

ORIGINAL

Approved:

Dina McLeod
DINA MCLEOD
Assistant United States

Before: HONORABLE BARBARA C. MOSES
United States Magistrate Judge
Southern District of New York

18 MAG . 4090

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UNITED STATES OF AMERICA

: SEALED COMPLAINT

- v. -

: Violations of
: 18 U.S.C. §§ 1344 and 2

MOSHE BENENFELD,
a/k/a "Michael Benenfeld,"

: COUNTY OF OFFENSE:
: New York

Defendant.

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SOUTHERN DISTRICT OF NEW YORK, ss.:

MEGHAN AYERS, being duly sworn, deposes and says that she is a Postal Inspector with the U.S. Postal Inspection Service, and charges as follows:

COUNT ONE
(Bank Fraud)

1. From in or about 2004 up to and including in or about 2016, in the Southern District of New York and elsewhere, MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, willfully and knowingly did execute, and attempt to execute, a scheme and artifice to defraud a financial institution, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institution, by means of false and fraudulent pretenses, representations and promises, to wit, BENENFELD, while employed by a financial institution, engaged in unauthorized transactions with customer bank accounts.

(Title 18, United States Code, Sections 1344 and 2.)

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

2. I have been personally involved in the investigation of this matter. This affidavit is based upon my conversations with law enforcement agents, witnesses and others, as well as 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.

OVERVIEW OF THE CHARGES

3. As set forth more fully below, at all times relevant to this Complaint, MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, was a bank employee. During the charged time period, BENENFELD was employed first at one bank ("Bank-1"), then another bank ("Bank-2"). Beginning in or about 2004 and continuing into 2016, while employed at Bank-1, BENENFELD repeatedly conducted unauthorized transactions involving the accounts of bank customers. Among other things, BENENFELD made unauthorized draws on, and payments to, customers' lines of credit; made unauthorized withdrawals from, and deposits to, customers' deposit accounts; and used customers' deposit accounts as collateral for other customers' lines of credit, without authorization. In or about April 2016, after having discovered BENENFELD's conduct, Bank-1 terminated BENENFELD's employment. In or about June 2016, BENENFELD was hired by Bank-2. At Bank-2, BENENFELD continued to conduct unauthorized transactions involving customer accounts. BENENFELD was terminated by Bank-2 in or about October 2017. As a result of the unauthorized transactions conducted by BENENFELD, Bank-1 suffered millions of dollars in losses.

BENENFELD'S EMPLOYMENT AT BANK-1

4. From my review of bank and personnel records obtained from Bank-1, I have learned, among other things, the following:

a. In or about September 1997, MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, was hired by Bank-1 to work as an assistant manager at a branch located in Brooklyn. In or about September 2000, BENENFELD was promoted to the position of Branch Manager.

b. In or about April 2016, Bank-1 terminated BENENFELD's employment.

5. From my interviews of customers of Bank-1, my review of sworn affidavits from customers of Bank-1, and my review of documents provided by Bank-1, I have learned, among other things, that MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, engaged in hundreds of unauthorized transactions involving over twenty customer accounts between at least in or about 2004 and in or about 2016, examples of which are set forth below.

VICTIM-1

6. Based on my review of bank records relating to the Bank-1 accounts of a certain bank customer ("Victim-1"), sworn affidavits of Victim-1, and an interview with Victim-1, I have learned the following:

a. Between in or about 2010 and in or about 2016, MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, conducted over 250 unauthorized transactions involving the bank accounts of Victim-1 and Victim-1's late spouse (collectively, the "Victim-1 Transactions"). In addition, Victim-1's bank accounts were used, without authorization, to collateralize, or "hypothecate," lines of credit for other bank customers.

b. For example, between in or about 2012 and 2016, checks made out to Victim-1's bank account were instead deposited in the bank accounts of various family members of MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, including the bank accounts of BENENFELD's wife and daughter (collectively, the "Victim-1 Checks"). The Victim-1 Checks totaled approximately \$19,500.

c. As another example, between in or about 2010 and 2014, money was repeatedly withdrawn from one of Victim-1's bank accounts and deposited into the account for a company owned by BENENFELD's wife. Those withdrawals totaled approximately \$53,600.

d. Victim-1's bank accounts were used to hypothecate lines of credit for other bank customers. In or about 2004, one of Victim-1's bank accounts was pledged as collateral for a \$68,000 line of credit extended to BENENFELD's parents ("LOC-1"). In or about 2004, and again in or about 2007, several of

Victim-1's bank accounts were pledged as collateral for lines of credit extended to another bank customer ("LOC-2" and "LOC-3").

