

DCP:DGR/DAS
F. #2022R00860

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

TO BE FILED UNDER SEAL

UNITED STATES OF AMERICA

- against -

AURELIEN MICHEL,

Defendant.

----- X

COMPLAINT AND
AFFIDAVIT IN
SUPPORT OF
ARREST WARRANT

(18 U.S.C. §§ 1343, 2 and 3551 et seq.)

Case No. 23 MJ 7

EASTERN DISTRICT OF NEW YORK, SS:

KAYLA BLADES being duly sworn, deposes and states that she is a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations, duly appointed according to law and acting as such.

In or about and between December 2021 and December 2022, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant AURELIEN MICHEL, together with others, did knowingly and intentionally devise a scheme or artifice to defraud individual cryptocurrency holders in order to obtain money or property from them by means of one or more materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, did transmit or cause to be transmitted, by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds.

(Title 18, United States Code, Sections 1343, 2 and 3551 et seq.)

The source of your deponent's information and the grounds for her belief are as follows¹:

1. I am a Special Agent with the United States Department of Homeland Security, Homeland Security Investigations ("HSI") and have been for approximately two years. I have been involved in the investigation of numerous cases involving digital assets such as cryptocurrencies and non-fungible tokens ("NFTs"). I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file; and reports from, and conversations with, other law enforcement officers involved in the investigation.

Overview

2. Since in or about April 2022, the HSI Dark Web and Cryptocurrency Task Force has been investigating a scheme to defraud purchasers of "Mutant Ape Planet" NFTs, which, as discussed below, are a form of digital asset that can be purchased, sold, and transferred on the Ethereum blockchain. As reported by victims of the scheme, the developers of the Mutant Ape Planet NFTs executed a "rug pull," which is a colloquial term used to describe a scheme in which an NFT developer solicits funds from prospective NFT purchasers promising them certain benefits, and, once the purchasers' funds are used to purchase the NFTs, the developers abruptly abandon the project and fail to deliver the promised benefits while fraudulently retaining the purchasers' funds.

3. As part of the Mutant Ape Planet NFT scheme, the developers of the NFTs marketed them to purchasers by falsely claiming that, in exchange for transferring cryptocurrency

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

to purchase the NFT, purchasers would later receive benefits, including, among other things, rewards, raffles, exclusive access to other cryptocurrency assets, and the support of a community wallet with funds to be used to market the NFTs. In reality, soon after completing the sale of all Mutant Ape Planet NFTs, the defendant AURELIEN MICHEL, together with others, transferred approximately \$2.9 million of the purchasers' cryptocurrency to, among other places, wallets controlled by MICHEL.

Background on Digital Assets, Cryptocurrency and NFTs

4. Based on my training, experience, and participation in the investigation to date, I have learned the following concerning cryptocurrencies as relevant to the instant offense:

(a) A “cryptocurrency” is a digital or “virtual” currency that is circulated over the Internet as a form of value. Cryptocurrencies are created, and their transactions are verified and records maintained, by a decentralized system using cryptography, rather than through a centralized authority like a bank or government. Like traditional fiat currency, there are multiple types of cryptocurrency, such as Bitcoin, Ether, Litecoin, and Tether. Due to its decentralized nature and limited regulation, users of cryptocurrency can transfer funds over the blockchain more anonymously than would be possible through traditional banking and credit systems.

(b) Cryptocurrency owners typically store their cryptocurrency in digital “wallets,” which are identified by unique electronic “addresses.” Wallets allow cryptocurrency users to store and retrieve their digital assets and can hold multiple cryptocurrencies. Each digital wallet has a unique cryptographic address, which is used to facilitate transfers of cryptocurrency between wallet addresses. These types of cryptocurrency transactions are completed using (1) a “public key,” which is akin to a bank account number or public-facing email address, and (2) a corresponding “private key,” which is akin to a bank

account PIN or email password that allows a user the ability to access and transfer value or information stored at the public address. Users may transfer cryptocurrency to the public address represented as a case-sensitive string of letters and numbers, 26 to 36 characters long. Each public address is controlled and/or accessed through the use of a unique corresponding private key. Only the holder of an address's private key can authorize transfers of cryptocurrency from that address to another cryptocurrency address. A user may control multiple public blockchain addresses simultaneously.

