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AO 91 (Rev. 11/11) Criminal Complaint

AUSA Sunil R. Harjani (312) 353-9353

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED
FEB 12 2018
Magistrate Judge Sidney I. Schenkier
United States District Court

UNITED STATES OF AMERICA

v.

ATTILA GYULAI

CASE NUMBER: 18CR 096

MAGISTRATE JUDGE SCHENKIER

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

From on or about August 7, 2011 to on or about July 7, 2016, at Chicago, in the Northern District of Illinois, Eastern Division, the defendant violated:

Code Section	*Offense Description*
Title 18, United States Code, Section 1343	Defendant engaged in a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses representations, promises and concealment of material facts, and for the purpose of executing such scheme, caused to be transmitted by means of wire communication in interstate commerce, certain writings, signs, and signals, in violation of Title 18, United States Code, Section 1343.

This criminal complaint is based upon these facts:

X Continued on the attached sheet.

CORY JOHNSRUD
Special Agent, Federal Bureau of Investigation (FBI)

Sworn to before me and signed in my presence.

Date: February 12, 2018

Judge's signature

City and state: Chicago, Illinois

SIDNEY I. SCHENKIER, U.S. Magistrate Judge
Printed name and Title

UNITED STATES DISTRICT COURT)
)
NORTHERN DISTRICT OF ILLINOIS)

AFFIDAVIT

I, Cory Johnsrud, first being duly sworn under oath, hereby depose and state as follows:

1. I am a Special Agent of the Federal Bureau of Investigation ("FBI"), and I am assigned to its Chicago Division. I have been employed by the FBI as a Special Agent since approximately June 2017, during which time I have completed training in fraud investigation methods, financial analysis, and asset forfeiture. As a result, I am familiar with schemes involving the use of false statements to defraud investors. I am currently assigned to an FBI squad dedicated to the investigation of federal wire and mail fraud offenses, as well as related financial crimes.

2. The information contained in this affidavit is based upon my personal knowledge, as well as information provided to me by other law enforcement officers. It is also based upon my review of subpoenaed records, records obtained without the use of a subpoena, and on information provided to me by non-law enforcement personnel. Because this affidavit is submitted for the limited purpose of establishing probable cause, it does not set forth each and every fact that I have learned during this investigation.

3. This affidavit is made for the limited purpose of establishing probable cause to support a criminal complaint alleging that, from in or about August 2011 and continuing through in or about July 2016, ATTILA GYULAI engaged in a scheme to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, promises and concealment of material facts, and, for the purpose of executing such scheme, caused to be

transmitted by means of wire communication in interstate commerce certain writings, signs, and signals, in violation of Title 18, United States Code, Section 1343 (wire fraud).

4. As further stated below, there is probable cause to believe that GYULAI engaged in a scheme to defraud the minority shareholders in Our Sangha, LLC d/b/a Embeya restaurant by making false statements and representations about his use of shareholder funds and the revenue from the operation of the restaurant. Specifically, there is probable cause to believe that GYULAI misappropriated Embeya's funds for his own personal benefit, and not for the operation of the restaurant.

FACTS ESTABLISHING PROBABLE CAUSE

5. Embeya was a modern Asian restaurant located at 564 West Randolph Street, Chicago, Illinois 60661. Our Sangha, LLC was the corporate entity that operated Embeya restaurant. According to Illinois Secretary of State records, Our Sangha was incorporated on or about October 17, 2011 and its registered agent was GYULAI.

6. Since approximately July 2017, the FBI has conducted an investigation based on allegations that GYULAI misappropriated company funds from Embeya restaurant. This investigation has included, among others things, a review of company documents, bank and credit card account records, and interviews of witnesses. As a result of the investigation, and as further detailed below, there is probable cause to believe that GYULAI has engaged in a wire fraud scheme, in violation of Title 18, United States Code, Section 1343.

Information Obtained from Shareholder A

7. On or about August 18, 2017 and on or about October 17, 2017, I interviewed Shareholder A and his wife. From approximately 2012 through 2015, Shareholder A was the

Executive Chef at Embeya restaurant and a minority shareholder in Our Sangha. According to Shareholder A, he and GYULAI met when they worked together at the Elysian Hotel in Chicago. GYULAI was a manager and Shareholder A was a sous chef for the hotel restaurant. When Shareholder A learned that the owners of the Elysian Hotel were looking to sell the hotel, Shareholder A and GYULAI discussed opening an Asian restaurant in Chicago.

