

United States District Court  
District of New Jersey

UNITED STATES OF AMERICA

v.

JOELMA GRACA and  
JOHN MALHEIRO

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:  
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Hon. Patty Shwartz, U.S.M.

CRIMINAL COMPLAINT

Mag. No. 10-312


ORIGINAL FILED  
JUN 15 2010  
PATTY SHWARTZ  
U.S. MAG. JUDGE

I, Timothy B. Stillings, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief:

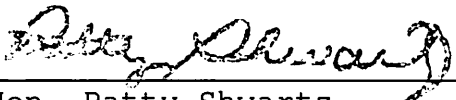
SEE ATTACHMENT A.

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.

  
\_\_\_\_\_  
Timothy B. Stillings  
Special Agent, Federal Bureau  
of Investigation

Sworn to and subscribed before  
me in Newark, New Jersey  
this 15th day of June, 2010

  
\_\_\_\_\_  
Hon. Patty Shwartz  
U.S. Magistrate Judge

**ATTACHMENT A**

**Count One**  
**(Wire Fraud Conspiracy)**

From in or about May 2009 through in or about December 2009,  
in the District of New Jersey and elsewhere, defendants

**Joelma Graca and**  
**John Malheiro**

did knowingly and intentionally conspire and agree with each other and others to devise a scheme and artifice to defraud, which would affect financial institutions, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, pictures, and sounds, contrary to 18 U.S.C. § 1343.

In violation of 18 U.S.C. § 1349.

**Count Two**  
**(Bank Fraud Conspiracy)**

From in or about May 2009 through in or about December 2009,  
in the District of New Jersey and elsewhere, defendants

**Joelma Graca and**  
**John Malheiro**

did knowingly and intentionally conspire and agree with each other and others to execute a scheme and artifice to defraud financial institutions, and to obtain moneys, funds, assets and other property owned by, and under the custody and control of, financial institutions by means of materially false and fraudulent pretenses, representations and promises, contrary to 18 U.S.C. § 1344.

In violation of 18 U.S.C. § 1349.

## ATTACHMENT B

I, Timothy B. Stillings, a Special Agent with the Federal Bureau of Investigation, having conducted this investigation and discussed this matter with other law enforcement officers who have participated in the investigation, have knowledge of the facts set forth below. Because this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included every detail of every aspect of the investigation. All conversations and statements described in this affidavit are related in substance and in part and are not word-for-word transcripts or quotations.

### The Defendants and Mortgage Companies

1. At all times relevant to this Complaint:

a. **defendant Joelma Graca** was a real estate agent registered with a Newark, New Jersey real estate agency and a resident of Newark, New Jersey; and

b. **defendant John Malheiro** was a mortgage loan officer for one New Jersey mortgage company ("**Mortgage Company 1**") then another ("**Mortgage Company 2**") and worked out of an office in Belleville, New Jersey.

2. The cooperating witness referred to herein ("CW") was a loan officer with a New Jersey mortgage company ("**Mortgage Company 3**"). The in-person and telephonic conversations summarized below to which CW was a party were consensually recorded by CW at the direction of the Federal Bureau of Investigation. In addition, CW used a Yahoo! email account in New Jersey to communicate with **defendant Malheiro**. All emails to or from CW described herein pertain to this Yahoo! email account. These emails necessarily were transmitted in interstate commerce because once a user submits a connection request to website servers such as Yahoo!'s or data is transmitted from those website servers back to the user, the data has traveled in interstate commerce.

3. As of May 20, 2009, the mortgage companies referred to herein were "financial institutions" as defined in 18 U.S.C. § 20 because they were "mortgage lending businesses" as defined in 18 U.S.C. § 27. Each of them was an organization which finances or refinances debts secured by interests in real estate and whose activities affected interstate commerce.

### Mortgage Lending Generally

4. Mortgage loans are loans funded by banks, mortgage companies and other institutions ("lenders") to enable borrowers to finance the purchase of real estate. In deciding whether the borrowers meet the lenders' income, credit eligibility and down payment requirements, the lenders are supposed to evaluate the financial representations set forth in loan applications and other documents from the borrowers and assess the value of the real estate that will secure the loan.

5. A common type of mortgage loan is issued in connection with an insurance program administered by the Federal Housing Administration ("FHA"), which is a division of the United States Department of Housing and Urban Development ("HUD"), an agency of the United States. The FHA encourages designated lenders to make mortgage loans to qualified borrowers by protecting against loan defaults through a government-backed payment guarantee if the borrower defaults on mortgage loan. When lenders process an application for an FHA-insured mortgage loan, they use a system called "FHA Connection" that provides internet access to data residing in HUD's computer systems. HUD maintains these computer systems outside of New Jersey.

### The Mortgage Fraud Conspiracy

6. The investigation has uncovered evidence that **defendants Graca and Malheiro** have conspired with each other and others to obtain mortgage loans through fraudulent means. **Defendants Graca and Malheiro** intended these loans to finance real estate transactions in and near Newark, New Jersey and elsewhere. To obtain these loans, **defendants Graca and Malheiro** caused to be submitted materially false and fraudulent mortgage loan applications and supporting documents to mortgage companies while engaging in or causing wire communications in interstate commerce, including email exchanges and the use of FHA Connection, to facilitate the conspiracy and execute its unlawful purpose.