(c) Each cryptocurrency transaction, regardless of the cryptocurrency denomination, is recorded on a public ledger commonly referred to as a "blockchain," which acts as an accounting ledger. Unlike a traditional bank's ledger, the transactions reflected in a blockchain are distributed across numerous participants that, together, form a network. For each cryptocurrency transaction occurring on a blockchain, the blockchain public ledger records, among other things, the following concerning the transaction: the date and time; the unique cryptocurrency addresses involved in the transaction, including the sending and receiving parties' address; and the amount of cryptocurrency transferred.

(d) The blockchain does not identify the parties who control the cryptocurrency addresses involved in a given transaction. However, because each cryptocurrency address is unique, law enforcement can review other transactions recorded on the blockchain related to the transfer and trace the flow of cryptocurrency. Tracing cryptocurrency to a particular user can be complicated, however, by a user's reliance on multiple cryptocurrency addresses to transfer funds or the use of "mixers," which, in practice, can be used to obscure the link between the sender and receiver of transferred cryptocurrency by commingling cryptocurrencies from multiple transferring parties into a pool before sending specific amounts on to an intended recipient.

5. Based on my training, experience, and participation in the investigation to date, I have learned the following concerning NFTs as relevant to the instant offense:

(a) An NFT is a unique digital item that is recorded on a blockchain and cannot be copied, substituted or subdivided. In other words, each NFT is a one-of-a-kind digital item. NFTs can also be transferred on the blockchain. Many NFTs exist as part of the Ethereum blockchain. Like cryptocurrencies, NFTs are uniquely identifiable on the blockchain. Once minted, an NFT can no longer be edited, modified or deleted.

(b) NFTs can be created in multiple forms, but one of the most common types of NFTs is an image data file, similar to a .jpeg image file. However, unlike a .jpeg image file, the NFT provides the owner with an electronic image and corresponding certificate of ownership. NFTs can also act as a “utility” token, allowing an NFT owner to access reward programs, giveaways, and access to other digital assets by virtue of their NFT ownership.

(c) NFTs are created through a process referred to as “minting” and relies on the use of a “smart contract.” A smart contract is a piece of computer code that runs on a blockchain. In simple terms, a smart contract is a program that automatically executes defined tasks when and if certain conditions are met. A smart contract system often follows “if . . . , then . . .” statements. For example, a smart contract might be coded to release electronic currency to a party automatically upon the occurrence of an agreed-upon event without the need for further action by either party to the contract. The minting of NFTs relies on smart contracts to govern the creation, sale, and any subsequent transfers of the NFTs after minting. NFT smart contract code is publicly viewable on the blockchain.

The Mutant Ape NFT Sale

6. In or about 2021, a number of NFT projects were launched on the Ethereum blockchain that involved the creation and sale of NFT digital images of cartoon apes, as shown in the image below that depicts ape NFTs from another project launched in 2021.



7. Throughout 2021, following the minting and marketing of multiple cartoon ape NFT projects, publicly-available pricing data reflected that there was a substantial increase in demand for ape-centered NFTs. This increased demand resulted in a substantial increase in price for certain ape NFTs.

8. Beginning in or about January 2022, accounts on social media platforms such as Twitter and Discord began advertising a new NFT project called “Mutant Ape Planet.” Social media posts described Mutant Ape Planet as a “derivative collection” of ape-centered NFTs, and they directed users to specific websites for more information about acquiring Mutant Ape Planet NFTs, including “mutantapeplanet.com” (the “MAP Website”) and a Discord channel for Mutant Ape Planet (the “MAP Discord”).

