

AES:RMP
F. #2020R00765

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

LEON MILES,

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

ZACHARY EFFTING, being duly sworn, affirms and states that he is a Special Agent with the Federal Bureau of Investigation (“FBI”), duly appointed according to law and acting as such.

In or about May 2020, within the Eastern District of New York and elsewhere, the defendant LEON MILES did knowingly and intentionally devise a scheme and artifice to defraud the Small Business Administration (“SBA”), and to obtain money and property from the SBA, by means of one or more materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted, by means of wire communication in interstate commerce, writings, signs, signals, and pictures, to wit: an electronic transmission of a fraudulent Paycheck Protection Program (“PPP”) loan application and falsified supporting documents.

(Title 18, United States Code, Sections 1343 and 3551 et seq.)

TO BE FILED UNDER SEAL

COMPLAINT AND
AFFIDAVIT IN SUPPORT
OF APPLICATION FOR AN
ARREST WARRANT

(18 U.S.C. §§ 1343 and 3551 et seq.)

Case No. 20-MJ-1234

The source of your affiant's information and the grounds for his belief are as follows:

1. I am a Special Agent with the FBI and have been since February 2020. I am also a certified public accountant. I am currently assigned to an FBI squad that investigates financial crimes. During my tenure with the FBI, I have participated in numerous financial fraud investigations and have participated in all aspects of investigations, including conducting surveillance, executing search warrants, interviewing witnesses and analyzing records.

2. I have personally participated in the investigation of fraud by the defendant LEON MILES, as discussed below. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file and documentary evidence; and from reports of and discussion with other law enforcement officers involved in the investigation.

3. Except as explicitly set forth below, I have not distinguished in this affidavit between facts of which I have personal knowledge and facts of which I learned from other law enforcement agents. Because the affidavit is being submitted for the limited purpose of establishing probable cause to arrest the defendant LEON MILES, I have not set forth each and every fact learned during the course of the investigation. Instead, I have set forth only those facts that I believe are necessary to establish probable cause for the arrest warrant sought herein. In addition, where the contents of documents, or the actions, statements and conversations of others are reported herein, they are reported in sum and substance and in part, except where otherwise indicated.

The Paycheck Protection Program

4. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act was a federal law enacted on March 29, 2020 to provide emergency financial assistance in connection with economic effects of the COVID-19 pandemic. One source of relief provided by the CARES Act was the allocation of funds for the issuance of forgivable loans to small businesses for job retention and certain other expenses through the PPP.

5. The PPP allowed qualifying small businesses to receive unsecured loans on favorable terms. Recipient businesses were obligated to use PPP loan proceeds for certain specified expenses, including payroll costs, interest on mortgages, rent, and utilities. The PPP provided for forgiveness of the loan principal and interest if recipient businesses spent the proceeds on these specified expenses within a limited time period and used a certain percentage for payroll costs.

6. The amount of PPP funds a business could have received was determined by the number of employees employed by the business and the average payroll costs for a period of 2.5 months. Businesses that applied for a PPP loan were required to provide documentation, such as Internal Revenue Service (“IRS”) Forms 940 and 941, to confirm that they had in the past paid employees the compensation listed on the application.

7. The PPP was overseen by the SBA, which had authority over the loans. Individual PPP loans were issued by approved private lenders who received and processed PPP applications and supporting documentation, and then, following SBA approval, made loans using the lenders’ funds.

The Fraudulent Scheme

8. The defendant LEON MILES was a resident of Brooklyn, New York.

9. In or about May 2020, the defendant LEON MILES submitted a PPP loan application on behalf of an entity called 114 Macon LLC to an authorized PPP lender (the “Lender,” the identity of which is known to your affiant) through the Lender’s internet portal. I have reviewed the loan application that MILES submitted to the Lender, as well as other records of the Lender that reflect MILES’s submission.

10. Specifically, and based upon my review of the Lender’s records, the defendant LEON MILES applied for a PPP loan in the amount of \$1,904,593.00, and represented in the online PPP loan application that, among other things, the purpose of the loan was for 114 Macon LLC to retain workers, maintain payroll and make rent or mortgage interest payments. Additionally, MILES represented that 114 Macon LLC was a New York business entity with 50 employees and a total average monthly payroll of \$761,838.00.

11. According to New York State records that I have reviewed, and formation documents that the defendant LEON MILES submitted with his PPP application, 114 Macon LLC is a domestic limited liability company formed, owned and controlled by MILES. The registered address of 114 Macon LLC is 114 Macon Street, Brooklyn, New York, which is also the address of MILES’s residence. Based on photographs and property records that I have reviewed, the building at that location is a four-story residential building with a ground-level commercial storefront that is occupied by a deli.

12. In support of the PPP loan application, the defendant LEON MILES transmitted to the Lender numerous purported IRS forms. Specifically, MILES transmitted:

a. a purported IRS Form W-3 Transmittal of Wage and Tax Statements, which reported that 114 Macon LLC paid its employees in 2019 total compensation of \$9,132,000.00, reported on 50 Forms W-2 Wage and Tax Statements;

b. a purported IRS Form 940 for 2019 Employer's Annual Federal Unemployment Tax Return, which reported \$9,132,000.00 in total payments to employees of 114 Macon LLC; and

c. purported Forms W-2 Wage and Tax Statements for 2019 for MILES and three other purported employees of 114 Macon LLC, which reported that each earned \$95,760.00 in total compensation.

13. I discussed the relevant IRS records with others involved in this investigation who have reviewed them, and based upon that review, I know that none of the aforementioned IRS forms that the defendant LEON MILES submitted to support his PPP loan application was a genuine copy of a form submitted to the IRS. In fact, MILES reported to the IRS no taxable income for 2019, and 114 Macon LLC filed no tax returns for 2019 and reported no wages paid to any employees in 2019.

14. On or about May 25, 2020, the SBA approved the PPP loan application for 114 Macon LLC submitted by the defendant LEON MILES. On or about June 1, 2020, the Lender disbursed \$1,904,593.00—the full amount of the requested loan—into a personal savings account owned and controlled by MILES (the “Account”) held at a financial institution (the “Bank,” the identity of which is known to your affiant) with physical locations in, among other places, Brooklyn, New York.

15. I have reviewed Bank records and certain automobile dealership records, as well as certain surveillance videos, and based upon that review I know that after

the PPP loan funds were disbursed into the Account, the defendant LEON MILES withdrew funds at branch locations of the Bank in Brooklyn, New York and used them for, among other things, personal expenses not permitted by the PPP loan program. For example, MILES made a series of large cash withdrawals and large purchases using funds from the account, including over \$250,000 on a 2020 Bentley Continental, and over \$100,000 on a 2020 Cadillac Escalade.

Conclusion

WHEREFORE, your affiant respectfully requests that an arrest warrant be issued for the defendant LEON MILES, so that he may be dealt with according to law.

Because public filing of this document could result in a risk of flight by the defendant LEON MILES, as well as jeopardize the government's ongoing investigation, your affiant respectfully requests that this complaint, as well as any arrest warrant issued in connection with this complaint, be filed under seal.

ZACHARY EFFTING
Special Agent
Federal Bureau of Investigation

Sworn to before me by telephone
this 18th day of December, 2020

THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK