

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

United States of America

v.

Melissa McGhee a/k/a Melissa Batton

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)

Case No. 1:21-MJ-00264

Defendant(s)

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 MARCH 31, 2020 in the county of HAMILTON in the Southern District of Ohio, the defendant(s) violated:

Table with 2 columns: Code Section and Offense Description. Rows include 18 U.S.C. § 1343 (Wire Fraud), 18 U.S.C. § 1344 (Bank Fraud), 18 U.S.C. § 1001 (False Statements, Concealment), 18 U.S.C. § 1014 (False Statements in Loan or Credit Applications), and 18 U.S.C. § 1040 (Fraud in connection with Major Disaster or Emergency Benefits).

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet.

Handwritten signature of SA Ferron M. Yi

Complainant's signature

SA FERRON M. YI, FBI

Printed name and title

Sworn to before me and signed in my presence. via electronic means, specifically Facetime video.

Date: Mar 30, 2021

Handwritten signature of Stephanie K. Bowman



Judge's signature

City and state: CINCINNATI, OHIO

HONORABLE STEPHANIE K. BOWMAN

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Ferron M. Yi, being first duly sworn, hereby depose and state as follows:

I. INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation (hereafter “FBI”), and have been since February 2020. I am currently assigned to the Complex Financial Crimes Squad of the Cincinnati Division. In this capacity, I investigate matters involving criminal enterprises, white collar crimes, civil rights violations, money laundering, and various types of fraud. Prior to my employment with the FBI, I served as a sworn peace officer in the State of Georgia for over 10 years. I have received training and investigative experience in interviewing and interrogation techniques, arrest procedures, search and seizure, search warrant applications, electronic media and computer investigations, and various other crimes and investigative techniques including Title III investigations. As a FBI Special Agent, I am responsible for the investigation and enforcement of violations of United States law, including laws dealing with bank fraud, wire fraud, money laundering, and false statements.

2. I am familiar with the facts and circumstances of this case. The information contained in this affidavit is either personally known to me, based upon my interview of various witnesses and review of various records and publicly available information, or has been relayed to me by other agents or sworn law enforcement personnel. Because this affidavit is being submitted for the limited purpose of obtaining a criminal complaint and arrest warrant, I have not included each and every fact known to me concerning the investigation. I have only set forth facts to establish probable cause for the charges in the complaint.

3. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. § 1343 (Wire Fraud), 18 U.S.C.

§ 1344 (Bank Fraud), 18 U.S.C. § 1014 (False Statements in Loan and Credit Applications), 18 U.S.C. § 1040 (Fraud in connection with Major Disaster or Emergency Benefits), and 18 U.S.C. § 1001 (False Statements to Department or Agency of the United States) among other offenses have been committed by Melissa McGhee a/k/a Melissa Batton.

II. PROBABLE CAUSE

A. The government is investigating fraud involving loan programs designed to assist small businesses during the pandemic.

4. In approximately December 2020, the FBI initiated an investigation of Melissa McGhee a/k/a Melissa Batton (date of birth XX/XX/1983) (hereafter “McGhee”), the purported owner of M&MM Realty Group LLC and M&M Realty Group LLC, for suspected violations of 18 U.S.C. § 1343 (Wire Fraud), 18 U.S.C. § 1344 (Bank Fraud), and 18 U.S.C. § 1014 (False Statements on a Loan Application) after learning that McGhee had attempted to acquire a loan through Fifth Third Bank (FDIC-insured) to purchase a single family owner-occupied residence and in the application failed to disclose that she and her mother already purchased a single family residence with a Federal Housing Authority (hereafter “FHA”) loan.¹

5. During this investigation, a review of transactional data associated with McGhee revealed that deposits stemming from Small Business Administration (hereafter “SBA”) programs designed to assist small businesses and their employees during the coronavirus (hereafter “COVID-19”) pandemic had been used for purchases and expenses seemingly unrelated to job retention and other permissible business expenses. Your affiant later learned that McGhee had applied for and received at least one loan under the Payment Protection Program

¹ On or about October 10, 2019, McGhee (as Melissa Batton) and Minette Batton (her mother) purchased a multi-family property located at 2640 Vera Avenue, Cincinnati, Ohio 45237 for \$270,019.00 (FHA case number 411-6120624).