9. I have reviewed a copy of the MAP Website that was publicly available in or about January 2022, and I am aware that, among other things, it (i) describes Mutant Ape

Planet; (ii) describes the developers purportedly behind the project; and (iii) makes multiple representations concerning the purported benefits that holders of the Mutant Ape Planet NFTs would receive.

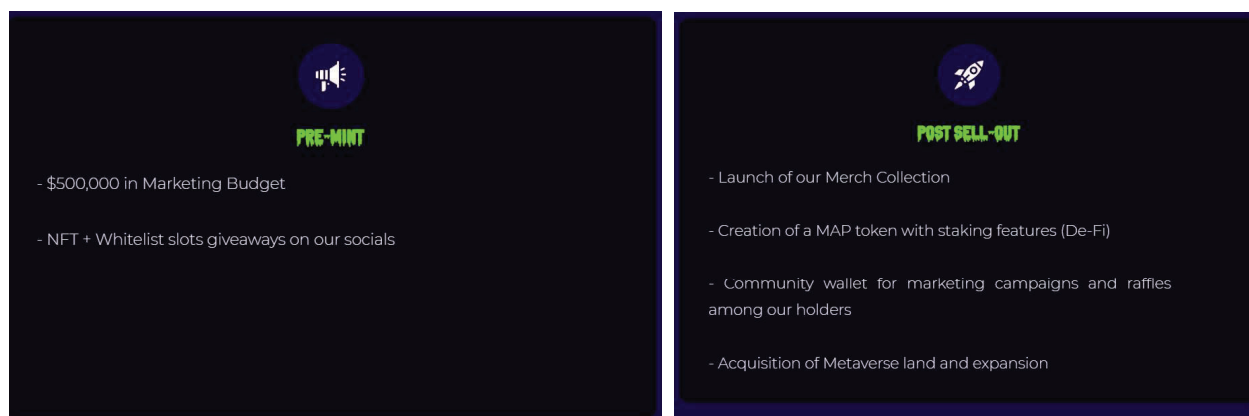
10. A “Project Explanation” page on the MAP Website stated that “The Mutant Apes Planet (MAP) is an NFT collection of 9,999 Mutant Ape Planet NFT with a community focus.” Examples of the Mutant Ape Planet NFTs were also advertised, as depicted in the image below from the MAP Website:



11. In a section on the MAP Website titled “Team,” an individual named “James” is described as the “Founder and Investor” for the Mutant Ape Planet project. Six other individuals were listed as part of the Mutant Ape Planet “Team.”

12. The MAP Website detailed how the Mutant Ape Planet NFTs would be minted and sold to purchasers. Among other things it stated that purchasers could obtain the NFTs via an initial sale that could be accessed on the Ethereum blockchain. There would be 9,999 Mutant Ape Planet NFTs created at a cost of 0.15 ETH each. Based on my training and experience, I understand that this amount constitutes a fraction of Ether or ETH, the native cryptocurrency on the Ethereum blockchain.²

13. As shown in the following screenshots, the MAP Website also detailed purported efforts that MAP Developers would undertake to support the Mutant Ape Planet NFT project and increase demand for the NFTs, and it also described benefits that Mutant Ape Planet NFT holders would receive for holding the NFT, as shown in the following screenshots:



14. Based on my participation in the investigation to date, including my review of the MAP Website and the “Road Map” set out above and my interviews of purchasers of Mutant Ape Planet NFTs, I am aware that the MAP Website described the following NFT features and benefits that Mutant Ape Planet NFT holders would receive:

² Based on my review of historical pricing information for ETH, in or about and between January 2022 and February 2022 ETH had an average closing price of \$2887.63 per unit of ETH.

(a) There was “\$500,000 in Marketing Budget” that would support the Mutant Ape Planet NFTs and increase demand (and thereby the value) of the Mutant Ape Planet NFTs.

(b) Developers would work on the “Launch of our Merch Collection,” which I understand to be a reference to the creation of Mutant Ape Planet merchandise.

(c) A “MAP token with staking features (De-Fi)” would be created. Based on my training and experience, I believe this was a reference to the creation of a Mutant Ape Planet cryptocurrency token distinct from the NFT that could be invested (or “staked”) on decentralized finance (“De-Fi”) applications. When “staking,” cryptocurrency investors lock their cryptocurrency and tokens with a third party, often for a fixed duration, in exchange for a fixed return. In or about 2022, certain staking platforms for cryptocurrencies offered investors above-market returns of ranging from 10% to more than 50% for more obscure digital tokens. The creation of a Mutant Ape Planet cryptocurrency token would offer an opportunity for NFT purchasers to execute similar staking trades with a Mutant Ape Planet token.

(d) There would be a “Community wallet for marketing campaigns and raffles among our holders.” Based on my training and experience, I believe that this was a reference to a wallet that would be created to hold cryptocurrency from the Mutant Ape Planet NFT minting process, which would, in turn, be used to market the Mutant Ape Planet NFTs. In addition, the MAP Website claimed that funds in the “community wallet” would be used for raffles exclusively for Mutant Ape Planet NFT holders.

(e) “Metaverse land” would be acquired and “expan[ded].” Based on my training and experience, I am aware that the metaverse is a virtual world designed to replicate various aspects of the real world. Within the metaverse, I am aware that individuals can acquire “property” (akin to a real estate acquisition in the real world) often using cryptocurrencies. I

further believe that the MAP Website was promising NFT purchasers that the developers would acquire virtual land in the metaverse that would further benefit the NFT purchasers.

15. Based on my training, experience, and participation in the investigation to date, including my interviews of purchasers of the Mutant Ape Planet NFTs, I am aware that they purchased one or more Mutant Ape Planet NFTs based on, among other things, the advertised benefits set out above. I am aware that one such purchaser (“Purchaser-1”) resides in the Eastern District of New York and accessed the representations via the MAP Website while in this District.

16. I am aware that potential purchasers also received representations concerning the Mutant Ape Planet NFTs via the MAP Discord. Based on my interview of purchasers who accessed the MAP Discord, I am aware that in communications sent over the MAP Discord, the Mutant Ape Planet developers promised to fund a community wallet for marketing, and would offer purchasers raffles, giveaways, “airdrops” and tokens with staking features.³

17. As set out below, the representations made on the MAP Website and in the MAP Discord were false. The purchasers of the Mutant Ape Planet NFTs did not receive any of the promised benefits set out above. Instead, the Mutant Ape Planet NFT project was a “rug pull,” and the purchasers’ funds were diverted, in part, for the benefit of the defendant AURELIEN MICHEL.

The Defendant’s Diversion of NFT Purchaser Funds

18. On or about February 4, 2022, public minting of Mutant Ape Planet NFTs began. On February 5, 2022, the Mutant Ape Planet Twitter account posted that “Phase 1 sold

³ Purchaser-1 also accessed these representations in the MAP Discord while in the Eastern District of New York.

out in 1 hour!” On or about February 8, 2022, public minting of Mutant Ape Planet NFTs completed.

19. Based on my review of blockchain data associated with the public mint, purchasers of newly-minted Mutant Ape Planet NFTs transferred the required Ethereum (approximately 0.15 ETH per NFT) to the address for the underlying smart contract (the “MAP Smart Contract Address”).⁴

20. Based on my participation in this investigation, my review of the Ethereum blockchain, including my review of the Mutant Ape Planet smart contract, and my discussions with other law enforcement officers, I have learned, among other things, the following, in sum, substance and in part:

(a) The Mutant Ape Planet smart contract code included a “release” function that, when executed by the smart contract owner, would automatically send funds held in the MAP Smart Contract Address to wallet addresses selected by the original smart contract owner. Here, the original Mutant Ape Planet smart contract owner, i.e., the purported developer of the NFT, specified two wallet addresses where the MAP Smart Contract Address funds could be sent by prospective purchasers. As discussed below, these two addresses were used as part of the fraudulent scheme (“Fraud Wallet Address-1” and “Fraud Wallet Address-2”).

(b) The original Mutant Ape Planet smart contract owner executed the “release” function in the contract on four separate occasions: once on or about February 1, 2022, twice on or about February 5, 2022, and once on or about February 9, 2022. On each of these occasions, funds were automatically transferred out of the MAP Smart Contract Address to Fraud Wallet Address-1 and Fraud Wallet Address-2. In total, between on or about February 1, 2022

⁴ On or about February 8, 2022, the price of one unit of ETH was \$3122.61. Accordingly, at launch, the Mutant Ape Planet NFTs cost approximately \$468 per NFT.

through February 9, 2022, approximately 1020.218 ETH, or approximately \$2,921,980 at the time, were withdrawn and transferred out of the MAP Smart Contract Address. The transferred ETH was evenly split between Fraud Wallet Address-1 and Fraud Wallet Address-2.

(c) Between on or about February 1, 2022 and February 5, 2022, in five separate transactions, a total of approximately 500 ETH, or approximately \$1,436,982 at the time, were withdrawn from Fraud Wallet Address-2 and sent to a commonly used “mixing service” (“Crypto Mixer 1”), an entity the identity of which is known to the affiant. Based on my training and experience, I know that Crypto Mixer 1 is an application that adds another layer of privacy and anonymity to transactions on the Ethereum blockchain.⁵

(d) Between on or about February 5, 2022 and May 5, 2022, a total of approximately 356.44 ETH, or approximately \$1,250,977, were withdrawn from Fraud Wallet Address-1 and Fraud Wallet Address-2 and transferred to a third cryptocurrency wallet address maintained at Crypto Exchange 1, an entity the identity of which is known to the affiant (“Fraud Wallet Address-3”).⁶

21. Based on my participation in the investigation to date, I am aware that one of the developers involved with the Mutant Ape Planet NFT project posted to the MAP Discord under the username “James | Founder”. On or about June 4, 2022, “James | FOUNDER” posted

⁵ Crypto Mixer 1 operates as a cryptocurrency transaction mixer, which scrambles the funds of multiple users together to anonymize the source. Once Ether is deposited into the Crypto Mixer 1’s application, it is combined with other Ether deposits, and Ether tokens are thereafter scattered to different cryptocurrency addresses when withdrawn. Based on my training and experience, I am aware that individuals transferring illicit funds, including fraud proceeds, can use Crypto Mixer 1 to try and ensure that any withdrawals from the Crypto Mixer 1 smart contract cannot be linked to the original depositing address.

⁶ Crypto Exchange 1 is one of the largest cryptocurrency exchange platforms, which allows Crypto Exchange 1 account holders to buy, store and trade different cryptocurrencies and maintain cryptocurrency wallets.

a message to users in the MAP Discord channel that stated in relevant part: “We never intended to rug but the community went way too toxic. I recognize that our behaviour led to this”

Based on my training, experience, and participation in the investigation to date, I believe that “James” was admitting to the members of the MAP Discord that the Mutant Ape Planet NFT project was, in fact, a rug pull scheme. He claimed that although they defrauded the purchasers they “never intended to” and blamed the “community” for being “toxic.”

Identification of MICHEL as the Perpetrator

22. Based on my participation of this investigation, my review of grand jury subpoena returns and my review of law enforcement databases, there is probable cause to believe that AURELIEN MICHEL, together with others, perpetrated the scheme described above.

23. On or about December 8, 2021, less than two months before the Mutant Ape Planet NFTs became available, Fraud Wallet Address-3 was set up at Crypto Exchange 1. The name associated with Fraud Wallet Address-3 was “Aurelien Alexandre Michel.” The listed mobile telephone number for the account was a number in the United Arab Emirates (“UAE”) (the “UAE Phone Number”), and the email address was business.aurelien@gmail.com. In addition, Crypto Exchange 1 captured Know Your Customer (“KYC”) information for the account, which included a UAE Resident Identity Card in the name of “Aurelien Alexandre Michel,” bearing a photograph of an individual that, as set out below, I recognize to be the defendant AURELIEN MICHEL.