8. According to Shareholder A, in order to start the restaurant, he and GYULAI prepared a business plan and also leased space at 564 W. Randolph Street in Chicago. Shareholder A and GYULAI also executed an Operating Agreement for Our Sangha on or about April 19, 2012. Shareholder A stated that the Operating Agreement identified the owners of Our Sangha as Class A shareholders. GYULAI was a 46.5% owner of Our Sangha and GYULAI's wife was a 10% owner, which together made them the majority owners of Our Sangha. According to Shareholder A, GYULAI was given the largest percentage of equity because he had developed the business plan, had experience in the industry, and would provide a majority of the start-up capital necessary to open the business. Shareholder A was a 15.5% owner and his brother, Shareholder B, was a 28% owner.

9. According to Shareholder A, around the same time the Operating Agreement was drafted, GYULAI and Shareholder A obtained a Small Business Association loan from Ridgestone Bank (n/k/a Byline Bank)[1] in the amount of approximately $985,000. Shareholder B was also a borrower and guarantor of the loan. According to Shareholder A, while he signed the loan documents, he found out later that the loan documents prepared by GYULAI stated that Shareholder B's properties had been pledged as collateral for the loan. According to Shareholder

[1] The Small Business Administration loan was originally obtained from Ridgestone Bank. On or around June 9, 2016, Byline Bank acquired Ridgestone Bank. Byline Bank currently owns the loan.

A, GYULAI gave him the loan documents to sign, and he signed where GYULAI had indicated, but did not fully comprehend the loan documents. According to Shareholder A, GYULAI did not inform him that his brother's properties would be pledged as collateral for the loan.

10. In addition, GYULAI, Shareholder A, and others were listed as Class B shareholders in the Our Sangha Operating Agreement. According to Shareholder A, he and GYULAI decided they would need $500,000 in working capital for the restaurant, and having working capital was also necessary to obtain the Ridgestone bank loan. According to Shareholder A, working capital referred to money that would be used to purchase restaurant supplies, equipment, furnishings, or pay for unexpected expenses during the start-up of the business when there was a cash shortfall at the restaurant. GYULAI was to provide and raise a total of $300,000, and Shareholder A was to provide and raise a total of $200,000 from family and friends. All contributors of funds towards the $500,000 would become Class B shareholders. Each percentage ownership of Class B shares was worth $5,000. According to Shareholder A, he and GYULAI managed to invest and raise the $500,000 to start Embeya, and the Class B shareholders were identified in the Operating Agreement. This $500,000 was placed in escrow at the outset and was used as collateral to obtain the Ridgestone Bank loan.

11. According to Shareholder A, Embeya opened in September 2012 with great success and excellent reviews by dining critics. GYULAI operated the front of the house, GYULAI's wife was the Director of Marketing, Shareholder A was the Executive Chef, and Shareholder A's wife ran the bar and beverage program.

12. According to Shareholder A, although Embeya was successful, he and his wife became suspicious of GYULAI after some time. GYULAI refused to allow Shareholder A or his

wife to review Embeya's general ledger in order to examine Embeya's financial condition. He also saw GYULAI and his wife take lavish personal vacations and wear expensive clothing during Embeya's operation.

13. According to Shareholder A, when his wife began asking for more financial information, GYULAI excluded her from meetings. In particular, Shareholder A stated that his wife discovered that the restaurant had $3 million in gross revenue during the first ten months of operation, but neither Shareholder A nor his brother had received any net profits or distributions as Class A shareholders. After confronting GYULAI with this fact, Shareholder A stated that his wife was fired from her restaurant position by GYULAI in 2014.

14. Furthermore, Shareholder A stated that, on multiple occasions, he confronted GYULAI about why he had not received any profits or distributions in accordance with the Operating Agreement. According to Shareholder A, on those occasions, GYULAI stated that there was not enough money coming in to the restaurant to make those payments.

15. According to Shareholder A, in or about January 2015, after returning from an overseas trip, GYULAI fired Shareholder A, and removed his name from company records and as an authorized signor on the restaurant's business accounts. GYULAI also called the police to remove Shareholder A from the premises.

16. After he was fired, Shareholder A filed a lawsuit in the Circuit Court of Cook County, Illinois against Our Sangha and GYULAI for the approximately $90,000 of unpaid wages that Shareholder A stated he was owed. Through the civil discovery process, Shareholder A stated that he obtained substantial financial information that showed GYULAI misappropriated funds from Embeya.

17. First, Shareholder A stated that he discovered that GYULAI and his wife did not put up any of their own funds for their 28% in Class B ownership and that he borrowed the funds from family and friends. According to Shareholder A, after receiving back some of the funds held in escrow in 2013, GYULAI almost immediately used the funds held in escrow at Ridgestone Bank to pay back his family members and friends the money they provided to GYULAI. According to Shareholder A, GYULAI concealed these payments from him, and Shareholder A's friends and family who were also Class B Shareholders. In addition, according to Shareholder A, approximately one year later, Shareholder A and GYULAI purportedly paid back himself and all Class B shareholders the total initial investment of approximately $500,000. At that time, Shareholder A and GYULAI discussed and decided to pay back the initial investment to all the Class B Shareholders. According to Shareholder A, however, this resulted in GYULAI being paid as a Class B shareholder when he had not invested any funds in the business, and had paid back his family and friends that helped fund his portion of the Class B contributions. GYULAI concealed this payment of $140,000 to him and his wife from Shareholder A and the other Class B shareholders.

18. Second, Shareholder A stated that he discovered that GYULAI was using company funds to pay personal expenses. Specifically, Shareholder A stated that GYULAI would take money from Embeya's business bank account, deposit it into his personal Chase bank account, and then pay his personal expenses such as plane tickets, credit card bills, cell phone bills, his home mortgage, and a car lease, among other things. Moreover, according to Shareholder A, GYULAI wrote company checks to himself, which GYULAI then cashed. Shareholder A also stated he discovered that GYULAI withdrew $50,000 from Embeya's bank account in March

2014, deposited it into his personal account in March 2014, and then used those funds to open and trade stock in a personal E-Trade trading account beginning in May 2014.

19. Third, Shareholder A determined that GYULAI looted the remaining funds in the Embeya accounts when the restaurant closed. In or around 2016, Shareholder A discovered that Embeya was closing. Around the same time, Shareholder A and his wife discovered that GYULAI had sent, via wire transfer, approximately $100,000 from Embeya's business bank account to his personal account. GYULAI then wired approximately $100,000 to bank accounts in Canada. Shareholder A also learned that GYULAI and his wife had left the United States, had defaulted on their mortgage payments, and had abandoned their car on the street. Through reviewing additional bank records and their own investigation, Shareholder A and his wife learned that GYULAI had traveled to several different countries around the world after Embeya closed, including Canada, Mexico, and Hungary. At this time, Shareholder A does not know where GYULAI or his wife are currently residing and his attempts to contact them have been unsuccessful. According to Shareholder A, GYULAI and his wife have deactivated their social media accounts, and have not made any purchases or transactions using known credit cards or bank accounts.

20. Shareholder A has obtained, as of May 2017, an approximately $1.4 million default judgment in his civil lawsuit against Our Sangha and GYULAI on claims for breach of fiduciary duty, breach of contract, and conversion. According to Shareholder A, he and his brother are now solely responsible for the outstanding loan with Ridgestone Bank for almost $1 million, and his brother's properties, placed as collateral, were at risk of being foreclosed by Ridgestone Bank. Shareholder A and his brother have worked with the bank to make monthly payments on the loan

in order to save the properties and avoid defaulting on the loan.

21. According to Shareholder A, he did not receive his share of distributions as a minority shareholder commensurate with GYULAI's withdrawals from the Embeya bank account. Shareholder A stated that, even when Embeya was closing in or about 2016, GYULAI took the $100,000 left in the accounts for himself without any distributions to the other shareholders in Our Sangha, or consideration of the outstanding Ridgestone Bank loan.

