Department of Justice

Acting United States Attorney Alex G. Tse
Northern District of California

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FORMER NETFLIX, INC. VP CHARGED IN SCHEME TO DEFRAUD

Defendant accused of taking kickbacks from companies seeking to do business with Netflix

SAN JOSE – Michael Kail was arraigned in federal court today on an indictment that charges him with a scheme to defraud his former employer, Netflix, Inc., announced Acting United States Attorney Alex G. Tse, Federal Bureau of Investigation Special Agent in Charge John F. Bennett, and Internal Revenue Service, Criminal Investigation, Special Agent in Charge Michael T. Batdorf. A federal grand jury handed down the indictment on April 26, 2018, and U.S. Magistrate Judge Nathanael M. Cousins unsealed the indictment during today's proceedings.

According to the indictment, Kail, 49, of Los Gatos, accepted kickbacks in exchange for approving payments to at least nine tech companies that were seeking to do business with Netflix. The indictment alleges that between February 2012 and July 2014, Kail, formerly a Netflix Vice President in charge of the company's Internet Technology department, executed a scheme to defraud Netflix of its right to Kail's employment without conflicts of interest resulting in bribes or kickbacks, commonly known as honest services fraud. Using the mail and interstate wires, including emails and an online document-signing platform, Kail received over $500,000 from at least three outside companies with which Netflix did business. Kail further sought and received valuable stock options from numerous other Netflix business partners. In exchange for these payments, Kail allegedly approved millions of dollars in contracts for goods and services to be provided to Netflix by these companies. The indictment alleges Kail created and controlled a limited liability company, Unix Mercenary LLC, to receive these kickback payments, which he used to pay personal expenses and to purchase a residence in Los Gatos, Calif.

In sum, the indictment charges nineteen counts of wire fraud, three counts of mail fraud, and seven counts of money laundering, in violation of 18 U.S.C. §§ 1341, 1343, 1346, and 1957. The indictment also seeks forfeiture of Kail's Los Gatos property.

Kail was released on a $200,000 bond that is secured by the Los Gatos residence. Kail's next appearance is scheduled for July 10, 2018, before the Honorable Beth Labson Freeman, U.S. District Judge, for a status conference.

An indictment merely alleges that crimes have been committed, and the defendant is presumed innocent until proven guilty beyond a reasonable doubt. If convicted, Kail faces a maximum sentence of twenty years in prison and a fine of $1,000,000, or twice his gross gain or twice the gross loss to Netflix, whichever is greater, for each count of wire or mail fraud, and ten years in prison and a fine of $250,000 for each count of money laundering. However, any sentence following conviction would be imposed by the court only after consideration of the U.S. Sentencing Guidelines and the federal statute governing the imposition of a sentence, 18 U.S.C. § 3553.

Assistant U.S. Attorney Colin Sampson is prosecuting the case. The prosecution is the result of an investigation by the Federal Bureau of Investigation and Internal Revenue Service, Criminal Investigation.

Further Information:

Case #: 5:18-CR-00172-BLF

A copy of this press release may be found on the U.S. Attorney's Office's website at www.usdoj.gov/usao/can.

Electronic court filings and further procedural and docket information are available at https://ecf.cand.uscourts.gov/cgi-bin/login.pl.

Judges' calendars with schedules for upcoming court hearings can be viewed on the court's website at www.cand.uscourts.gov.

All press inquiries to the U.S. Attorney's Office should be directed to Abraham Simmons at (415) 436-7264 or by e-mail at Abraham.Simmons@usdoj.gov.