

Approved: Perry Carbone
PERRY CARBONE/JAMES MCMAHON
Assistant United States Attorneys

Before: HONORABLE GEORGE A. YANTHIS
United States Magistrate Judge
Southern District of New York

-----x	:	13 MAG. 2529
UNITED STATES OF AMERICA	:	
- v. -	:	<u>COMPLAINT</u>
MELVIN E. LOWE,	:	Violations of
	:	18 U.S.C. §§ 1005 and
Defendant.	:	1343; 26 U.S.C. §§
	:	7206(1) and 7203
-----x	:	

SOUTHERN DISTRICT OF NEW YORK, ss.:

TIMOTHY J. RYAN, being duly sworn, deposes and says that he is a Special Agent with the Internal Revenue Service - Criminal Investigation, and charges as follows:

COUNT ONE

In or about June, 2010, in the Southern District of New York and elsewhere, MELVIN E. LOWE, the defendant, 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, willfully and knowingly, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate commerce, writings, signs, signals, pictures, and sounds, to wit, LOWE engaged in a scheme to defraud the Democratic Senate Campaign Committee ("DSCC"), its contributors and its potential contributors, and sent electronic transfers of money and other communications in interstate commerce to further the scheme.

(Title 18, United States Code, Section 1343)

COUNTS TWO THROUGH FOUR

On or about November 26, 2010, in the Southern District of New York and elsewhere, MELVIN E. LOWE, the defendant, willfully and knowingly, did make and subscribe to U.S. Individual Income Tax Returns, Forms 1040, for the tax years set forth below, which returns contained and were verified by the written declaration of LOWE that they were made under penalties of perjury, and which returns LOWE did not believe to be true and correct as to every material matter, in that LOWE fraudulently omitted from his tax returns income he received from his political consulting businesses, thereby substantially understating his total income as set forth below for the years set forth below:

TWO	2007	\$21,903	\$302,050
THREE	2008	\$26,331	\$310,459
FOUR	2009	\$25,000	\$310,935

(Title 26, United States Code, Section 7206(1))

COUNTS FIVE THROUGH SEVEN

On or about the dates set forth below, in the Southern District of New York and elsewhere, MELVIN E. LOWE, the defendant, a person required by Title 26, United States Code and by regulations made under authority thereof to make returns and supply information, willfully and knowingly failed to make returns and supply information at the time and times required by law and regulations, to wit, in the years set forth below, LOWE received taxable income as set forth below but failed to file U.S. Individual Income Tax Returns, Forms 1040, for those years, all as set forth below:

FIVE	April 15, 2011	2010	\$477,000
SIX	April 15, 2012	2011	\$364,500
SEVEN	April 15, 2013	2012	\$340,000

(Title 26, United States Code, Section 7203.)

COUNT EIGHT

From in or about July 2007 to in or about February 2012, in the Southern District of New York and elsewhere, MELVIN E. LOWE, the defendant, having devised and intending to devise a scheme and artifice to defraud John Doe, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, willfully and knowingly, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communications in interstate commerce, writings, signs, signals, pictures, and sounds, to wit, LOWE engaged in a scheme to defraud John Doe of \$66,000 and, in connection with this scheme, sent lulling letters, emails and text messages to John Doe.

(Title 18, United States Code, Section 1343)

COUNT NINE

On or about July 3, 2007, in the Southern District of New York and elsewhere, MELVIN E. LOWE, the defendant, willfully and knowingly did cause an employee of Commerce Bank, an institution the deposits of which were insured by the Federal Deposit Insurance Corporation, to make a false entry in a report and statement of Commerce Bank with intent to injure and defraud Premium Capital Funding, LLC d/b/a Topdot Mortgage ("Premium Capital"), to wit, LOWE caused a manager at a Commerce Bank branch in Manhattan to verify to Premium Capital the fraudulently inflated balance in LOWE's checking account at Commerce Bank that LOWE reported on his application to Premium Capital for a mortgage loan.

(Title 18, United States Code, Sections 1005 and 2)

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

I. Background

1. I am a Special Agent with the Internal Revenue Service - Criminal Investigation and I have been personally involved in the investigation of this matter. I have been a Special Agent with the IRS for more than 29 years. As such, I investigate violations of the Internal Revenue laws and related offenses. During my career, I have worked on cases involving public corruption; white-collar fraud such as mail, wire, and bank fraud; organized crime; and narcotics offenses. I have also worked on many cases involving a wide variety of tax offenses, including tax evasion, filing false tax returns, and filing false claims for refunds with the IRS. This

affidavit is based upon my conversations with law enforcement agents and others and my examination of reports and records. 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.

2. MELVIN E. LOWE, the defendant, is a political consultant who resides in New York City. According to public records, witness interviews and bank records, LOWE'S clients include several large developers, consultants and political organizations. Among other clients, LOWE represented a large real estate development firm in connection with a large development project in Yonkers.

3. Bank records and public filings I have reviewed show that MELVIN E. LOWE, the defendant, is the sole owner of at least three limited liability companies known as G&L Consulting, LLC ("G&L"), Prestige Strategic Communications, LLC ("Prestige"), and Berachot, LLC (collectively the "Consulting Companies").

II. Scheme to Defraud the DSCC (Count One)

4. The DSCC is a political campaign committee that, in or about the relevant time period, solicited donations from the public to fund campaigns of Democratic candidates for the New York State Senate. According to documents I have obtained from the DSCC, Prestige and G&L, the DSCC retained MELVIN E. LOWE, the defendant, through Prestige and G&L, in or about July 2009 to provide consulting services.

5. Under New York State Election Law, political committees such as the DSCC were required to file with the New York State Board of Elections periodic reports identifying, among other things, the amounts, recipients and purposes of expenditures exceeding \$50. These periodic reports were available for public inspection through the New York State Board of Elections. The DSCC's public filings regarding its expenditures show that Prestige and G&L received more than \$225,000 from the DSCC in 2009 and 2010.

6. Documents I have obtained from the DSCC show that on or about June 8, 2010, an invoice from a company identified herein as Vendor #1 for "printing" in the total amount of \$100,000 was submitted to the DSCC. The principals of Vendor #1 have told me that Vendor #1 is a political consulting firm located in New Jersey that

handles direct mail and telephone advertising for political campaigns.

7. Documents I have obtained from the DSCC also show that:

a. On or about June 7, 2010, MELVIN E. LOWE, the defendant, sent an email to an individual who worked on the staff of a person identified herein as Senator #1, then a New York State Senator, stating in part that Vendor #1 "does low price printing." This staff member forwarded this email to an official at the DSCC (the "DSCC Official") on the same day;

b. On or about June 8, 2010, the DSCC Official caused the DSCC's bank in New York City to send by wire transfer \$50,000 to Vendor #1's bank account in New Jersey. An internal DSCC document identified the purpose of the payment as "printing." Internal DSCC documents further identified the transaction as "non-SD." Individuals employed at the DSCC at the time of the transaction have informed me that "non-SD" means that the expense did not relate to any particular New York State Senate district; and

c. On or about June 16, 2010, the DSCC Official caused the DSCC's bank in New York City to wire an additional \$50,000 to Vendor #1's bank account in New Jersey. The internal DSCC document authorizing that payment identified the purpose of the payment as "balance of previous invoice."

8. According to a representative of the DSCC Official, MELVIN E. LOWE, the defendant, told the DSCC Official on or about June 7, 2010 that the invoice from Vendor #1 was for printing.

9. The DSCC filed a publicly available periodic report with the New York State Board of Elections as of July 2010 that covered the period during which the DSCC made the above payments to Vendor #1. The DSCC's report included these two payments in its schedule of expenditures and described the purpose of the payments as "liter." According to the New York State Board of Elections Campaign Finance Handbook for 2012, "liter" is an abbreviation to be used on the expenditure schedule to identify expenditures for campaign literature.

10. I have traced the disposition of the \$100,000 paid to Vendor #1 by the DSCC by obtaining and reviewing bank records for

Vendor #1, as well as bank records for Prestige and other recipients of the money. These records show the following disposition of the funds sent from the DSCC to Vendor #1:

- a. On or about June 9, 2010, Vendor #1 caused \$27,500 to be sent by wire transfer from its bank account in New Jersey to Prestige's bank account in Manhattan;
- b. On or about June 9, 2010, Vendor #1 caused \$20,000 to be sent by wire transfer from its bank account in New Jersey to a bank account in New York City held by a person identified herein as Political Consultant #1, a political consultant based in New York City who has served as a staff member to elected officials in New York City;
- c. On or about June 18, 2010, Vendor #1 caused \$47,500 to be sent by wire transfer from its bank account in New Jersey to Prestige's bank account in New York; and
- d. Vendor #1 retained \$5,000.

11. I have further traced the disposition of the \$75,000 that MELVIN E. LOWE, the defendant, received from the DSCC indirectly through Vendor #1 to Prestige by reviewing bank records. These records reflect that between June 10, 2010 and July 1, 2010, LOWE gave \$5,000 to a member of a community board in Manhattan and spent the remaining \$70,000 on the installation of a pool and other renovations at his second home in Georgia.

12. I have spoken with a principal of Vendor #1 ("CW-1"), who has stated in substance and in part that:

- a. in or about June 2010, MELVIN E. LOWE, the defendant, asked CW-1 to submit an invoice to the DSCC for \$100,000 and to describe the invoice as being for printing services. LOWE further instructed CW-1 how to distribute the \$100,000 once CW-1 received the funds from the DSCC;
- b. in accordance with LOWE's instructions, upon receipt of the funds from the DSCC, CW-1 sent \$20,000 to Political Consultant #1; a total of \$75,000 to LOWE; and retained \$5,000;
- c. CW-1 understood that the invoice was fraudulent and that the purpose of the invoice was to generate and disburse the funds as directed by LOWE. At the time the

\$100,000 was received by CW-1, CW-1 had provided no printing services to the DSCC.

d. in or about September 2010, after the \$100,000 payment from the DSCC to Vendor #1 was mentioned in a media report, LOWE instructed CW-1 to create certain campaign advertisements. Vendor #1 spent \$5,000 to hire a graphic artist to prepare the advertisements, but the advertisements were never printed.

13. I have also spoken with Political Consultant #1 who has stated in substance and in part, that:

a. several days before Political Consultant #1 received the \$20,000 wire transfer described above from Vendor #1, Senator #1 promised him that he would receive a benefit for assistance that Political Consultant #1 previously had provided to Senator #1;

b. Political Consultant #1 did not know who Vendor #1 was and had done no work for Vendor #1; and

e. at the time Political Consultant #1 received the \$20,000 payment, he was not owed any money by the DSCC;

d. on or about June 9, 2010, MELVIN E. LOWE, the defendant, called Political Consultant #1 to tell him that \$20,000 had been sent to his account.

III. Income Tax Violations (Counts Two through Seven)

14. Records of the Internal Revenue Service show that MELVIN E. LOWE, the defendant, filed three federal income tax returns, for the calendar years 2007 through 2009, on or about November 26, 2010. LOWE declared each filed return to be true and correct under penalties of perjury. In each said year, LOWE reported that his sole source of income was from "consulting," which income he reported on a Schedule C attached to his Form 1040. LOWE'S returns reflect that he reported gross receipts from consulting services of \$21,903 in 2007, \$26,331 in 2008 and \$25,000 in 2009.

15. Records of the Internal Revenue Service show that MELVIN E. LOWE, the defendant, filed no tax returns for the years 2010 through 2012. The records also show that LOWE did not have any tax withheld or make any payments of estimated taxes in those years.