Our Sangha Operating Agreement

22. I have obtained and reviewed a copy of the Our Sangha operating agreement dated April 19, 2012. The operating agreement identifies the Class A shareholders -- GYULAI as a 46.5% owner, Shareholder A as a 15.5% owner, Shareholder B as a 28% owner, and GYULAI's wife as a 10% owner. The operating agreement also includes an ownership schedule for Class B members, which include GYULAI, his wife, Shareholder A, Shareholder B, and family and friends of both GYULAI and Shareholder A. According to the Operating Agreement, each Class B share is worth $5,000. GYULAI and his wife were 28% Class B shareholders, which meant they purchased $140,000 in shares. Similarly, Shareholder A had 1% of Class B Shares, which meant he purchased $5,000 of Class B shares.

23. According to the Operating Agreement, the Class B shareholders were entitled to 80% of any distributions to the company prior to repayment of their initial investment; the Class A shareholders (including GYULAI and Shareholder A) were entitled to 20% of any distributions made by the company. After paying off the Class B shareholders their initial investment, the Class A members were entitled to 80% of any distributions and the Class B shareholders to 20% of any distributions.

24. Based on my review of the operating agreement, nothing in the agreement suggests that GYULAI was permitted to take distributions as a Class A or Class B shareholder without paying out the other shareholders in Our Sangha, LLC. Rather, the Operating Agreement states that any net profits or net losses of the LLC shall be distributed to the members (shareholders) according to their percentage ownership in Our Sangha, LLC. Further, according to the agreement, GYULAI, as the managing member, has discretion on when and how much to pay in distributions, but states that he "shall endeavor to make quarterly distributions to the Members."

25. In addition, the Operating Agreement also provides that, in the event of dissolution of the LLC, creditors would be paid first to satisfy the liabilities of Our Sangha, followed by distributions to Class A and Class B members in accordance with each shareholder's percentage ownership stake. According to Ridgestone Bank records, the $985,000 loan was still an outstanding liability of Our Sangha at the time that Embeya closed. The loan balance with Ridgestone Bank was approximately $464,885.19 as of September 15, 2017.

Information Obtained from Shareholder B

26. On or about September 28, 2017, and November 2, 2017, I conducted interviews of Shareholder B, who is a 28% minority shareholder in Our Sangha. Shareholder B stated that he is the brother of Shareholder A, and became involved in Embeya restaurant because of his brother. Shareholder B stated that, before the formation of the restaurant, he flew to Chicago in or about November 2011 and had dinner with GYULAI. At the dinner, they agreed that all three would be the owners of the new restaurant.

27. According to Shareholder B, GYULAI verbally told him that he and his brother (Shareholder A) would jointly have a 43% ownership in the new restaurant as Class A

shareholders. However, Shareholder B stated that he was not sent a full copy of the operating agreement for the restaurant, and thus did not have the opportunity to read the complete agreement. Shareholder B stated that GYULAI sent him only the pages of the operating agreement that he needed Shareholder B to sign to create the business. Because Shareholder B trusted GYULAI and GYULAI told Shareholder B that if he did not sign the documents, the restaurant opening would be delayed, he signed the pages that GYULAI needed him to sign without viewing the complete operating agreement.

28. Shareholder B stated that, in 2014, he attempted to sell one of his properties and learned that the property was actually pledged as collateral for the Our Sangha loan with Ridgestone Bank. He later learned that all three of his properties were being used as collateral for the Ridgestone loan. Shareholder B stated that GYULAI did not tell him that his properties were being used as collateral on the loan, and that if he had known this fact prior to investing in the business and signing the operating agreement and bank loan, he would not have agreed to use his properties as collateral.

29. Shareholder B also stated that, during Embeya's operation, he repeatedly asked GYULAI for copies of operational reports and profit and loss reports, but he was never provided them. In approximately 2014, Shareholder B flew to Chicago to meet with GYULAI and to obtain further detail about Embeya's finances, but he stated that GYULAI avoided him when he was in Chicago. At times when Shareholder B was able to talk to GYULAI, he asked him why no distributions were made to the owners of the company. According to Shareholder B, GYULAI stated that he had plans for the money at that time, including opening a patio at Embeya.

30. Shareholder B stated that he received one payment from his investment of Embeya

of approximately $70,000 in or about 2014, which he understood was a repayment of his initial cash investment.[2]

Information Obtained from Shareholder C

31. On or about October 25, 2017, I interviewed Shareholder C. Shareholder C is a relative of Shareholder A. According to Shareholder C, in or around 2010 or 2011, he was approached by Shareholder A to invest in a restaurant business. In or around 2012, Shareholder C invested $100,000 for the operation of Embeya.

32. Shareholder C stated that he received and reviewed the Operating Agreement from GYULAI, and executed the agreement with the understanding that he was an investor and would receive a portion of the profits when distributed. The Operating Agreement identifies Shareholder C as a 20% Class B shareholder.

33. Shareholder C stated that he often went to Embeya to dine, and stated that it was always busy. He stated that he asked GYULAI for financial reports of the business and a Form K-1, but GYULAI did not respond to his requests. In or around 2014, Shareholder C stated that he was repaid his initial investment of $100,000, but he did not receive any profit checks or distribution after that.

34. In or around 2015, Shareholder C learned that GYULAI had fired Shareholder A as the head chef and questioned GYULAI about it. According to Shareholder C, GYULAI stated that the restaurant only had $3 million in revenue whereas GYULAI expected to earn $5 million in revenue, so he fired Shareholder A.

35. Shareholder C stated that he learned through reading the newspaper that Embeya

[2] Financial records show that the Class A Shareholders, which were GYULAI, his wife, Shareholder A and Shareholder B, received only one distribution in or about December 2014 totaling $125,000

was closing. Shareholder C attempted to call GYULAI and his wife but could not reach them. Shareholder C explained that he did not receive any notice of the restaurant's closing and he did not receive any distributions at the time the restaurant closed.

Information Obtained from Shareholder D

36. According to the Operating Agreement, Shareholder D was a 2% shareholder in Our Sangha. On or about October 20, 2017, I interviewed Shareholder D. Shareholder D stated that she is the cousin of Shareholder A and invested $10,000 in Our Sangha in 2012. Shareholder D stated that she signed the Our Sangha Operating Agreement and understood that she was entitled to any distributions as one of the shareholders of the company.

37. According to Shareholder D, she went to Embeya approximately once or twice a week to eat and believed the restaurant was doing well as it was always crowded with diners. Shareholder D also stated that she asked GYULAI for the restaurant's financial reports but GYULAI never provided any.

38. According to Shareholder D, she received her $10,000 investment back in 2013 or 2014. After requesting it, Shareholder D also received a K-1 for 2014 in order to support her tax filing and payment of taxes on the capital gains distribution. The K-1 stated that Shareholder D had a profit distribution of approximately $3,000 for 2014. However, Shareholder D stated she never actually received distributions from Our Sangha, apart from her $10,000 initial investment. In 2015, Shareholder D stated that she attempted to withdraw as an investor. Shareholder D stated that GYULAI did not respond to her communications.

Financial Analysis of Embeya's and GYULAI's Accounts

39. The FBI has conducted a review of Embeya's and GYULAI's bank accounts, and

Embeya's general ledger. As part of the FBI's investigation, the FBI has obtained records for the MB Financial Bank business checking account in the name of Our Sangha, LLC (d/b/a Embeya). The bank produced records that showed, among other things, that this account was opened on or about December 6, 2011 and GYULAI, along with Shareholder A, were listed as authorized signers on the account. However, the FBI's investigation has revealed that GYULAI controlled the company bank account. According to Shareholder A, he stated that although he was listed as an authorized signer on the account, GYULAI controlled the restaurant's bank account and made all the financial decisions. Moreover, on checks issued by GYULAI, I recognize his signature on the check by comparing it to the signature on GYULAI's bank opening account records, loan documents, and the Operating Agreement. Moreover, in a civil deposition taken in Shareholder A's wage lawsuit on or about February 3, 2016, GYULAI testified that he authorized the checks for the return of the Class B shareholders investments, and for checks that he made payable to himself and his wife. Furthermore, on or about February 7, 2018, I interviewed Accountant A, who was the accountant for Embeya from in or about October 2012 through in or about October 2015. According to Accountant A, GYULAI controlled the business bank account and made all decisions on checks that were issued. In addition, the FBI has obtained and reviewed the personal bank account records for GYULAI and his wife, along with Embeya's general ledger, which identified the company's business transactions.

40. During this review, the FBI has determined that there is probable cause to believe that: (1) GYULAI misappropriated approximately $140,000 in funds when he paid back all Class B shareholders their initial capital investment; (2) GYULAI misappropriated approximately $65,000 in company funds for stock trading for his own personal benefit; and (3) GYULAI

misappropriated approximately $100,000 in company funds when Embeya closed its operations and effectively dissolved, leaving Shareholder A and Shareholder B responsible for the liabilities of Our Sangha, including the Ridgestone Bank loan.

Improper Shareholder Payments to GYULAI

41. The FBI's review of financial records has determined there is probable cause to believe that GYULAI misappropriated approximately $140,000 under the guise of paying himself and his wife back their initial capital investment as a Class B Shareholder.

42. On or about April 20, 2012, GYULAI and Shareholder A funded the Ridgestone Bank Escrow Account with approximately $486,806 in connection with the $985,000 loan discussed above. This deposit represented the funds from all the Class B shareholders that was necessary to obtain the loan and was placed in escrow with Ridgestone Bank. GYULAI's portion as a 28% Class B Shareholder, namely $140,000, was funded using money from his personal account that he had borrowed from family and friends, and was not funded with his own money. Indeed, from in or about August 2011 through in or about April 2012, GYULAI received at least $375,489 in his JP Morgan Chase personal account ending in 3530 from family and friends. The remainder of funds that went into escrow account came from the other Class B Shareholders, including Shareholder A and his family and friends who were identified as Class B Shareholders in the Operating Agreement.[3]

43. Between May 2013 and July 2013, GYULAI paid back approximately $147,578 to

3 Among the checks issued to fund the Ridgestone Bank escrow account was a check for approximately $67,000 from GYULAI's wife. However, it is likely that check was for GYULAI's father-in-law's investment as a Class B Shareholder, for which he owed approximately $60,000. Besides this check, the records do not show another transaction where GYULAI's father-in-law funded his contribution for his Class B ownership shares. Moreover, in a civil deposition in or about February 3, 2016, GYULAI testified that his father-in-law's investment likely was deposited in a personal account first before being transferred to the business account.

the family and friends who funded his Class B ownership interest in the restaurant using Embeya company funds. During the FBI's review of the financials, the FBI did not find any repayments of ownership interests to other Class B shareholders during the time frame of May 2013 through July 1, 2013.

44. After GYULAI paid the family and friends who funded his Class B ownership interest in the firm, as described above, between in or about March 2014 and in or about June 2014, GYULAI repaid the Class B Shareholders that were listed on the Operating Agreement approximately $450,000.[4] As part of this repayment, GYULAI and his wife received $140,000 purportedly as repayment of their initial capital investment as Class B Shareholders. However, as described above, GYULAI had borrowed those funds from family and friends to fund his and his wife's 28% Class B shares, and had already used company funds to pay them back in 2013. GYULAI and his wife were not entitled to a Class B repayment in 2014. Thus, GYULAI fraudulently misappropriated approximately $140,000 through the above transactions to the detriment of the other Class B shareholders.

Misappropriation of Company Funds by GYULAI

45. As part of the FBI's investigation, the FBI reviewed whether GYULAI misappropriated company funds during Embeya's operation to the detriment of all shareholders, including Shareholders A and B. There is probable cause to believe that GYULAI misappropriated at least $65,000 in company funds as follows:

[4] One Class B shareholder did not receive $50,000 that was owed to him. Financial records show that GYULAI issued the check to that shareholder, but then deposited the check into GYULAI's own account and used it for his own personal benefit.

a. First, GYULAI took approximately $50,000 in company funds and deposited it into a personal bank account at Fifth Third Bank. Specifically, on or about March 12, 2014, GYULAI issued a check from Embeya's business account at MB Financial Bank ending in 1346 made payable to ATTILA GYULAI in the amount of $50,000. Subsequently, on or about March 12, 2014, GYULAI deposited the $50,000 in his personal checking account ending in 7894 at Fifth Third Bank. On or about March 13, 2014, GYULAI then wired $50,000 to an individual at a bank located in Hungary.

b. Second, GYULAI took approximately $15,000 in company funds and deposited it into a personal bank account at Fifth Third Bank. Specifically, on or about March 21, 2014, GYULAI issued a check from Embeya's business account at MB Financial Bank ending in 1346 made payable to Cash in the amount of $15,000. Subsequently, on or about March 21, 2014, GYULAI deposited approximately $15,660 in his personal checking account ending in 7894 at Fifth Third Bank.

c. On or about March 21, 2014, GYULAI then wire transferred approximately $15,000 from his personal checking account to the same individual at a bank located in Hungary that GYULAI wired money to on or about March 13, 2014. On or about May 12, 2014, the individual located in Hungary then wired $64,000 back to GYULAI. On or about May 15, 2014, GYULAI made a $15,000 savings withdrawal from his Fifth Third Bank account ending in 7894 and wired approximately $55,000 to GYULAI's personal E-Trade account on or about May 19, 2014.