24. On December 1, 2021, approximately one week before registering the Fraud Wallet Address-3 at Crypto Exchange 1, the defendant AURELIEN MICHEL filled out an Electronic System for Travel Authorization (“ESTA”) application, which authorizes certain foreign travelers to enter the United States. On his ESTA application, MICHEL listed his phone number as the UAE Phone Number, which is the same number that was registered with Crypto

Exchange 1 for Fraud Wallet Address-3. In addition, MICHEL listed business.aurelien@gmail.com as his personal email account on his ESTA application. I have also reviewed photographs captured during MICHEL's previous entries into the United States, and it matches the individual pictured in the KYC document for the Fraud Wallet Address-3 account.

25. Based on my participation in the investigation to date, I have also learned that business.aurelien@gmail.com is registered to the defendant AURELIEN MICHEL, and the recovery phone number for the account is the UAE Phone Number. In addition, the recovery email address for the account is aurelien.michel22@gmail.com, which was listed by MICHEL as his personal email account on his prior ESTA application, which was updated to include this email address in May 2021. The billing address associated with both the business.aurelien@gmail.com and aurelien.michel@gmail.com email addresses are in Dubai, UAE.

26. In addition, the aurelien.michel22@gmail.com email account was used to set up a Twitter account with username "@aurelienmichou," which account was created in 2014 and accessed at least as recently as October 2022. Based on my review of a profile photograph posted to the @aurelienmichou Twitter account, I recognize the individual depicted in the photograph to be the defendant AURELIEN MICHEL.

27. As set out above, I am aware the defendant AURELIEN MICHEL has a UAE resident card and telephone number. Based on information gathered in my investigation to date, Fraud Wallet Address-1, Fraud Wallet Address-2 and Fraud Wallet Address-3 were accessed

via Internet protocol (“IP”) addresses⁷ that, according to publicly available records, were all assigned by a single United Arab Emirates-based telecommunications provider (the “UAE Provider”).

28. The Discord user “James | FOUNDER,” who wrote on the MAP Discord that he “never intended to rug but the community went way to toxic” and that his “behaviour led to this,” accessed Discord servers using IP addresses that were all assigned by the UAE Provider.

29. In addition, the December 2021 ESTA application was submitted via an IP address assigned by the UAE Provider; both the business.aurelien@gmail.com and the aurelien.michel22@gmail.com were accessed from IP addresses assigned by the UAE Provider; and the @auriienmichou Twitter account was accessed from IP addresses assigned by the UAE Provider.

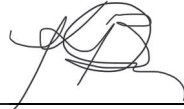
30. Based on the foregoing information, I believe that AURELIEN MICHEL engaged in the fraudulent conduct described above and obtained proceeds of the fraud.

⁷ Based on my training and experience, I know that an IP address is a unique string of characters assigned by an Internet service provider (“ISP”) to Internet-connected devices for the purposes of communicating over a network.

Conclusion and Request for Sealing

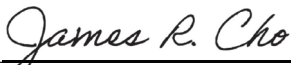
31. It is respectfully requested that this Court issue an order sealing, until further order of the Court, all papers submitted in support of this application, including the affidavit and arrest warrants. I believe that sealing these documents is necessary to preserve the integrity of this ongoing criminal investigation. Based upon my training and experience, I have learned that criminals actively search for criminal affidavits and arrest warrants via the Internet. Therefore, premature disclosure of this affidavit and related documents may seriously jeopardize the investigation, including by giving targets an opportunity to flee or continue flight from prosecution, destroy or tamper with evidence and change patterns of behavior.

WHEREFORE, your deponent respectfully requests that arrest warrants be issued for the defendant AURELIEN MICHEL so that he may be dealt with according to law.



KAYLA BLADES
Special Agent
United States Department of Homeland Security,
Homeland Security Investigations

Sworn to before me by electronic means this
4th day of January, 2023



THE HONORABLE JAMES R. CHO
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK