

Beat: News

CEO Of Private Equity Fund Sentenced For \$133 Million Bank And Securities Fraud

Sentenced to 97 months in prison

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USPA NEWS - Damian Williams, the United States Attorney for the Southern District of New York, announced that defendant ELLIOT SMERLING was sentenced to 97 months in prison for a multi-year bank and securities fraud scheme that caused the issuance of approximately \$133 million in collateralized loans on the basis of forged documents, including subscription agreements from purported limited partners, audit letters attesting to his private equity firm's finances, and falsified bank account statements. SMERLING previously pled guilty before U.S. District Judge Denise L. Cote, who imposed today's sentence.

U.S. Attorney Damian Williams said: "Elliot Smerling previously admitted to securing funding for his private equity fund by submitting a constellation of fraudulent documents and assurances to lenders. Smerling's misrepresentations ultimately resulted in massive losses to banks, as he received over \$133 million in ill-gotten loans. Smerling has now fittingly been sentenced to more than eight years in federal prison for his bank and securities fraud scheme."

According to the allegations contained in public court filings and statements made in court:

From at least in or about January 2019 through at least in or about March 2021, ELLIOT SMERLING was the mastermind of a scheme to secure financing for a series of private equity funds (the "Funds") through fraud and deceit. SMERLING solicited and obtained loans totaling approximately \$133 million on behalf of the Funds, which were secured by purported capital commitments made by limited partners in the Funds. SMERLING obtained the loans on the basis of falsified documents and material misrepresentations, including: (1) a forged audit letter, purportedly prepared by an international network of accounting, audit, tax, and professional services firms, attesting to audited financial statements; (2) forged subscription agreements that falsely represented, among other things, that the investment fund of a private university based in New York, New York had committed \$45 million to the Funds, and that the investment management division of a banking and financial services firm headquartered in New York, New York had committed \$40 million to the Funds; and (3) falsified bank records showing wire transfers from purported limited partners to the Funds.

In connection with his bank fraud scheme, from at least in or about January 2013 through at least in or about March 2021, SMERLING also solicited investments in his Funds through materially false and misleading statements concerning the Funds' audited financial statements, limited partners, capital commitments, and holdings.

In addition to his prison term, SMERLING, 52, of Lake Worth, Florida, was sentenced to three years of supervised released. The Court deferred its decision on the amount of restitution.

Mr. Williams praised the outstanding investigative work of the Federal Bureau of Investigation.

This case is being handled by the Office's Complex Frauds and Cybercrime Unit. Assistant U.S. Attorneys Jilan J. Kamal and Timothy V. Capozzi are in charge of the prosecution.

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Wendy writes for the United States Press Agency and is a former columnist with the Fulton County Expositor, Wauseon, Ohio.

Source: Department of Justice, U.S. Attorney's Office, Southern District of New York press release May 13, 2022

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