

THE UNITED STATES ATTORNEY'S OFFICE
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Department of Justice

U.S. Attorney's Office

Southern District of Florida

FOR IMMEDIATE RELEASE

Thursday, July 15, 2021

Former Banker Sentenced to Prison for Role in Movie Financing Fraud Scheme, Falsely Applying for COVID-19 Loans

Miami, Florida – A former South Florida banker was sentenced this week to 42 months' imprisonment for participating in two frauds: the first, a scheme to steal over \$60 million from investors and producers seeking financing for movies and Broadway shows; the second, concealing his criminal history on applications for COVID-19 relief loans.

Benjamin Rafael, 31, of South Florida, previously admitted his role in legitimizing a sophisticated movie financing fraud scheme. Rafael pled guilty to one count of conspiracy to commit wire fraud, in violation of Title 18, United States Code, Section 1349 (Case No. 19-CR-20447).

According to court records, Rafael's co-defendants, Benjamin McConley and Jason Van Eman, held themselves out as film producers and financiers. In those roles, McConley and Van Eman allegedly offered to provide financing to investors and producers seeking funds to produce motion pictures, theater performances, and for other projects. The indictment charges that McConley and Van Eman promised the victims that, in exchange for the victims' cash contributions, McConley would "match" the contributions and use the combined funds to secure financing from financial institutions in South Florida and elsewhere.

In furtherance of the scheme, McConley and Van Eman recruited Rafael, a then bank employee, to deceive victims about the security of their funds, it is alleged. During the course of the scheme, McConley and Van Eman repeatedly directed Rafael to falsely assure victims that their contributions or loans had been "matched" as promised in the funding agreements, say the court documents.

According to the indictment, victims sent tens of millions of dollars to accounts controlled by the defendants based on these false representations and promises. In truth, the schemers never "matched" the victims' contributions as promised in the funding agreements. Instead, they stole the victims' money by transferring the funds to their personal and corporate bank accounts, often within days of the victims' contributions or loans, according to the court documents.

Following his indictment and guilty plea in Case No. 19-CR-20447, Rafael submitted several applications to various banks for Paycheck Protection Program (PPP) and Economic Injury Disaster Loans (EIDL). In those applications, he concealed the fact that he had previously pled guilty in Case No. 19-CR-20447.

As a result of these fraudulent PPP and EIDL applications, Rafael was charged with making false statements to a financial institution, in violation of Title 18, United States Code, Section 1014 (Case No. 21-CR-20161). Rafael pled guilty to the PPP fraud earlier this week. At the same court appearance, Rafael was sentenced for his conduct in both cases during a consolidated sentencing proceeding.

In addition to the combined sentence of 42 months' imprisonment, Rafael was ordered to pay restitution to the victims, forfeit money and real estate traceable to the fraud schemes, and serve a term of supervised release of five years.

Co-defendant Benjamin McConley previously pled guilty in Case No. 19-CR-20447 to one count of conspiracy to commit wire fraud and is scheduled to be sentenced on September 14, 2021, at 9:00 a.m. by District Judge Raag Singhal. Co-defendant Jason Van Eman is scheduled for trial on August 30, 2021.

Juan Antonio Gonzalez, Acting U.S. Attorney for the Southern District of Florida, Special Agent in Charge George L. Piro of the FBI's Miami Field Office, and Special Agent in Charge Amaleka McCall-Brathwaite of the U.S. Small Business Administration, Office of Inspector General (SBA-OIG), Investigations Division, Eastern Regional Office, made the announcement.

FBI Miami and SBA-OIG investigated the matters. The 2019 case is being prosecuted by Assistant U.S. Attorneys Christopher Browne and Elizabeth Young. The 2021 case was prosecuted by Assistant U.S. Attorney Lacey Monk. Assistant U.S. Attorney Marx Calderon is responsible for the asset forfeiture component of both cases.

The CARES Act is a federal law enacted on March 29, 2020, designed to provide emergency financial assistance to the millions of Americans who are suffering the economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was the authorization of hundreds of billions of dollars in forgivable loans to small businesses for job retention and certain other expenses, through the PPP.

The PPP allows qualifying small businesses and other organizations to receive loans with a maturity of two years and an interest rate of 1%. PPP loan proceeds must be used by businesses on payroll costs, interest on mortgages, rent, and utilities. The PPP allows the interest and principal on the PPP loan to be forgiven if the business spends the loan proceeds on these expense items within a designated period of time after receiving the proceeds and uses at least a certain percentage of the PPP loan proceeds on payroll expenses.

The EIDL program is designed to provide economic relief to small businesses that are currently experiencing a temporary loss of revenue. EIDL proceeds can be used to cover a wide array of working capital and normal operating expenses, such as continuation of health care benefits, rent, utilities and fixed debt payments. If an applicant also obtains a loan under the PPP, the EIDL funds cannot be used as the same purpose as the PPP funds.

On May 17, 2021, the Attorney General established the COVID-19 Fraud Enforcement Task Force to marshal the resources of the Department of Justice in partnership with agencies across government to enhance efforts to combat and prevent pandemic-related fraud. The Task Force bolsters efforts to investigate and prosecute the most culpable domestic and international criminal actors and assists agencies tasked with administering relief programs to prevent fraud by, among other methods, augmenting and incorporating existing coordination mechanisms, identifying resources and techniques to uncover fraudulent actors and their schemes, and sharing and harnessing information and insights gained from prior enforcement efforts. For more information on the Department's response to the pandemic, please visit <https://www.justice.gov/coronavirus>.

Anyone with information about allegations of attempted fraud involving COVID-19 can report it by calling the Department of Justice's National Center for Disaster Fraud (NCDF) Hotline at 866-720-5721 or via the

NCDF Web Complaint Form at: <https://www.justice.gov/disaster-fraud/ncdf-disaster-complaint-form>.

A copy of this press release may be found on the website of the United States Attorney's Office for the Southern District of Florida at www.usdoj.gov/usao/fla.

Related court documents and information may be found on the website of the District Court for the Southern District of Florida at www.flsd.uscourts.gov or at <http://pacer.flsd.uscourts.gov>.

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