46. In summary, through the above series of transactions, GYULAI misappropriated approximately $65,000 from the company by sending the funds to his personal E-trade account and withdrawing $15,000 in cash.

47. From account and payroll records obtained, the FBI also determined that GYULAI and his wife received regular payroll deposits in their account through a payroll processing company as their compensation, and thus the transfers identified above were not part of their compensation. Specifically, the bank records showed that GYULAI and his wife received approximately $575,000 in regular direct deposits into their bank accounts from 2012 through 2016.

Misappropriation of Funds Near the End of Embeya's Operations

48. As part of the FBI's investigation, the FBI reviewed financial records to determine whether GYULAI misappropriated company funds before Embeya closed to the detriment of all other shareholders, including Shareholders A and B. As shown below, there is probable cause to believe that GYULAI misappropriated approximately $118,750 in company funds that were remaining in the company's account before leaving the United States, as follows:

a. First, GYULAI took approximately $15,000 in company funds and deposited it into a personal Etrade account. Specifically, on or about January 4, 2016, GYULAI issued a check from Embeya's business account at MB Financial Bank ending in 1346 and made it payable to Cash in the amount of $15,000. Subsequently, on or about January 4, 2016, GYULAI deposited the $15,000 in his personal checking account ending in 5665 at MB Financial Bank. On or about January 4, 2016, GYULAI wire transferred approximately $14,992.14 from that account to his personal account at E Trade Bank.

b. Second, GYULAI misappropriated $103,750 from Embeya's account and sent it to overseas accounts. Specifically, on or about June 3, 2016, GYULAI transferred approximately $103,750 from Embeya's MB Financial Bank account ending in 1346 to GYULAI and his wife's personal JP Morgan Chase account ending in 3530. On or about June 7, 2016, GYULAI made an international wire transfer from this account to an account located at Royal Bank of Canada in the amount of $20,000. In addition, on or about June 7, 2016, GYULAI made an international wire transfer from the account to a Toronto Dominion Bank account in the name of GYULAI's wife for approximately $80,000. Embeya closed its business on or about June 18, 2016.

49. At the time that GYULAI transferred out the $103,750 from the Embeya account, it represented a significant amount of the funds left in the account.

50. At the time that GYULAI withdrew these funds, the Ridgestone Bank loan was still outstanding.

Request for Issuance of a Complaint and Arrest Warrant

51. Based upon the foregoing information, there is probable cause to believe that, from in or about August 2011 and continuing through in or about July 2016, GYULAI devised, intended to devise and participated in a scheme to defraud, and to obtain money and property, namely at least $300,000, by means of materially false and fraudulent pretenses, representations and promises, and by concealment of material facts, and for the purpose of executing that scheme, and attempting to do so, caused to be transmitted by means of wire communication in interstate commerce, certain signs, sounds and signals. In particular, for the purpose of executing the aforesaid scheme, and attempting to do so, GYULAI knowingly caused to be transmitted an

international wire transfer from GYULAI's JP Morgan Chase bank account in the amount of $20,000 on or about June 7, 2016 to a Royal Bank of Canada account, in violation of Title 18, United States Code, Section 1343.

CONCLUSION

52. Based on the above information, I respectfully submit that there is probable cause to believe that wire fraud offenses, in violation of Title 18, United States Code, Section 1343, have been committed by GYULAI, and therefore respectfully request that this Court issue a criminal complaint and arrest warrant for GYULAI.

FURTHER AFFIANT SAYETH NOT.

Cory Johnsrud
Special Agent
Federal Bureau of Investigation

Subscribed and sworn before me this 12th day of February 2018, at Chicago, Illinois.

The Honorable Sidney I. Schenkier
United States Magistrate Judge
Northern District of Illinois