(PPP) and had applied for seven loans under the Economic Injury Disaster Loan (“EIDL”) program, ultimately receiving three EIDLs.

6. The SBA PPP loan program was established pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act, a federal law enacted on March 27, 2020 designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. The purpose of the SBA PPP loan is to provide monetary assistance for businesses to keep their workforce employed during the COVID-19 crisis. The SBA PPP program allows entities to apply for low-interest private loans through financial institutions to pay for their payroll and certain other costs. The loan proceeds may be used to cover payroll costs, rent, interest, and utilities.

7. Congress expanded the SBA’s EIDL program under the CARES Act to allow SBA to directly issue loans to provide economic relief to businesses that are currently experiencing a temporary loss of revenue due to COVID-19 by supplying working capital and normal operating expenses such as continuation of health care benefits, rent, utilities, and fixed debt payments. However, EIDL proceeds cannot be used for disbursements of dividends or bonuses or any disbursements to owners, partners, officers, directors, or stockholders, except when directly related to performance of services for the benefit of the company. EIDL proceeds also cannot be used to expand facilities or acquire fixed assets. Like with PPP loans, the amount of EIDL funds and business may receive is generally determined by the number of employees and amount of monthly expenses accrued in the previous year before the pandemic.

B. McGhee’s PPP and EIDL applications for M&MM Realty Group, M&M Realty Group, and “Melissa McGhee” show significant discrepancies indicative of fraud.

8. According to the SBA loan file, on or about March 31, 2020, McGhee applied for an EIDL (SBA application number 3300518841) and listed “M&MM Realty Group” as the

company legal name, “M&MM Realty Group” as the company DBA, and “limited liability company” as the entity type. In the application, McGhee used Federal Tax Identification Number 84-2623292 and indicated that she was 100 percent owner with two employees. McGhee claimed this business had been in existence since February 13, 2019, that her gross revenues for the 12 months prior to the COVID-19 disaster was \$54,000.00, her primary business address was 2640 Vera Avenue, Apartment 1, Cincinnati, Ohio 45237 [Note: this address is the same as her personal residence]. On or about May 28, 2020, an EIDL for \$25,000.00 was approved. Bank records show that on or about June 02, 2020, McGhee received a deposit in the amount of \$25,000.00 from SBAD TREAS 310 MISC PAY in Fifth Third Bank account x3132 (M&MM Realty).²

9. On or about May 02, 2020, McGhee electronically signed a PPP Borrower Application Form for M&MM Realty Group LLC using the same Tax Identification Number of 84-2623292. McGhee indicated that an average monthly payroll was \$3,000.00, but this time claimed that the business had one employee. McGhee further indicated on the PPP Borrower Application Form that the purpose of the \$7,500.00 loan was for payroll, lease, utilities, and other, which she referenced as “supplies.” Bank records confirm that on or about May 06, 2020, McGhee received a deposit in the amount of \$7,500.00 as a “Funds Transfer Credit Loan Proceeds” from Fifth Third Bank in account x3132 (M&MM Realty).

10. A week after applying for the PPP loan, on or about May 09, 2020, McGhee applied for another EIDL (SBA application number 3304170178) for “M&MM Realty Group.” On this application, McGhee claimed she had three employees. McGhee further claimed that her gross revenues for the 12 months prior to the COVID-19 disaster was \$41,340.00, her rental

² This account was initially opened on or about August 6, 2019 by McGhee (as Melissa Batton). On or about July 17, 2020, Minette Batton was added to the account as a signatory.

losses due to the disaster was \$12,000.00, and claimed that this business had been in existence since August 06, 2019. On or about June 20, 2020, SBA flagged this application as a duplicate and the loan was denied.