16. Bank records for accounts held by the Consulting Companies or by MELVIN E. LOWE, the defendant, personally, show that LOWE failed to report all of his income on his tax returns. My analysis of these account records from JPMorgan Chase Bank, T.D. Bank, and Popular Community Bank for 2007 through 2012 shows that LOWE received payments through the Consulting Companies as set forth below:

2007 = \$302,050
2008 = \$310,459
2009 = \$310,935
2010 = \$477,000
2011 = \$364,500
2012 = \$340,000

=====

Total: \$2,104,962

17. I believe those payments were for consulting services, and were thus reportable income to MELVIN E. LOWE, the defendant, for several reasons, including, among other things, that: a) the payors in some instances filed Forms 1099 with the IRS reporting the payments as income to LOWE'S companies; b) many of the checks written to LOWE'S companies say in the memo line that the payments are for "consulting" or "marketing;" and c) many of these payments were publicly reported by the payors as consulting fees on publicly accessible databases such the New York State Board of Elections.

18. The payments that MELVIN E. LOWE, the defendant, received through the Consulting Companies consisted of income that LOWE should have reported on his personal tax returns. For federal income tax purposes, a limited liability company ("LLC") owned by one person, like each of LOWE'S Consulting Companies, is similar to a sole proprietorship. The sole owner of an LLC reports the LLC'S profits and losses on a Schedule C to his personal Form 1040 tax returns and calculates any tax owing on the LLC'S profits on his Form 1040 tax returns. The LLC owner pays any tax due on the LLC'S profits in quarterly estimated tax payments or when he files his Form 1040 tax return. The fact that LOWE reported some of the consulting income he received through the Consulting Companies on his personal tax returns in 2007 through 2009 inclusive shows that he is aware that income he receives through his Consulting Companies should be reported on his personal tax returns.

19. My investigation has revealed additional evidence demonstrating knowledge, intent and lack of mistake on the part of MELVIN E. LOWE, the defendant, with respect to his tax returns:

a. For instance, in or about 2007, LOWE'S estranged wife applied for a mortgage loan to purchase a house in Georgia. The mortgage application includes a document labeled "Mediation Summary," which lists LOWE'S gross income as between \$150,000 and \$250,000 from his own business as a consultant in community relations. LOWE signed this document on or about March 1, 2007;

b. I have also reviewed records relating to a mortgage application submitted by LOWE for a loan to purchase a home in Georgia. On his application, which he submitted on or about July 7, 2007, LOWE listed his gross monthly income from consulting as \$15,692.92. LOWE'S 2007 tax return, however, lists no wage income and gross business income of only \$21,903 for the entire year; and

c. On or about May 21, 2013, I participated in the execution of a warrant to search LOWE'S Manhattan apartment. During the search, the agents found numerous letters from the Internal Revenue Service which were unopened.

IV. Theft of Funds from John Doe (Count Eight)

20. In or about July 2007, MELVIN E. LOWE, the defendant, solicited a loan of \$66,000 from John Doe, an individual who resides in Yonkers, New York. I have reviewed statements and documents John Doe provided to law enforcement officials that show:

a. LOWE represented to John Doe that he needed the loan to fund expenses arising from his purchase of the house in Georgia. LOWE further represented that he would repay John Doe within a few days;

b. Based on these representations, John Doe caused a wire transfer of \$66,000 from his bank account in New York to LOWE'S bank account in Georgia on or about July 7, 2007; and

c. When John Doe requested repayment of the loan, MELVIN E. LOWE, the defendant, provided John Doe with a check drawn on insufficient funds. LOWE subsequently promised to repay the loan at various times but failed to do so.

He also represented on multiple other occasions that he did not have the funds to repay the loan. LOWE transmitted these promises and representations in emails that were transmitted in interstate commerce.

21. At various times when LOWE promised to repay John Doe but failed to do so or claimed that he did not have the funds to repay John Doe, records of bank accounts held by MELVIN E. LOWE, the defendant, show that LOWE had sufficient funds to repay the loan to John Doe.

V. Fraudulent Mortgage Loan Application (Count Nine)

22. Documents I have obtained from the loan servicing company that is servicing a mortgage loan to MELVIN E. LOWE, the defendant, show that:

a. LOWE obtained a mortgage loan from Premium Capital in the principal amount of \$228,720 that was secured by his second home in Georgia on or about July 11, 2007. He executed his loan application to Premium Capital and closed on the loan that same day. His signature appears on the application immediately below printed language that states in part that he "specifically represents to the Lender . . . the information provided in this application is true and correct as of the date set forth opposite my signature and that any intentional . . . misrepresentation of this information contained in this application may result in . . . criminal penalties . . ." The date set forth opposite LOWE's signature was July 11, 2007;

b. As part of the mortgage loan application process, LOWE signed a form on or about June 5, 2007 entitled "Request for Verification of Deposit" (the "Verification Request") in which he stated that he held a checking account at Commerce Bank with an account number ending in 1984 (the "1984 account") which had a balance of \$80,657.66. By signing the Verification Request, LOWE authorized Commerce Bank to confirm to Premium Capital both that balance and the average balance in account 1984 for the previous two months to his mortgage lender; and

c. Premium Capital forwarded the Verification Request to Commerce Bank. On or about July 3, 2007, an Assistant Manager at the Commerce Bank branch in Manhattan that serviced LOWE's 1984 account completed the form to verify that: i) the balance in the 1984 account as of July 3, 2007

was \$80,657.66; and ii) the average balance for the previous two months for the 1984 account was \$78,238.89. The Assistant Manager returned the Verification Request to Premium Capital.

23. Commerce Bank's records for the 1984 account show that the balance in the 1984 account as of July 3, 2007 was \$2,156.55 and that the maximum balance in that account for the months of May 2007 and June 2007 was \$10,003.94.

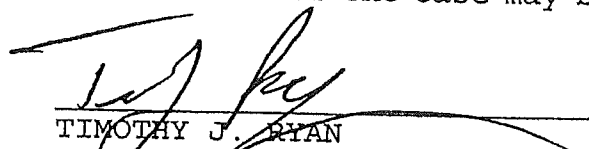
24. I have reviewed a sworn statement by the individual who executed the Verification Request on behalf of Commerce Bank. This individual confirmed that the July 3, 2007 balance and the average balance figures that he wrote on the Verification Request were inflated. He further stated in substance and in part that MELVIN E. LOWE, the defendant, had asked him to inflate the balance figures for the 1984 account to help LOWE get approval of the mortgage loan.

25. The false statements regarding the balances in the 1984 account were material to the mortgage loan application. MELVIN E. LOWE, the defendant, stated on the application that he had total assets of \$120,000, total liabilities of \$8,305 and a net worth of \$111,695. LOWE claimed that the \$120,000 in total assets he reported on the loan application consisted in part of a \$65,000 balance at Commerce Bank. According to records of Commerce Bank, the total balance of all accounts held by LOWE and the Consulting Companies as of July 11, 2007 was less than \$1,500, not including the \$66,000 he had borrowed from John Doe. LOWE also failed to disclose to the bank his \$66,000 liability to John Doe as of July 7, 2007. Accordingly, LOWE had a negative net worth as of July 11, 2007 instead of the positive net worth of \$111,695 he claimed on the application.

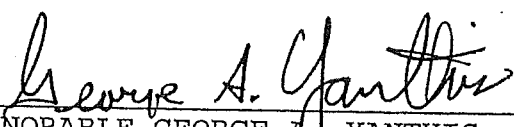
26. According to the documents I obtained from the loan servicing company that is servicing the mortgage loan to MELVIN E. LOWE, the defendant, the principal balance of LOWE's mortgage loan was \$226,717.00 as of September 6, 2013. LOWE'S mortgage loan is in foreclosure.

27. At all times relevant to this Complaint, the deposits of Commerce Bank were insured by the Federal Deposit Insurance Corporation.

WHEREFORE, deponent prays that MELVIN E. LOWE, the defendant, be arrested, and imprisoned or bailed as the case may be.


TIMOTHY J. RYAN
Special Agent
Internal Revenue Service -
Criminal Investigation

Sworn to before me this
24th day of October, 2013


HONORABLE GEORGE A. YANTHIS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK