

UNITED STATES DISTRICT COURT

for the
District of Connecticut

United States District Court
District of Connecticut
FILED AT BRIDGEPORT
59
2021
S. Imbriani
Security Clerk

United States of America
v.

Moustapha Diakhate

Case No.

3:21MJ457 (SDV)

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 May 1, 2020 to May 6, 2021 in the county of in the
District of Connecticut, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Rows include 18 U.S.C. Section 1344(1) Bank Fraud and 18 U.S.C. Section 1343 Wire Fraud.

This criminal complaint is based on these facts:

See attached affidavit of Special Agent with the Office of Inspector General of the U.S. Small Business Administration Simon Y. Dinits, incorporated herein by reference.

Continued on the attached sheet.

SIMON
DINITS

Digitally signed by SIMON
DINITS
Date: 2021.05.06
15:00:09 -04'00'

Complainant's signature

Simon Y. Dinits, OIG-SBA Special Agent

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
telephone (specify reliable electronic means).

Date: May 6, 2021

S. Dave Vatti

Digitally signed by S.
Dave Vatti
Date: 2021.05.06
15:04:27 -04'00'

Judge's signature

City and state: Bridgeport, Connecticut

HON. S. DAVE VATTI, U.S. Magistrate Judge

Printed name and title

United States District Court
District of Connecticut
FILED AT BRIDGEPORT
EVB
HONORABLE CLERK
By S. Imbriani
Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

STATE OF CONNECTICUT : 3:21MJ ⁴⁵⁷ (SDV)
 :
COUNTY OF FAIRFIELD : May 6, 2021
 :

AFFIDAVIT IN SUPPORT OF COMPLAINT AND ARREST WARRANT

I, Simon Y. Dinitz, being duly sworn, depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am an investigative or law enforcement officer of the United States within the meaning of Section 2510(7) of Title 18, United States Code, that is, an officer of the United States who is empowered by law to conduct investigations of and to make arrests for offenses enumerated in 18 U.S.C. Section 2516.

2. I am a Special Agent with the Office of Inspector General of the U.S. Small Business Administration (“SBA”) since in or about March 2018. I am currently assigned to the Investigations Division, and, as part of my duties, I have participated in numerous investigations of financial fraud relating to loan programs administered by the SBA. Prior to my current position, I worked for three years as a Special Agent with the U.S. Department of the Treasury’s Office of the Special Inspector General for the Troubled Asset Relief Program and six years as a Special Agent with the Diplomatic Security Service of the U.S. Department of State. I am a graduate of the Federal Law Enforcement Training Center’s Criminal Investigator Training Program and am a Certified Fraud Examiner. I have conducted numerous investigations of violations of federal bank fraud, money laundering, wire fraud, and conspiracy statutes.

3. This affidavit is submitted in support of a Complaint and Arrest Warrant authorizing the arrest of MOUSTAPHA DIAKHATE (M. DIAKHATE). As discussed in greater detail below, there is probable cause to believe that M. DIAKHATE has been involved in fraud in connection with a loan program of the Small Business Association (SBA) designed to provide relief to small businesses during the COVID-19 pandemic, namely the Paycheck Protection Program (the “PPP”), and has committed various offenses, including wire and bank fraud in violation of 18 U.S.C. § 1343 and 1344. As a result, for the reasons discussed below, the undersigned respectfully requests that an arrest warrant be issued for M. DIAKHATE for the above-named offenses.

4. The statements contained in this affidavit are based in part on my own investigation and information provided by other members of federal, state and local enforcement, including my personal observations, documents and other investigative materials, as well as my training and experience as a Special Agent. Because this affidavit is submitted for the limited purpose of securing an arrest warrant, I have not included each and every fact known to me concerning this investigation. I have set forth those facts that I believe are necessary to establish probable cause that M. DIAKHATE has committed the listed offense.

RELEVANT STATUTES

Wire Fraud

5. 18 U.S.C. Section 1343 provides in relevant part that: “Whoever, having devised or intending to devise any scheme or artifice to defraud, or obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire . . . communication in interstate or foreign commerce, any writings,

signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, shall be [subject to fines and/or imprisonment].”

Bank Fraud

6. 18 U.S.C. Section 1344 provides in relevant part that: “Whoever knowingly executes, or attempts to execute, a scheme or artifice (1) to defraud a financial institution . . . shall be [subject to fines and/or imprisonment].”

THE INVESTIGATION, SUMMARY OF FACTS AND PROBABLE CAUSE

The Defendant and the Victim

7. At all relevant times, the defendant MOUSTAPHA DIAKHATE resided in Stamford, Connecticut at 201 Commons Park South, Unit 1702. Based on materials filed with the State of Connecticut, M. DIAKHATE maintained an ownership or management interest in certain small business entities, including the following:

8. Ansonia Developers LLC, a limited liability corporation, registered in the State of Connecticut in 2015 and listing its principal office in Stamford, Connecticut. In a May 2020 filing with the State, the company identified M. DIAKHATE as its president using his residence as the business address.

9. Winsbay Inc., a Delaware corporation, formed in 2015 and identifying M. DIAKHATE as the contact at 201 Commons Park S., Stamford CT, M. DIAKHATE’s residence.

10. Buyers Association Group LLC, a limited liability corporation, registered in the State of Connecticut in 2009, with its office listed in Hamden, CT, and listing its sole manager and President as M. DIAKHATE.

11. Washington Management LLC, a limited liability corporation, registered in the State of Connecticut in 2009 with its principal office listed in Hamden, CT, and identifying M. DIAKHATE as Director, with the business and his then residence having the same address.

12. Diakhate Capital, Inc., a Delaware corporation, formed in July 2020 and listing M. DIAKHATE as the business contact at 201 Commons Park South, Stamford, CT, M.DIAKHATE's residence. (Collectively the companies identified in this and the above paragraphs are referred to as "the Companies.")

13. It is also my understanding, based on review of materials and communications with the bank, that Citibank N.A. (Citibank) was a financial institution that had its deposits insured by the Federal Deposit Insurance Corporation.

Background

14. Based on my review of material at SBA and my personal experience with the program, the following is the funding background relevant to this affidavit. In March 2020, the Coronavirus Aid, Relief, and Economic Security ("CARES") Act provided emergency financial assistance to Americans suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of forgivable loans to small businesses for job retention and certain other expenses through the Paycheck Protection Program (PPP). In or around April 2020, Congress authorized over \$300 billion in additional PPP funding.

15. The PPP allowed qualifying small businesses and other organizations to receive unsecured loans at an interest rate of 1%. PPP loan proceeds must be used by businesses on payroll costs, interest on mortgages, rent, and utilities. The PPP allowed the interest and principal to be forgiven if businesses spent the proceeds on these expenses within a certain period of time

of receipt and used at least a certain percentage of the amount to be forgiven for payroll.

16. In order to obtain a PPP loan, a qualifying business was required to submit a PPP loan application, which was signed by an authorized representative of the business. The PPP loan application required the business through its authorized representative to acknowledge the program rules and make certain affirmative certifications in order to be eligible to obtain a PPP loan, including average monthly payroll expenses for a period of 2.5 months and the number employees, among other information. These figures were used to calculate the level of loan funding the small business was eligible to receive under the PPP. In addition, the businesses applying for the PPP loan were required to provide documentation showing payroll expenses, such as W-2s, IRS Forms 940 or 941, to confirm that the businesses had in the past paid employees the compensation listed on the application.

17. The PPP was overseen by the Small Business Administration, which has authority over all PPP loans. Individual PPP loans, however, were issued by private approved lenders, such as Citibank, who received and processed PPP applications and supporting documentation, and then made loans using the lenders' own funds, which were guaranteed by the SBA.