7. Based on an interview with Victim-1, I have learned the following, set forth in part and in sum and substance:

a. MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, is a relative of Victim-1.

b. BENENFELD was the only person Victim-1 interacted with at Bank-1.

c. Victim-1 did not authorize any of the Victim-1 Transactions.

d. Neither Victim-1 nor Victim-1's late spouse authorized the use of any of Victim-1's bank accounts as collateral for any lines of credit.

e. Victim-1 has reviewed the documentation underlying the Victim-1 Transactions and the unauthorized hypothecation of Victim-1's bank accounts.

f. Victim-1 did not sign any of the withdrawal slips, checks, or instructions that gave rise to the Victim-1 Transactions and did not sign any hypothecation agreement. According to Victim-1, any signature purporting to be Victim-1's signature or the signature of Victim-1's late spouse on any such document is a forgery.

g. When Victim-1 asked BENENFELD for copies of Victim-1's monthly account statements, BENENFELD told Victim-1, in sum and substance, "I will take care of your accounts." BENENFELD did not provide Victim-1 with monthly account statements.

h. On several occasions, Victim-1 attempted to cash a check at a bank and was told by that bank that there was not enough money in Victim-1's account. When Victim-1 questioned BENENFELD about this issue, BENENFELD told Victim-1, in sum and substance, that the problems were caused by computers and that Victim-1 was "living in the last century."

i. In or about April 2016, Victim-1 received a letter from Bank-1 informing Victim-1 that Victim-1's accounts had been used to hypothecate lines of credits for other bank customers. After learning of the contents of the letter, a

relative of Victim-1 ("Relative-1") called BENENFELD directly. BENENFELD told Relative-1, in sum and substance, that someone was "framing" him. When Victim-1 spoke to BENENFELD about the letter, BENENFELD told Victim-1, in sum and substance, that other people were jealous of him and wanted his job.

9. Based on my review of interview memoranda and communications with legal counsel for Bank-1, I have learned the following:

a. On multiple occasions in 2016, BENENFELD, with his counsel present, was interviewed by attorneys for Bank-1.

b. In an interview that took place on or about September 1, 2016, BENENFELD stated that the use of Victim-1's bank accounts to collateralize LOC-2 and LOC-3 was authorized by Victim-1's late spouse.

c. BENENFELD admitted that the use of Victim-1's bank accounts to collateralize LOC-1, which was extended for the benefit of BENENFELD's parents, was not authorized.

VICTIM-2 and VICTIM-3

2. Based on my review of Bank-1 records relating to two married bank customers ("Victim-2" and "Victim-3"), sworn affidavits of Victim-2 and Victim-3, and an interview with Victims-2 and -3, I have learned the following:

a. Between in or about 2015 and in or about 2016, MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, conducted over a dozen unauthorized transactions involving a secured line of credit in the amount of \$350,000 ("LOC-4") opened by Victims-2 and -3 (collectively, the "Victims-2 and-3 Transactions").

b. For example, on or about October 23, 2015, \$40,000 was withdrawn from LOC-4 and deposited in the bank account of another bank customer ("Bank Customer-1"). The withdrawal ticket that effected this transaction bears what purports to be the signature of Victim-2.

c. LOC-4 was secured by a bank account belonging to another bank customer ("Bank Customer-2").

3. Based on an interview with Victims-2 and-3, I have learned the following, set forth in part and in sum and substance:

a. Victims-2 and -3 are social acquaintances of MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, and have known BENENFELD for many years.

b. BENENFELD assisted Victims-2 and -3 in completing the paperwork to open LOC-4.

c. Victims-2 and -3 believed that LOC-4 was secured by their home equity, not by the bank account of Bank Customer-2.

d. Victims-2 and -3 do not know Bank Customer-1 or Bank Customer-2.

e. Victims-2 and-3 did not authorize any of the Victims-2 and-3 Transactions.

f. Although the signatures of Victims-2 and-3 appear on some of the documents effectuating the Victims-2 and-3 Transactions, neither Victim-2 nor Victim-3 saw, signed or authorized those documents. According to Victims-2 and -3, any signature of Victim-2 or Victim-3 that appears on those documents was placed there fraudulently or was forged.

g. Victim-3 occasionally signed blank withdrawal slips and gave them to BENENFELD.

4. Based on my review of interview memoranda and communications with legal counsel for Bank-1, I have learned the following:

d. On multiple occasions in 2016, BENENFELD, with his counsel present, was interviewed by attorneys for Bank-1.

e. In an interview which took place on or about August 17, 2016, BENENFELD stated that all payments from Victims-2 and -3 to Bank Customer-1 were unauthorized. BENENFELD stated that he had conducted those unauthorized transactions because he wanted to maintain a positive customer relationship with Bank Customer-1.

f. BENENFELD admitted that he had used a signed pledge agreement from another LOC that Bank Customer-2 had legitimately hypothecated to falsely hypothecate LOC-4 for Victims-2 and -3.

g. BENENFELD admitted that certain of the other Victims-2 and -3 Transactions were also unauthorized.

h. All LOCs over \$100,000 must be approved by Bank-1 employees in a Bank-1 branch located in Manhattan.

i. The LOC agreement for LOC-4 is signed by, among other individuals, an executive of Bank-1, whose office location is noted as Bank-1's 42nd Street location in Manhattan.

j. All LOC payments are serviced through a Bank-1 branch located in Manhattan.

k. As a result of the repeated unauthorized transactions conducted by BENENFELD, Bank-1 suffered a loss of approximately \$5.3 million.

BENENFELD'S EMPLOYMENT AT BANK-2

5. From my review of bank and personnel records obtained from Bank-2, I have learned, among other things, the following:

a. On or about June 20, 2016, MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, was hired by Bank-2 to work as an Associate Group Director at a Bank-2 branch located in Brooklyn.

b. On or about October 31, 2017, Bank-2 terminated BENENFELD's employment.

6. From my interviews of customers of Bank-2, my communications with employees of Bank-2, and my review of documents provided by Bank-2, I have learned, among other things, that MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, engaged in unauthorized transactions involving several customer accounts between at least in or about June 2016 and in or about October 2017, an example of which is discussed in further detail below.

VICTIM-4

7. Based on my review of bank records relating to the Bank-2 accounts of a certain bank customer ("Victim-4"), my communications with employees of Bank-2, and an interview with Victim-4, I have learned the following:

a. Between in or about September 2016 and in or about June 2017, Victim-4 gave MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, eight checks for deposit into Victim-4's bank account (collectively, "the Victim-4 Checks"). Together, the Victim-4 Checks totaled approximately \$16,046.

b. The Victim-4 Checks were never deposited into Victim-4's bank account. Instead, the Victim-4 Checks were cashed via the teller line at the Bank-2 branch where BENENFELD worked.

8. Based on my review of text messages and email communications between MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, and Victim-4 or Victim-4's spouse, I have learned the following, set forth in part and in sum and substance:

a. Victim-4 began inquiring with BENENFELD as to the Victim-4 Checks at least in or about June 2016 and continuing through October 2017.

b. BENENFELD provided various responses to Victim-4, including, in sum and substance, "I may have made an error with the account number," "They were not processed correctly," "I will check," and "Will advise."

c. Through November 2017, BENENFELD continued to send communications to Victim-4 and Victim-4's spouse that indicated that he was still employed by Bank-2.

d. For example, on or about November 18, 2017, weeks after BENENFELD had been terminated by Bank-2, Victim-4 sent BENENFELD a text message inquiring as to the status of one of the Victim-4 Checks. BENENFELD responded, in part, "It went through our back office because they saw it. I will deal with it first thing Monday."

9. Based on my review of video footage provided by Bank-2 and my communications with employees of Bank-2, I have learned the following:


a. The Victim-4 Checks were cashed via the teller line of the Bank-2 branch where MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, worked, on eight different dates between May 2017 and September 2017.

b. At the time of Victim-4's complaint, the only video footage still available for review related to the cashing

of the last check on or about September 20, 2017 ("Check Eight").


c. Based on a review of that video footage, I have learned that Check Eight was presented at the teller line by BENENFELD. Victim-4 was not present at the time the check was cashed.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of MOSHE BENENFELD, a/k/a "Michael Benenfeld," the defendant, and that he be arrested and imprisoned or bailed, as the case may be.



MEGHAN AYERS
Postal Inspector
U.S. Postal Inspection Service

Sworn to before me this
14th day of May, 2018



THE HONORABLE BARBARA C. MOSES
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK