located in San Francisco, with "Miranda P Martin" listed as the sole owner. Wells Fargo records also show that bank account -5904 was opened with DEVLIN's true social security number.

22. On the bank account application, the number of employees for CNC is listed as "1" and the annual gross sales is listed as "$0." Subsequent bank statements show that there were no payroll expenses paid from this account. Accordingly, I believe that DEVLIN falsely claimed employees and payroll taxes, and falsely certified the same in the loan application.

23. According to California Secretary of State records, CNC filed Articles of Organization and registered with the state of California on March 7, 2019 with an "initial street address of designated office in California" as [redacted], California, a building owned by DEVLIN's husband, and an "initial mailing address" of [redacted]

[redacted], California, DEVLIN's true home address.

24. Accordingly, I have probable cause to believe that DEVLIN made false statements to the SBA on and in support of an SBA application regarding, among other things, (1) payroll for CNC; and (2) IRS forms supporting the application for the purpose of influencing the SBA, Centerstone and Pacific Western Bank to issue PPP funds for $32,700 to CNC, which were deposited into CNC's Wells Fargo account -5904, an account controlled by DEVLIN, on May 22, 2020.

25. Law enforcement's review of CNC's Wells Fargo account -5904 show that the PPP loan was used for a variety of unauthorized non-payroll expenses, for example DEVLIN's Discover card; charges at Safeway, Target, Panda Express, Amazon, Bloomingdale's, Tiffany's, amongst others; and to fund stock purchases from her TD Ameritrade account.

B. <u>Devlin's Use of the Mail to Practice Law using Stolen Identities</u>

26. As mentioned above, DEVLIN was arrested in November 2019 for impersonating a licensed attorney. Based on further investigation, I have probable cause to believe that DEVLIN has stolen the identities of several female lawyers, including Miranda Martin and Miranda Petrillo ("Petrillo"). The conduct here concerns DEVLIN's theft and use of Petrillo's identity, using the mail to do so.

27. State Bar of California ("Bar") records, Internet subscriber records, and U.S. Postal Service records show that DEVLIN stole Petrillo's identity with the Bar by pretending to be Petrillo, taking control of Petrillo's online account to change her contact information, redirecting Petrillo's mail to DEVLIN's home address, and impersonating Petrillo in court.

28. A typed letter dated November 6, 2019, received by the Bar on or about November 12, 2019, allegedly from Petrillo, requested that the Bar change Petrillo's publicly displayed mailing and email addresses from Petrillo's true addresses to [redacted] and [redacted]@outlook.com. On or about November 11, 2019, a change of address request ("COA") was submitted online with the United States Postal Service ("USPS"),

changing the mailing address of [redacted], to DEVLIN's true address at [redacted]. The IP address associated with the COA comes back to DEVLIN's true address and the $1.05 USPS charge used to authenticate the COA request was paid with a Bank of America credit card in DEVLIN's name.

29. Then on November 7, 2019, the day after the letter was mailed to the Bar, the Bar received an email, allegedly from Petrillo, requesting that her email be changed from [redacted]@outlook.com to [redacted]@aol.com, and requesting a plastic Bar card to be mailed to Petrillo's true Washington D.C. address, saying she was in the process of moving to California. AOL records reflect that the [redacted]@aol.com email address was created on November 7, 2019 and the phone number used to create the account is a number associated with DEVLIN.

30. That same day, an online change of address request was submitted to USPS in the name of Miranda Petrillo, changing her address from the [redacted] address on file with the Bar to DEVLIN's personal residence at [redacted]. The email address [redacted]@gmail.com was used to initiate the COA request and the $1.05 USPS charge was paid with the same Bank of America credit card in DEVLIN's name.

31. On November 12, 2019, the Bar's vendor mailed the plastic "Petrillo" Bar card to the designated mailing address in Washington D.C.

32. On November 15, 2019, a judge in Marin County presiding over a case in which DEVLIN was attempting to represent an individual charged with a serious felony, confronted DEVLIN about her Bar status. DEVLIN had been appearing as "Miranda Martin" at the time. However, the real Miranda Martin had put her license on "inactive status" around October 2019 due to her suspicion of identity theft.

33. On the same day that the judge in Marin County confronted DEVLIN, November 15, 2019, the Bar received an email from "Miranda Martin," [redacted]@gmail.com, asking that she, "Miranda Martin", be placed back into "active status" immediately. On that same date, "Miranda Martin" faxed a "Request to Transfer to Active Status" form to the Bar.

The form listed DEVLIN's Discover credit card information to pay any Bar dues, listed her full card number, expiration date, and security code. The form was submitted in the name of Miranda Martin, [redacted], CA [redacted]. The email came from [redacted]@gmail.com. While the email account was created years earlier, it was deleted five days later, on November 20, 2019, after the active status request with the Bar.

34. On November 25, 2019, Miranda Petrillo's online profile with the Bar was accessed several times, making the following changes and requests allegedly for Petrillo: the password to Petrillo's online Bar profile was changed; her law office name was changed to "Law Office of Miranda Petrillo Martin;" her mailing address was changed to [redacted]; her private email address was changed to [redacted]@gmail.com; her public email address was changed to [redacted]@gmail.com (the same email address that is on all of DEVLIN's pleadings in the Marin County cases referenced above); a paper Bar card in the name of Miranda Petrillo was generated; and her phone number was changed to a landline in San Francisco which comes back to an address associated with DEVLIN. The IP addresses for these computer logins with the Bar all come back to DEVLIN's IP address at her [redacted]k residence in San Francisco.

35. DEVLIN appeared in the Marin County cases on November 26, 2019. The presiding judge questioned her again about her Bar status, at which time DEVLIN stated that her true name was Miranda Lynn Petrillo and that her Bar number was Petrillo's.

36. DEVLIN was arrested after that court appearance on November 26, 2019 in possession of Petrillo's paper and plastic Bar cards, a printout of Petrillo's Bar profile, a Bar name change form for Petrillo, Petrillo's Washington D.C. DMV vehicle registration, Petrillo's DMV registration certificate, as well as a birth certificate application in Petrillo's name.

37. On December 1, 2019, less than a week after DEVLIN was arrested and the aforementioned items were seized, DEVLIN ordered another plastic Bar card in Petrillo's name through the Bar's attorney portal. The IP address for this order also came back to DEVLIN's IP address at her [redacted] residence in San Francisco. The card was mailed on or about

December 3, 2019, to Miranda L. Petrillo at the law office of Miranda Petrillo Martin located at [redacted] San Francisco, which investigation has identified as another address associated with DEVLIN.

IV. CONCLUSION

38. Based on the above information, I believe that on or about May 7, 2020, DEVLIN made false statements on an SBA loan application in violation of Title 18 United States Code Section 1014, specifically submitting false documents in order to obtain a $32,700 loan from the SBA, which was ultimately deposited into DEVLIN's CNC business account. I further believe that, between on or about November 7 and December 1, 2019, DEVLIN committed mail fraud in violation of Title 18 United States Code Sections 1341; specifically, DEVLIN stole the identity of Miranda Petrillo, devised a scheme to defraud the Bar, and used the mail for the purpose of executing her scheme.

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.

/s

RACHAEL GRACE
Special Agent, Federal Bureau of Investigation

Sworn to before me over the telephone and signed by me pursuant to Fed. R. Crim. P. 4.1 and 4(d) on this 4th day of February 2021

HONORABLE LAUREL BEELER
United States Magistrate Judge