The Scheme or Artifice to Defraud Citibank, a Financial Institution

18. The evidence obtained in this investigation establishes that from in or about May 2020 through in or about the date of this affidavit, in the District of Connecticut and elsewhere, the defendant MOUSTAPHA DIAKHATE, devised a scheme to defraud a financial institution, namely, Citibank, by means of materially false and fraudulent pretenses, representations and promises. The scheme involved providing Citibank, a financial institution, with false and fraudulent information during the PPP loan application process in order to obtain larger and larger PPP loans to which M. DIAKHATE and his Companies were not entitled. The evidence

reflects that M. DIAKHATE made to Citibank materially false representations regarding ownership interests in other business; how the PPP monies were to be used; the true number of employees and true average monthly payroll; and the legitimacy of documents submitted in support of the applications, as described by the following examples, among others.

19. Based on information received from Citibank and DocuSign, among other sources, once the initial applications were approved, Citibank would request final electronic signature on the final loan applications using the DocuSign portal whereby Citibank would upload the final documents, indicating where they needed an electronic signature; DocuSign would then email the relevant loan applicant the link to access and electronically sign the documents; and M. DIAKHATE would cause the signature on the documents in Connecticut with the electronic signing wired to a DocuSign server outside of Connecticut, in Washington, Illinois, Texas or Canada.

20. As relevant to the loans below, the evidence reflects that M. DIAKHATE caused the submission of the various loan applications for the reasons set forth as follows. As to most of the loans extended below, M. DIAKHATE was subsequently telephonically contacted by Citibank investigators and acknowledged seeking most of the loans at issue, including Ansonia Developers, LLC; Buyer's Association Group, LLC; Washington Management, LLC; and Diakhate Capital, Inc. In addition, as discussed below, most of the relevant applications were submitted to Citibank from M. DIAKHATE's home IP address.¹ The applications typically reflected M. DIAKHATE as the representative seeking the loans for his company and independent source documents from the State of Connecticut confirmed that the relevant Companies were in some way associated with M. DIAKHATE as an owner or manager. Further,

¹ IP address is an Internet Protocol address, a numerical label assigned to each device connected to a computer network that uses the Internet for communication.

the loans were disbursed to bank accounts where M. DIAKHATE was the sole signatory.

21. Further, as discussed below, the evidence developed in the investigation suggests that multiple representations on the relevant loan applications were materially false for a number of reasons based on evidence developed in the investigation.

22. *First*, the loan applications would routinely represent that the owner, typically M. DIAKHATE, was not the owner of other businesses seeking PPP applications, which is inconsistent with the multiple loans sought.

23. *Second*, that the monies sought would be used solely for Company payroll, lease, mortgage, interest and utilities, when the undersigned's review of the use of loan proceeds reflected that most of the proceeds had not gone to individuals M. DIAKHATE purportedly identified as employees on submitted employee registers or for the itemized uses. In addition, the evidence suggested that the Companies did not have the represented payroll, or any payroll at all, based on labor records reviewed from the Connecticut Department of Labor. In addition, there were no historical records of tax forms filed with the IRS reflecting payroll and typically no tax form filings at all, which would be inconsistent with a legitimate ongoing business.

24. *Third*, the loan applications typically represented significant sales and many employees with significant average payrolls, which was entirely inconsistent with prior recently filed PPP loan applications for the same entity, State labor records and any history or lack thereof of tax filings with the IRS.

25. *Fourth*, with the applications were submitted various purported IRS tax filings, including forms reflecting purported wage figures and sales. Those forms would often be markedly inconsistent with figures on other submitted records with the application, as well as with records filed with the IRS (or the lack of such records). The information on the forms

would often also be inconsistent with prior recently filed PPP loan applications for the same entity.

26. *Fifth*, with the applications were typically submitted a register of the purported current employees. The registers was entirely inconsistent with the lack of labor records with the State of Connecticut or any history of IRS tax filings. In fact, with two entities the registers appeared to simply be copies of each other.

Ansonia Developers LLC -- \$751,900 loan from Citibank

27. The evidence reflects that starting in May 2020, M. DIAKHATE caused to be submitted multiple applications for PPP loans to Citibank for Ansonia Developers LLC, which contained multiple material misrepresentations. Citibank did not approve the first three loan applications, but approved the fourth application and funded a loan of \$751,900, with the money deposited into Ansonia Developers LLC bank account at Citibank with M. DIAKHATE as the sole signatory and subsequently used by M. DIAKHATE in part on personal expenses.

28. More specifically, on or about May 15, 2020, M. DIAKHATE caused to be submitted PPP application #9183068 to Citibank for Ansonia Developers LLC for a \$495,000 PPP loan for Ansonia Developers LLC, representing that Ansonia Developers LLC had less than three employees and an average monthly payroll of \$216,000. The loan did not fund because of issues regarding documentations provided.

29. Several weeks after the first application, on or about June 2, 2020, M. DIAKHATE caused to be submitted a PPP application #9189764 to Citibank for Ansonia Developers LLC for a larger \$506,900 PPP loan. This application now represented that the Company had four employees and an average monthly payroll of \$144,570, but the loan did not fund because the payroll documentation provided did not support the loan amount.

30. Two days later, on or about June 4, 2020, M. DIAKHATE caused to be submitted PPP application #9190848 to Citibank for a \$646,800 PPP loan for Ansonia Developers LLC. The application now represented that Ansonia Developers LLC had ten employees and an average monthly payroll of \$207,585. In addition, at the time of this application, M. DIAKHATE caused the submission of IRS Form 941 for the first quarter of 2020 in support of the application, signed and dated as of April 10, 2020. The 941 Form listed nine employees and wages, tips, and compensation of \$445,000 and purported Federal employee Income tax withholdings of \$75,162. Also submitted with the application was an IRS 2019 Form Schedule C for M. DIAKHATE, providing the company's business address as his residence, and detailing figures such as gross receipts (\$3,129,845) and cost of goods sold (\$3,186,306). This Form Schedule C was virtually identical to 2019 Form Schedule C submitted by M. DIAKHATE for a separate PPP loan application for a separate company Winsbay, Inc., described below, which also listed gross receipts as \$3,129,845 and costs of goods sold at \$3,186,306. The Ansonia Developers LLC loan did not fund because the payroll documentation provided did not support the loan amount.

31. Finally, two weeks later, on or around June 23, 2020, M. DIAKHATE caused to be submitted a PPP application #9198871 to Citibank for Ansonia Developers LLC under his name M. DIAKHATE as the Chief Executive Officer and 90% owner for a \$751,900 PPP loan for Ansonia Developers LLC. The submission included material misrepresentations on the application itself and on the documents submitted in support, as well as the fact itself of submitting fraudulent documents in support falsely suggested the existence of a legitimate functioning business. For the reasons discussed above at Paragraphs 21-26, material misrepresentations included:

- a. That M. DIAKHATE, the listed owner and Chief Executive Officer, was not an owner of other businesses that would need to be disclosed, when he was, in fact, submitting multiple PPP applications for other businesses.
- b. That the monies sought would be used solely for Company payroll, lease, mortgage, interest and utilities, when they were not.
- c. That Ansonia Developers LLC had annual sales of \$3,309,743, 30 employees and an average monthly payroll of \$300,760 (which would total \$3,609,120 for 30 employees for 12 months), when it did not.
- d. The purported existence of a legitimate IRS 2019 Form W-3 for Ansonia Developers LLC, and the representations therein showing total wages, tips, and other compensation of \$3,609,116 (based on 41 employees), when the form and figures were false.
- e. The purported existence of a legitimate IRS Schedule C submitted with the application, when the form and figures were false. For example, the Schedule C is markedly at odds with labor costs, gross receipts, costs of goods sold, gross profit and numerous other entries on the true Form 1120 filed in or about September 2020.
- f. The purported existence of a legitimate IRS 2019 Form 940 and Forms 941 for each of the four quarters of 2019, and the representations therein where each of the Form 941s listed that there were 41 employees and identical wages, tips, and other compensation of \$902,279, as well as identical additional figures such as taxes owed, when the form and figures were false.
- g. A register of the purported current employees of Ansonia Developers LLC, when the form and information provided were false.

32. On June 30, 2020, Citibank approved the loan and disbursed \$751,900 to Citibank account 8117 in the name of Ansonia Developers LLC, with the account signatory listed as M. DIAKHATE. Account opening paperwork reflects that M. DIAKHATE had opened that account on or about May 22, 2020, with the Stamford, CT, Citibank branch, a week after first making an Ansonia Developers LLC PPP loan application with himself as the sole signatory. The account had a balance of \$40 on the date that the funds were disbursed.

33. Among uses of these funds were disbursements totaling as much as \$380,000 made for various personal expenses or to various individuals or entities not identified on the

payments as lease, mortgage, interest and utilities or identified on the payroll register or as Ansonia Developers LLC employees by the Connecticut Department of Labor.

Winsbay Inc. -- \$232,500 loan from Citibank

34. In furtherance of the Scheme to Defraud described above, M. DIAKHATE caused to be submitted two applications for PPP loans to Citibank for Winsbay, Inc., an entity which corporate registration records identified M. DIAKHATE as the contact. The applications alleged the entity was owned in the name of his wife, Rafaele Prado De Oliveira. The first application was not funded, but the second was funded in the amount of \$232,500 as a result of various material misrepresentations, with the money deposited into Winsbay Inc.'s bank account ending in 8459 at Citibank, on which M. DIAKHATE was listed as the sole signatory, and subsequently used by M. DIAKHATE on personal expenses.

35. More specifically, on or about June 10, 2020, M. DIAKHATE caused to be submitted PPP application #9192648 to Citibank for a \$500,000 PPP loan for Winsbay Inc. The application was submitted under the name Rafaele Prado De Oliveira, which the investigation established was the maiden name of M. DIAKHATE's wife. The initial loan application represented that the Company had nine employees and an average monthly payroll of \$200,000. In support of the application was submitted an IRS Form Schedule C for 2019, which contained identical figures of gross receipts, cost of goods sold and other figures to the Schedule C described previously as having been submitted in support of a PPP loan application for the separate company Ansonia Developers LLC. The IRS has no record of the 2019 Schedule C. The loan did not fund because the payroll documentation provided did not support the loan amount.

36. On or about June 15, 2020, M. DIAKHATE then caused to be submitted application #9194678 to Citibank for a \$232,500 PPP loan for Winsbay, Inc. He again caused the application to be submitted under the name of Rafaele Oliveira to Citibank for Winsbay, Inc. listing the business address as M. DIAKHATE's residence in Stamford. The submission included material misrepresentations on the application itself and on the documents submitted in support, as well as the fact itself of submitting fraudulent documents in support falsely suggested the existence of a legitimate functioning business. For the reasons discussed above at Paragraphs 21-26, material misrepresentations included:

- a. That the monies would be used for Payroll, lease, mortgage, interest and utilities, when they were not.
- b. That Winsbay Inc. had annual sales of \$1,000,000, nine employees and an average monthly payroll of \$93,000, when it did not.
- c. The purported existence of a legitimate IRS 2019 Form W-3 for Winsbay Inc. and the representations therein showing total wages, tips, and other compensation of \$1,152,696, when the form and figures were false.
- d. The purported existence of legitimate IRS 2019 Forms 941 for Winsbay, Inc., with M. DIAKHATE listed as owner for each of the four quarters, and the representations therein which each listed 10 employees and wages, tips, and other compensation in the identical amount each quarter of \$288,175 (which totaled \$1,152,700), despite each quarter comprising a different number of days, when the form and figures were false.
- e. The purported existence of legitimate IRS 2019 Yearly Employment Tax Form 940 for Winsbay Inc. showing total wages, tips, and other compensation of \$1,152,696, when the form and figures were false.
- f. The purported existence of legitimate Paychex invoice, invoice # 2015073000, dated February 10, 2020, for Winsbay Inc., Paychex client # 0013 1602-5900. The invoice was dated February 10, 2020 and listed a billing period of February 3, 2020 – February 10, 2020, when the form and figures were false.
- g. A register of the purported current employees of Winsbay Inc., when the form and information provided were false, listing identical employees and net pay as Buyers Association Group LLC.

37. To accept the loan application, Citibank required a signature of the applicant listed through use of the DocuSign portal as described above. M. DIAKHATE caused the electronic signing of the PPP application, including relevant forms, using the DocuSign platform submitted from the M. DIAKHATE's home IP Address in Connecticut.

38. On June 23, 2020, Citibank subsequently approved and disbursed the loan in the amount of \$232,500 to Citibank account ending 8459 for Winsbay Inc., with the account signatory listed as M. DIAKHATE. The subsequent uses of the loan proceeds included payments to M. DIAKHATE's landlord, M. DIAKHATE's brother's business and to various individuals or entities not identified as lease, mortgage, interest and utilities or identified on the payroll register or as Winsbay Inc. employees by the Connecticut Department of Labor.

Buyers Association Group LLC – \$240,100 loan from Citibank

39. In furtherance of the Scheme to Defraud described above, on or about June 11, 2020, M. DIAKHATE caused to be submitted application # 9193074 to Citibank for a \$240,100 PPP loan for Buyers Association Group LLC, listing his name as the applicant's representative as a General Partner and 90% owner. The application was submitted from M. DIAKHATE's home IP Address. The submission included material misrepresentations on the application itself and on the documents submitted in support, as well as the fact itself of submitting fraudulent documents in support falsely suggested the existence of a legitimate functioning business. For the reasons discussed above at Paragraphs 21-26, material misrepresentations included:

- a. That M. DIAKHATE, the listed 90% owner, was not an owner of other businesses that would need to be disclosed, when he was, in fact, submitting multiple PPP applications for other businesses.
- b. That monies would be used for Payroll, lease, mortgage, interest and utilities, when they were not.
- c. That Buyers Association Group LLC had annual sales of 8 employees and an

average monthly payroll of \$96,058, when it did not.

- d. The purported existence a legitimate IRS 2019 Form W-3 for Buyers Association Group LLC, and the representations therein showing total wages, tips, and other compensation of \$1,152,696, when the form and figures were false.
- e. The purported existence of a legitimate IRS 2019 Forms 941 for Buyer's Association Group LLC, with M. DIAKHATE listed as owner for each of the four quarters of 2019, and the representations therein which each listed 10 employees and wages, tips, and other compensation of in the identical amount each quarter of \$288,175, when the form and figures were false.
- f. The purported existence of legitimate IRS 2019 Yearly Employment Tax Form 940 for Buyers Association Group LLC and the representations of total wages, tips, and other compensation of \$1,152,696, when the form and figures were false.
- g. A register of the purported current employees of Buyers Association Group LLC, when the form and information provided were false, listing identical employees and net pay as Winsbay Inc.

40. On or about June 19, 2020, Citibank sent an email to the Buyer's Group Gmail Account requesting that PPP application #9193074 be signed via the DocuSign electronic signature platform. To accept the loan application, Citibank required a signature of the applicant listed through use of the DocuSign portal as described above. On or about June 20, 2020, M. DIAKHATE caused the electronic signing of the PPP application, including relevant forms, using the DocuSign platform submitted from the M. DIAKHATE's home IP Address in Connecticut.

41. On or about June 23, 2020, Citibank approved and disbursed the loan in the amount of \$240,100 to Citibank account ending 8424 for Buyers Association Group, which had been opened on June 18, 2020 with DIAKHATE as the sole signatory, were disbursed to various individuals or entities not identified as lease, mortgage, interest and utilities or identified on the payroll register or as Buyers Association Group employees by the Connecticut Department of Labor.

Washington Management LLC -- \$852,600 Loan from Citibank

42. In furtherance of the Scheme to Defraud, on or about June 23, 2020, M.

DIAKHATE caused the submission of application #9198859 to Citibank for a \$852,600 PPP loan for Washington Management LLC (“Washington Management”). The submission included material misrepresentations on the application itself and on the documents submitted in support, as well as the fact itself of submitting fraudulent documents in support falsely suggested the existence of a legitimate functioning business. For the reasons discussed above at Paragraphs 21-26, material misrepresentations included:

- a. That M. DIAKHATE, the listed owner, was not an owner of other businesses that would need to be disclosed, when he was, in fact, submitting multiple PPP applications for other businesses.
- b. That the monies would be used for Payroll, lease, mortgage, interest and utilities, when they were not.
- c. That Washington Management LLC had 21 employees and an average monthly payroll of \$341,040, when it did not.
- d. The purported existence a legitimate IRS 2019 Form W-3 for Washington Management LLC and the representations therein showing total wages, tips, and other compensation of \$4,092,485, when the form and figures were false.
- e. The purported existence of a legitimate IRS 2019 Forms 941 for Washington Management LLC, with M. DIAKHATE listed as owner for each of the four quarters of 2019, and the representations therein which each listed 56 employees and wages, tips, and other compensation in the identical amount each quarter of \$1,023,121, despite each quarter comprising a different number of days, when the form and figures were false.
- f. The purported existence of legitimate IRS 2019 Yearly Employment Tax Form 940 for Washington Management LLC and the representations of total payments to all employees of \$4,092,485, when the form and figures were false.
- g. A register of the purported current employees of Washington Management LLC, when the form and information provided were false.

43. On or about June 23, 2020, Citibank sent an email to the Washington Management's Gmail Account requesting that PPP application #9193074 be signed via the DocuSign electronic signature platform. To accept the loan application, Citibank required a signature of the applicant listed through use of the DocuSign portal as described above. On or about June 24, 2020, M. DIAKHATE caused the electronic signing of the PPP application, including relevant forms, using the DocuSign platform submitted from the M. DIAKHATE's home IP Address in Connecticut.

44. On or about June 30, 2020, Citibank disbursed the loan for \$852,600 to account 8838 at Citibank, an account for Washington Management LLC and on which M. DIAKHATE was the sole signatory. The account had a balance of \$0 on the date that funds were disbursed. From that account funds were disbursed to a number of individual or entities not identified as lease, mortgage, interest and utilities or identified on the payroll register or as Washington Management LLC employees by the Connecticut Department of Labor.

45. Thereafter M. DIAKHATE on or about July 13, 2020, caused the withdrawal of \$39,476.87 to Citibank account 8838 via a certified check in the amount of \$39,476.87. Shortly thereafter, on or about July 14, 2020, he provided the check to First Connecticut Credit Union, a financial institution as defined by 31 U.S.C. Section 5312(a)(2), at its Wallingford, Connecticut branch and thereby caused the deposit of funds and a monetary instrument greater than \$10,000 to the Credit Union account ending in 1736 in Connecticut in order to pay off a loan the Credit Union had provided for a previous purchase of M. DIAKHATE's 2010 Porsche Panamera Turbo.

46. In addition, on or about July 20, 2020, M. DIAKHATE caused the transfer of \$50,000 from Citibank account ending in 8838 to a separate Citibank account ending in 4768

held by Washington Management, for the purchase of a \$50,000 Certificate of Deposit. M. DIAKHATE had sole signature authority over both accounts.

Diakhate Capital Inc. -- \$820,000 loan from Citibank

47. In furtherance of the Scheme to Defraud described above, on or about July 27, 2020, M. DIAKHATE caused the submission of application # 9208907 to Citibank for a \$820,000 PPP loan for Diakhate Capital Inc. ("Diakhate Capital"). The application was submitted from M. DIAKHATE's home IP Address. The submission included material misrepresentations on the application itself and on the documents submitted in support, as well as the fact itself of submitting fraudulent documents in support falsely suggested the existence of a legitimate functioning business. For the reasons discussed above at Paragraphs 21-26, material misrepresentations included:

- a. That the monies would be used for Payroll, lease, mortgage, interest and utilities, when they were not.
- b. That Diakhate Capital Inc. had 10 employees and an average monthly payroll of \$250,000, when it did not.
- c. That the business had been operating since October 2018, when it had not.
- d. The purported existence a legitimate IRS 2019 Form W-3 for Diakhate Capital and the representations therein showing 56 employees and total wages, tips, and other compensation of \$3,935,904 for 2019, with \$633,972 federal income tax withheld, when the form and figures were false.
- e. The purported existence of a legitimate IRS 2020 Form 941 for Diakhate Capital Inc., with M. DIAKHATE listed as owner, for the first quarter, and the representations therein which listed 56 employees and wages, tips, and other compensation of \$983,976, when the form and figures were false.

48. On or about July 28, 2020, Citibank sent an email to the Diakhate Capital email Account requesting that PPP application #9208907 be signed via the DocuSign electronic signature platform. To accept the loan application, Citibank required a signature of the applicant

listed through use of the DocuSign portal as described above. On or about July 31, 2020, M. DIAKHATE caused the electronic signing of the PPP application, including relevant forms, using the DocuSign platform submitted from the M. DIAKHATE's home IP Address in Connecticut.

49. On or about August 10, 2020, Citibank disbursed to the Diakhate Capital account ending in 9742 a loan amount of \$820,000. That account listed M. DIAKHATE as the sole signatory. When the funds were disbursed to that account, the prior account balance was \$100. Thereafter funds were disbursed primarily to the account of J. Hemple Companies LLC at Bank of America, an account on which M. DIAKHATE had sole signature authority. The funds transferred were then used not for payments of payroll, lease, mortgage or utilities, but instead to M. DIAKHATE's personal expenses, including the purchase of a Mercedes and BMW which were then registered in his name.

Wiring in Furtherance of the Scheme and Artifice to Defraud

50. The investigation established that on or about the dates set forth below regarding a specific loan, M. DIAKHATE caused the transmission of certain writings, signs, signals and sounds by means of wire communications in interstate commerce, including, a wire transmission indicated in the chart below.

Entity	Loan Amount	Date of Wiring, On or about	Wiring
Winsbay Inc.	\$232,500	June 10, 2020	DocuSign -- Wiring of Electronic Signature on Loan Application from Connecticut to outside Connecticut.
Buyers Association	\$240,000	June 20, 2020	Wiring of Electronic Signature on Loan Application from

Group LLC			Connecticut to outside Connecticut
Washington Management LLC	\$852,600	June 24, 2020	Wiring of Electronic Signature on Loan Application from Connecticut to outside Connecticut
Diakhate Capital	\$820,000	July 31, 2020	Wiring of Electronic Signature on Loan Application from Connecticut to outside Connecticut

The Execution of the Scheme and Artifice to Defraud Citibank

51. The evidence in the investigation is that M. DIAKHATE submitted the relevant applications that ultimately caused Citibank to disburse the respective loan amounts to the respective entities.

Entity Seeking Loan	Loan Amount	Execution of Scheme Date (on or about)	Act of Execution
Winsbay Inc.	\$232,500	June 10, 2020	Submitting Application for Loan from Connecticut
Buyers Association Group LLC	\$240,000	June 20, 2020	Submitting Application for Loan from Connecticut
Washington Management LLC	\$852,600	June 24, 2020	Submitting Application for Loan from Connecticut
Diakhate Capital	\$820,000	July 31, 2020	Submitting Application for Loan from Connecticut

52. Based on the foregoing paragraphs there is probable cause to believe and I do believe that MOUSTAPHA DIAKHATE has violated 18 United States Code Sections 1343 and 1344(1). In consideration of the foregoing, I respectfully request that this Court issue an arrest warrant for MOUSTAPHA DIAKHATE.

53. It is further requested that the complaint, this affidavit and any other related documents, as they reveal an ongoing investigation, be sealed until further order of the Court in order to avoid premature disclosure of the investigation on the public record, and better ensure the safety of agents and others, except that working copies may be served on Special Agents and other investigative and law enforcement officers of the SBA, IRS, and FBI, federally deputized state and local law enforcement officers, to effect the requested arrest.

SIMON
DINITS

Digitally signed by SIMON
DINITS
Date: 2021.05.06
14:59:42 -04'00'

SPECIAL AGENT SIMON Y. DINITS

The truth of the foregoing affidavit has been attested to me by Special Agent Simon Y. Dinits over the telephone on this 6th day of May, 2021, at _____.

S. Dave Vatti

Digitally signed by S.
Dave Vatti
Date: 2021.05.06
15:06:06 -04'00'

HON. S. DAVE VATTI
UNITED STATES MAGISTRATE JUDGE