
**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA

v.

KURT PHELPS

:
: Hon. Leda Dunn Wettre
:
: Mag. No. 20-13484
:
: CRIMINAL COMPLAINT
:
: **FILED UNDER SEAL**

I, Victor Hernandez, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with the Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached pages and made a part hereof.

Victor Hernandez

Victor Hernandez, Special Agent
Federal Bureau of Investigation

*Special Agent Hernandez attested to this Complaint by telephone pursuant to FRCP 4.1(b)(2)(A).

Sworn to and subscribed via telephone,
This 28th day of October, 2020

Essex County, New Jersey
County and State

Honorable Leda Dunn Wettre
United States Magistrate Judge

Leda Dunn Wettre

Signature of Judicial Officer

ATTACHMENT A

Count 1
(Conspiracy to Commit Bank Fraud)

From in or around 2013 through in or around 2019, in the District of New Jersey and elsewhere, defendant

KURT PHELPS

knowingly and intentionally conspired and agreed with others to execute and attempt to execute, a scheme and artifice to defraud a financial institution, as defined in Title 18, United States Code, Section 20, namely Victim Bank-1, whose deposits were insured by the Federal Deposit Insurance Corporation, and to obtain monies, funds, credits, assets, securities, and other property owned by, and under the custody and control of, that financial institution, by means of materially false and fraudulent pretenses, representations, and promises, contrary to Title 18, United States Code, Section 1344.

In violation of Title 18, United States Code, Section 1349.

Count 2
(Bank Bribery)

From in or around 2013 through in or around 2019, in the District of New Jersey and elsewhere, defendant

KURT PHELPS

an officer, employee and agent of a financial institution, namely Victim Bank-1, did knowingly and corruptly solicit and demand for the benefit of a person, and corruptly accept and agree to accept, a thing of value exceeding \$1,000 from employees of Starnet, intending to be influenced and rewarded in connection with a business and transaction of Victim Bank-1.

In violation of Title 18, United States Code, Section 215(a)(2).

ATTACHMENT B

I, Victor Hernandez, am a Special Agent with the Federal Bureau of Investigation. I have conducted an investigation and discussed this matter with other law enforcement officers who have participated in this investigation and have knowledge of the following facts. Because this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts which I believe are necessary to establish probable cause. All dates and dollar amounts described in this affidavit are approximate and all conversations and statements described in this affidavit are related in substance and in part.

Relevant Individuals and Entities

1. At all times relevant to this Complaint:
 - a. Defendant KURT PHELPS was a resident of New Jersey. PHELPS was employed by Victim Bank-1 in New York, New York as a Senior Vice President.
 - b. “Victim Bank-1” was a federally insured financial institution with headquarters in Charlotte, North Carolina.
 - c. Starnet Business Solutions, Inc. was a New Jersey-based printing company, which also operated under the names Starnet Business Graphix, Inc. and Starnet Graphix, Inc. (“Starnet”).
 - d. Co-conspirator-1 (“CC-1”), Co-conspirator-2 (“CC-2”), and Co-conspirator-3 (“CC-3”) (together, the “Co-conspirators”) worked at Starnet.

The Scheme to Defraud

2. From in or around 2013 through in or around 2019, PHELPS conspired and agreed with others to carry out a scheme to defraud Victim Bank-1, PHELPS’s employer. As part of the scheme, PHELPS and the Co-conspirators obtained millions of dollars’ of credit for Starnet from Victim Bank-1 based on materially false and fraudulent pretenses, representations, and promises regarding the financial condition of Starnet. In addition, PHELPS solicited large cash bribes—tens of thousands of dollars at a time—from the Co-conspirators in connection with the fraud scheme.

3. In or around 2013, Starnet received a line of credit from Victim Bank-1 (the “Line of Credit”). PHELPS had a prior relationship with CC-2 and helped Starnet obtain the Line of Credit.

4. In connection with the Line of Credit, Starnet was required to submit financial information to Victim Bank-1 regularly. In order to maintain and increase the Line of Credit, PHELPS and the Co-Conspirators provided and caused to be provided false financial information to Victim Bank-1, such as inflated accounts receivable (“AR”) information.

5. PHELPS was aware that financial information Starnet provided to Victim Bank-1 in connection with the Line of Credit was materially false. In fact, PHELPS coached Starnet on how best to defraud Victim Bank-1 by providing guidance about the financial information submitted to Victim Bank-1.

6. Specifically, PHELPS instructed the Co-Conspirators to send draft financial information to him so that PHELPS could provide feedback on how the Co-Conspirators should falsify Starnet’s financial information before submission to Victim Bank-1. For example:

- a. On or about March 17, 2014, CC-2 text messaged PHELPS, “I have the preliminary numbers. Where should I send them.” PHELPS responded, “To me [sic] work email,” and then followed up by instructing CC-2 to “Send it to my personal email first.”
- b. On or about February 23, 2017, CC-2 sent PHELPS a text message stating, “I sent you an email. Please review.” PHELPS responded, “ARs seem a bit low?” Based on my training and experience and the investigation thus far, I understand that “AR” refers to accounts receivable. CC-2 asked, “Should I raise it?” PHELPS then instructed CC-2, “If you can raise a bit would br [sic] better [. . .] Up the receivable a bit [. . .] Couple hundred thousands [sic].” PHELPS told CC-2 to then “Send to me first [. . .].”
- c. Again, on or about April 10, 2017, CC-2 sent a text message to PHELPS, “I am going to send you the financials to your personal email today.” The next day, on or about April 11, 2017, PHELPS messaged CC-2, “Your A R are low.” CC-2 responded, “You sure? They cover the line.” PHELPS replied, “They do. But barely.” CC-2 asked, “So raise?” PHELPS replied, “Ah yea.”

7. PHELPS also worked to ensure that Victim Bank-1 did not detect the fraud scheme by helping Starnet avoid audits and other quality control measures employed by Victim Bank-1. PHELPS told the Co-conspirators that he was enlisting other employees of Victim Bank-1 to help him perpetuate the fraud. For example:

- a. On or about February 25, 2014, PHELPS text messaged CC-2, “Hey bud where are we with the financials. For the company.” CC-2 indicated that they should be done “soon.” PHELPS then

said, "This guy is retiring [. . .] Want to try to get you a line increase maybe [. . .] before he goes without an audit." During the course of the ongoing conversation, on or about March 3, 2014, PHELPS messaged CC-2 and said, "Get me the financials [sic] and let me see what I can do with or [sic] friend [. . .] I have an idea. But we need to get this done before he leave [sic]. Especially the no audit thing. You know what I mean."

- b. On or about April 4, 2014, PHELPS followed up and told CC-2 by text message, "OK we did it. No audit for two years unless company revenues drop 10% or more and or has a net loss [. . .]."
- c. On or about August 29, 2014, PHELPS text messaged CC-2 and said, "OK I found someone who is will the [sic] play. They said that they with [sic] get back to me next week. this is good news." Based on my training and experience and the investigation thus far, I understand that PHELPS was referring to trying to obtain the help of another employee of Victim Bank-1. On or about September 9, 2014, PHELPS followed up with CC-2 by text message and said, "I need your 6 month numbers asap but they need to be great."
- d. Similarly, on or about March 7, 2017, PHELPS text messaged CC-2 and said, "I am still wirking [sic] on getting the increase. There has been some internal shake ups and our guy may get fired." Later in the conversation PHELPS added, "Yea not good for him. dont worry i am ovoiding [sic] air cover for you." Based on my training and experience and the investigation thus far, I understand that PHELPS was referring to another employee of Victim Bank-1.

8. In connection with his participation in the fraud scheme described above, PHELPS solicited and accepted cash bribes from the Co-conspirators. CC-1 typically hand-delivered bribes to PHELPS in FedEx envelopes. PHELPS also told the Co-conspirators that he himself was paying cash bribes to other employees of Victim Bank-1 in order to carry out the fraud scheme. For that reason, PHELPS asked the Co-conspirators to divide the cash bribes between separate envelopes. Over the course of the scheme to defraud, the Co-conspirators paid PHELPS hundreds of thousands of dollars in cash bribes. For example:

- a. On or about April 4, 2014, PHELPS text messaged CC-2 that in exchange for avoidance of the audit, "[A]ss clown wants 14 [. . .] I said no. Got him to 10." Based on my training and experience and the investigation thus far, I understand that PHELPS was referring to a bribe payment of \$10,000, which according to

PHELPS, was for another employee of Victim Bank-1. Later in the conversation PHELPS told CC-2, “Make it 3. Even. So 13 all in [. . .].” Based on my training and experience and the investigation thus far, I understand that PHELPS was referring to a bribe payment for himself of \$3,000, resulting in a combined bribe payment of \$13,000. A few days later, on or about April 7, 2014, PHELPS again text messaged CC-2 and said, “Do it the same as last time. 3 in one envelope and 10 in another envelope put both into a fed ex envelope [. . .].”

- b. On or about October 19, 2017, PHELPS again text messaged CC-2 and said, “You will pay the full amount this Monday.” Later in the conversation, on or about October 20, 2017, CC-2 said by text message, “[CC-1] will meet you [..].” PHELPS replied, “I will be with other people [. . .] I am not sure how this is going to look with me taking it and juat [sic] walking away.” PHELPS later said, “I will have one of my assistants come down and [CC-1] can give it to him as long as you can divide it 20. In one and 25 in the other.” PHELPS later added, “Either way separate in two FedEx envelopes seal them with tape.” Based on my training and experience and the investigation thus far, I understand that PHELPS was referring to bribe payments of \$20,000 in one envelope and \$25,000 in another envelope.

9. PHELPS also told the Co-conspirators that he orchestrated similar fraud schemes with other clients of Victim Bank-1 in addition to Starnet and that PHELPS could provide opportunities to commit similar frauds with financial institutions other than Victim Bank-1. For example:

- a. On or about June 6, 2017, PHELPS sent a follow up text message to CC-2 which said, “By the way this stuff [. . .] is what has kept you and the other three clients in their current status.” Based on my training and experience and results of the investigation, I understand that PHELPS was referring to bribe payments.
- b. On or about April 22, 2019, PHELPS text messaged CC-1 and said, “Hey I have a connect at a finance company I am working with for special VIP clients of mine. Letting you know right off the bat this will cost you 100. Could try to get you 8.5MM line [. . .] another client of mine was approved for a 7.5 line with them [. . .] It cost him 100. Limited time on this. Call me ASAP.” Based on my training and experience and the investigation thus far, I understand that PHELPS was referring to the payment of a \$100,000 cash bribe in connection with a potential credit opportunity with another financial institution.

10. As a result of the scheme to defraud, Victim Bank-1 not only allowed Starnet to maintain the Line of Credit, Victim Bank-1 increased the Line of Credit available to Starnet at various points in time. By in or around 2018, the Line of Credit available to Starnet was worth approximately \$8 million. Repayment of the Line of Credit became due in 2019, and Starnet has not repaid it.