11. Before the application was denied, on or about June 17, 2020, McGhee applied for yet another EIDL (SBA application number 3304975019), this time for the company “M&M Realty Group.” The application lists “M&M Realty Group” as the company DBA, and “limited liability company” as the entity type. On this application, McGhee indicated that she was 100 percent owner with five employees, and used Federal Tax Identification Number 84-2620118. McGhee additionally claimed that her gross revenues for the 12 months prior to the COVID-19 disaster was \$135,000.00, and that this business had been in existence since August 05, 2019. On or about July 01, 2020, the SBA approved an EIDL of \$62,500.00; however, SBA included notes indicating that a bank account could not be verified, a bank account with the associated business could not be confirmed, and that the application was initially placed on hold by the SBA. Bank records show that on or about July 02, 2020, McGhee received a deposit of approximately \$62,400.00 from SBAD TREAS 310 MISC PAY in Fifth Third Bank account x7764 (M&M Realty).

12. Two days prior to filing that loan, on or about June 15, 2020, McGhee applied for another EIDL (SBA application number 3304614475) for “M&M Realty Group.” On or about June 23, 2020, SBA flagged this application as a duplicate and included notes stating that there was prohibited EIDL activity and that a bank account could not be confirmed or associated with the business.

13. According to the SBA loan file, on July 02, 2020, the same day she received proceeds of the M&M Realty Group EIDL, McGhee applied for an EIDL (SBA application

number 3308366036), this time listing “Melissa McGhee” as the company legal name, “Melissa McGhee” as the company DBA, and “independent contractor” as the entity type. On this application, McGhee used Federal Tax Identification Number 29-8842833 and indicated that she was 100 percent owner with one employee. McGhee further indicated that her gross revenues for the 12 months prior to the COVID-19 disaster was \$82,451.00 and claimed that this business had been in existence since May 01, 2016. The SBA did not fund this loan and flagged it as a duplicate. SBA notes indicate that a public records search did not find a legitimate business and a bank account could not be confirmed or associated with the business.

14. Four days after applying for SBA loan number 3308366036, on or about July 06, 2020, McGhee applied for yet another EIDL (SBA application number 3308981899) under the company legal name of “Melissa McGhee.” In this application, McGhee indicated that her gross revenues for the 12 months prior to the COVID-19 disaster was \$168,227.00 and stated that this business has been in existence since May 03, 2017. Further, McGhee provided a letter from the Internal Revenue Service (hereafter “IRS”) indicating that she had a valid EIN of 84-2620118 for business M&M Realty Group. [Note that she applied for this loan using the EIN 29-8842833]. On or about July 24, 2020, the SBA issued an EIDL for \$83,200.00 (with a \$1,000.00 advance). Bank records show that on or about July 28, 2020, McGhee received a deposit of approximately \$83,100.00 from SBAD TREAS 310 MISC PAY in Fifth Third Bank account x1743 (Melissa McGhee). McGhee immediately transferred the loan proceeds to account x3132 (M&MM Realty Group).

15. According to the SBA loan file, on or about July 08, 2020, McGhee applied for another EIDL (SBA application number 3309434902) under the company name of “Melissa McGhee,” mirroring the information provided in her January 06, 2020 application. The SBA

identified this loan as a duplicate and added a fraud alert to the application. It was further noted that a public records search could not find a business.

16. Comparing the loan applications, I noticed significant differences in gross revenue claimed over the last 12 months as well as differences in claimed number of employees and date of creation. These discrepancies appear to be material, that is, the claimed gross revenue, number of employees, and date of origin of the business have a natural tendency to influence, or was capable of influencing, the decision of the SBA or issuing bank as to whether to approve the loans. Based on my training, knowledge, and experience, I know that inconsistencies between loan applications are a common indicator of fraud. In addition, McGhee's use of similar entity names under multiple tax ID numbers also raises flags because that is a common tactic to perpetuate fraud. Moreover, the sheer number of applications in close proximity (duplicate applications) is highly indicative of fraud.

17. An open record review by your affiant confirmed that registration of "Domestic Limited Liability Company" for business M&MM Realty Group LLC, had been filed by McGhee (at the time using Melissa Batton) to the State of Ohio Secretary of State and effective on August 05, 2019.

18. However, an open record review by your affiant revealed that registration of "Domestic Limited Liability Company" for business M&M Realty Group LTD, was filed by McGhee (at the time using Melissa Batton) with the State of Ohio Secretary of State and effective on June 23, 2020. This raises red flags because in order to qualify for a PPP loan, small businesses must have been in operation as of February 15, 2020. Based on my training and experience, a significant source of fraud from SBA loan programs stems from newly-created businesses ineligible to receive such proceeds. Based on my investigation, there are no public

records that indicate that M&M Realty Group LTD was operating in 2019. Moreover, McGhee did not open a business bank account for M&M Realty Group LTD until June 23, 2020 (Fifth Third Bank business standard checking account x7764).

19. The following chart illustrates the loans discussed above:

Date	Application Number Loan Type	Applicant	Entity	Claimed Date Entity Created	Tax ID used Secretary of State Registration Date	Claimed Gross Revenues Employees Claimed	Amount Approved
3/31/2020	3300518841 EIDL	Melissa Batton	M&MM Realty Group	12/13/2019	TIN 84-2623292 Secretary of State 08/05/2019	\$54,000.00 2 employees	\$25,000.00 (+\$2,000.00 advance)
5/2/2020	1279697809 PPP	Melissa Batton	M&MM Realty Group	N/A	TIN 84-2623292 Secretary of State 08/05/2019	N/A 1 employee	\$7,500.00
5/9/2020	3304170178 EIDL	Melissa Batton	M&MM Realty Group	8/6/2019	TIN 84-2623292 Secretary of State 08/05/2019	\$41,340.00 3 employees	\$0.00
6/15/2020	3304614475 EIDL	Melissa Batton	M&M Realty Group	8/5/2019	TIN 84-2620118 Secretary of State 06/23/2020	\$135,000.00 5 employees	\$0.00
6/17/ 2020	3304975019 EIDL	Melissa Batton	M&M Realty Group	8/5/2019	TIN 84-2620118 Secretary of State 06/23/2020	\$135,000.00 5 employees	\$62,500.00 (+\$5,000.00 advance)
7/2/2020	3308366036 EIDL	Melissa McGhee	Melissa McGhee – independent contractor	5/1/2016	TIN 29-8842833 Secretary of State N/A	\$82,451.00 1 employee	\$0.00
7/6/2020	3308981899 EIDL	Melissa McGhee	Melissa McGhee – independent contractor	5/3/2017	TIN 29-8842833 Secretary of State N/A	\$168,227.00 1 employee	\$83,200.00 (+\$1,000.00 advance)
7/8/2020	3309434902 EIDL	Melissa McGhee	Melissa McGhee – independent contractor	5/3/2017	TIN 29-8842833 Secretary of State N/A	\$168,227.00 1 employee	\$0.00

C. Evidence suggests that McGhee used PPP and EIDL loan proceeds for M&MM Realty Group and Melissa McGhee for expenditures contrary to SBA program rules.

20. Review of McGhee's associated bank account records show a series of transactions that do not appear consistent with program rules. Significantly, McGhee appears to have used EIDL proceeds for fixed assets. Specifically, on or about September 04, 2020, McGhee made an outgoing wire transfer of \$104,084.46 from Fifth Third Bank account x3132 (M&MM Realty). On or about this same date, McGhee signed a General Warranty Deed for property located at 6313 Vine Street, Cincinnati, Ohio 45237. Your affiant obtained a certified "Real Property Conveyance Fee Statement of Value and Receipt" from the Hamilton County Auditor's Office located at 138 East Court Street, Cincinnati, Ohio 45202 which indicates that McGhee is the "Grantee" for 6313 Vine Street, Cincinnati, Ohio 45237, and paid for this property in cash in the amount of \$105,000.00.

21. In addition to the purchase of real property, McGhee made the following withdrawals or debits using that account which seemed to have no legitimate economic purpose, but rather seemed calculated to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of the fraud:

- a. \$400.00 on May 04, 2020 (Online transfer);
- b. \$100.00 on May 05, 2020 (Online transfer);
- c. \$100.00 on May 06, 2020 (Withdrawal);
- d. \$618.87 on May 12, 2020 (Square);
- e. \$618.88 on May 19, 2020 (Square);
- f. \$618.87 on May 26, 2020 (Square);
- g. \$100.00 on May 26, 2020 (Online transfer);

- h. \$618.88 on June 02, 2020 (Square);
- i. \$423.02 on June 02, 2020 (Online transfer);
- j. \$618.87 on June 09, 2020 (Square);
- k. \$200.00 on June 10, 2020 (Withdrawal);
- l. \$2,000.00 on June 12, 2020 (Online transfer);
- m. \$618.88 on June 16, 2020 (Square);
- n. \$618.87 on June 23, 2020 (Square);
- o. \$700.00 on August 03, 2020 (Withdrawal);
- p. \$3,500.00 on August 04, 2020 (Online transfer);
- q. \$200.00 on August 17, 2020 (Withdrawal);
- r. \$450.00 on August 18, 2020 (Online transfer);
- s. \$300.00 on August 26, 2020 (Withdrawal);
- t. \$500.00 on October 29, 2020 (Online transfer);
- u. \$800.00 on November 23, 2020 (Withdrawal); and
- v. \$10,000.00 on November 24, 2020 (Cashier's Check number 33943126 payable to herself).

22. Review of this account also revealed that McGhee made several payments to PNC Mortgage to pay the mortgage on the Vera Avenue FHA property she acquired with her mother described above. Specifically, McGhee made the following payments:

- a. \$6,640.00 on June 08, 2020 (Online Payment to PNC Mortgage);
- b. \$2,300.00 on July 08, 2020 (Online Payment to PNC Mortgage);
- c. \$2,300.00 on August 04, 2020 (Online Payment to PNC Mortgage);
- d. \$2,300.00 on October 13, 2020 (Online Payment to PNC Mortgage); and

- e. \$2,300.00 on November 05, 2020 (Online Payment to PNC Mortgage).

Prior to her obtaining SBA funds, in April 2020, PNC McGhee and Batton were reported delinquent on the FHA loan. In June 2020, the FHA loan was reinstated after loss mitigation intervention. Based on the investigation to date, it appears that McGhee used EIDL funds to bring the loan for her personal residence current.

D. Evidence also suggests that EIDL proceeds received for M&M Realty Group were used contrary to program rules.

23. Review of the M&M Realty Group bank account records also show that on or about August 21, 2020, McGhee made an outgoing wire transfer of \$38,863.08 from Fifth Third Bank account x7764 (M&M Realty). On or about this same date, McGhee signed a Special/Limited Warranty Deed for property located at 2609 Beekman Street, Cincinnati, Ohio 45225. Your affiant obtained a certified “Real Property Conveyance Fee Statement of Value and Receipt” from the Hamilton County Auditor’s Office located at 138 East Court Street, Cincinnati, Ohio 45202 which indicates that McGhee is the “Grantee” for 2609 Beekman Street, Cincinnati, Ohio 45225, and paid for this property in cash in the amount of \$39,000.00. As noted above, EIDL funds cannot be used for fixed assets.

24. In addition to the purchase of the property, McGhee made the following withdrawals or debits using that account which seemed to have no legitimate business purposes, but rather seemed calculated to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of the fraud:

- a. \$1,000.00 on July 13, 2020, (Online Transfer);
- b. \$183.00 on July 20, 2020 (Cash App);
- c. \$800.00 on July 20, 2020 (Withdrawal);
- d. \$2,378.00 on July 20, 2020 (Cash App);

- e. \$500.00 on July 27, 2020 (Withdrawal);
- f. \$300.00 on August 05, 2020 (Cash App);
- g. \$1,000.00 on August 07, 2020 (Cash App);
- h. \$2,400.00 on August 10, 2020 (Cash App);
- i. \$450.00 on August 18, 2020 (Online transfer);
- j. \$1,200.00 on August 18, 2020 (Online transfer);
- k. \$1,340.00 on August 19, 2020 (Cash App);
- l. \$3,000.00 on August 19, 2020 (Cash App);
- m. \$800.00 on August 28, 2020 (Withdrawal);
- n. \$240.00 on September 04, 2020 (Cash App);
- o. \$500.00 on September 21, 2020 (Online transfer);
- p. \$500.00 on September 21, 2020 (Online transfer);
- q. \$400.00 on October 30, 2020 (Withdrawal);
- r. \$500.00 on October 30, 2020 (Online transfer);
- s. \$500.00 on November 05, 2020 (Online transfer); and
- t. \$1,500.00 on November 05, 2020 (Online transfer).

E. During an interview with FBI agents, McGhee made false statements.

25. On February 02, 2021, I attempted to contact McGhee at her residence located at 2640 Vera Avenue, Apartment 1, Cincinnati, Ohio 45237 to conduct a “knock and talk.” As I was unable to make contact, I left an FBI business card on her door. Shortly after, McGhee called and requested to be interviewed via telephone. During that interview, McGhee claimed that she was the owner of several businesses and several LLCs including “M&MM Realty Group, M&M Realty” and a business that she had listed under either “Melissa McGhee” or

“Melissa Batton”. McGhee advised that for business “MMM Realty Group” she had three employees and she obtained approximately \$7,500.00 in a PPP loan and approximately \$3,000.00 in an EIDL in her Fifth Third Bank account. McGhee further estimated that between all of her other businesses, she only received a total amount of approximately \$7,000.00 in EIDLs; however, could not recall an exact breakdown of how she received the funds.

26. McGhee further advised that the PPP loan funds she received were used solely on paychecks to her employees and the EIDL funds were used solely on equipment such as cleaning supplies, masks, and other personal protective equipment. McGhee claimed that although she had three employees, only one was paid. McGhee identified the one employee that she paid as her mother, Minette Batton, and advised she paid her approximately 90 percent of the \$7,500.00 she obtained in the PPP loan. According to McGhee, Batton was paid for responsibilities including day-to-day tasks such as talking with tenants, scheduling showings, and other business-related responsibilities. McGhee further claimed Batton is not a co-owner or part owner of McGhee’s business.

27. McGhee was adamant that she only received approximately \$15,000.00 in total funds from all of the PPP loans and EIDLs that she applied for with all of her businesses.

III. CONCLUSION

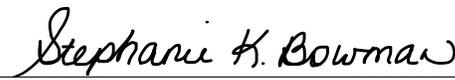
28. Based on the foregoing, I request that the Court issue the proposed criminal complaint. There is probable cause to believe that violations of 18 U.S.C. § 1343 (Wire Fraud), 18 U.S.C. § 1344 (Bank Fraud), 18 U.S.C. § 1014 (False Statements in Loan or Credit Applications), 18 U.S.C. § 1040 (Fraud in connection with Major Disaster or Emergency Benefits), and 18 U.S.C § 1001 (False Statements to a Department or Agency of the United States) have been committed by Melissa McGhee. I, therefore, respectfully request that an arrest warrant be issued authorizing the arrest of Melissa McGhee.

Respectfully submitted,



Ferron M. Yi
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me on this 30 day of March, 2021.
via electronic means, specifically Facetime video.



HONORABLE STEPHANIE K. BOWMAN
UNITED STATES MAGISTRATE JUDGE