7. For example, on or about May 18, 2009, **defendants Graca and Malheiro** met with CW at **defendant Malheiro's** office. **Defendants Graca and Malheiro** explained to CW that they were working together to complete several real estate transactions and asked CW whether Mortgage Company 3 would require Forms 4506 to be completed by their borrowers. This IRS form -- a Request for Copy of Tax Return -- authorizes the IRS to disclose to lenders the borrower's tax return so that the lenders can verify the borrower's income. Once **defendants Graca and Malheiro** heard from CW that Forms 4506 would not be needed, **defendant Malheiro** explained that he had four or five deals for which he wanted CW

to originate loans and would email documents concerning those deals to CW.

8. During the May 18th meeting, **defendants Graca and Malheiro** also discussed with CW using false documents for their borrowers. The **defendants** stated that they each had used Jairo Nunes to create such documents in the past, but no longer did so. Nunes, in turn, has already been charged separately with wire fraud conspiracy in connection with this investigation, Mag. No. 10-8033 (MCA), and a court-authorized search of his residence on or about March 9, 2010 uncovered a portable USB flash drive that Nunes used to store hundreds of false documents, including several in a folder bearing **defendant Graca's** name. **Defendant Malheiro** said he stopped using Nunes because Nunes made mistakes, one of which **caused defendant Malheiro** to be "cut off" from a lender. The **defendants** said they now used an unidentified woman who took her time but was very good.

9. On or about May 21, 2009, **defendant Malheiro** spoke with CW by telephone about switching to Mortgage Company 3 a loan application that **defendant Malheiro** had submitted a month earlier to another mortgage company. The next day, **defendant Malheiro** emailed from his Yahoo! email account to CW's Yahoo! account documents concerning an individual with the initials C.N. These documents included:

a. a bank statement for an account supposedly in C.N.'s name with a purported balance of approximately \$126,178.17 as of March 15, 2009 but with only two deposits totaling \$1,115 during the statement period;

b. three weekly paystubs purportedly from C.N.'s employer -- a Newark, New Jersey construction company -- reflecting weekly income of approximately \$1,619.60 during 2009 and year-to-date income of approximately \$24,294.00 as of April 10, 2009;

c. a 2007 Form W-2 purportedly from C.N.'s employer reflecting 2007 wages, income and other compensation totaling approximately \$79,227.20; and

d. a loan application for a \$337,500 FHA-insured loan to help C.N. acquire a property on Vincent Street in Newark, New Jersey for a stated purchase price of \$450,000; according to the loan application C.N. would have to bring approximately \$126,474.38 in cash to the closing.

10. On or about June 8, 2009, **defendant Malheiro** met with CW at **defendant Malheiro's** office; **defendant Graca** joined the

meeting while it was in progress. **Defendant Malheiro** provided CW additional documents concerning C.N.'s proposed purchase of the Vincent Street property. **Defendant Malheiro** also provided CW documents concerning the proposed purchase of a property on Myrtle Avenue in Jersey City, New Jersey by an individual with the initials F.H. for a stated purchase price of \$270,000. The F.H. documents included:

a. a loan application that F.H. purportedly signed on April 30, 2009 and that misrepresented CW as the loan officer who had interviewed F.H.; the loan application was for a \$265,109 FHA-insured loan and claimed that F.H. had been employed by a Clifton, New Jersey realty consulting firm (the "Consulting Firm") for more than three years, had a base employment income of \$5,633.33 from that supposed job, and had a bank account with a balance of \$55,564;

b. a form gift letter purportedly signed by F.H. but with information about the gift's amount and the donor's identity left blank;

c. Forms W-2 purportedly issued by the Consulting Firm claiming that F.H. had earned approximately \$64,970.20 during 2008 and approximately \$62,483.20 during 2007; the employer identification number on these Forms W-2 does not belong to the Consulting Firm and the address listed is for a residential home with no signs of commercial activity;

d. two paystubs purportedly from the Consulting Firm claiming that F.H. was earning approximately \$2,599.20 biweekly and had earned approximately \$28,591 as of May 30, 2009; and

e. a bank statement for an account supposedly in F.H.'s name with a purported balance of approximately \$55,564.23 as of May 2, 2009 but with only two deposits totaling \$801.07 during the statement period.

11. During the June 8th meeting, **defendant Malheiro** informed CW that F.H. actually worked at a paint company (the "Paint Company") but was not earning enough there to qualify for a mortgage loan. To overcome this problem, **defendant Malheiro** said he obtained fake employment for F.H. at the Consulting Firm. **Defendant Malheiro** assured CW that if a lender were to call the Consulting Firm, the firm would falsely verify F.H.'s employment. **Defendant Malheiro** also said he had five to seven more deals to refer to CW and that none of the borrowers for those deals could obtain a loan if the lender insisted on receiving a Form 4506. **Defendant Malheiro** said he was submitting his loans through CW precisely because of CW's prior assurance that Mortgage Company 3

would not require Forms 4506 from the borrowers. And **defendants Graca and Malheiro** explained their arrangement for these deals: **defendant Graca** found the borrowers, while **defendant Malheiro** found the properties.

12. On or about June 25, 2009, **defendant Malheiro** emailed from his Yahoo! email account to CW documents for two more proposed transactions involving properties in Newark, New Jersey: (a) the purchase of a property on South 7th Street by an individual with the initials V.B. for a stated price of \$440,000 to be financed in part by a \$424,270 FHA-insured mortgage loan; and (b) the purchase of a property on Chestnut Street by an individual with the initials A.M. for a stated purchase price of \$430,000 to be financed in part by a \$414,627 FHA-insured mortgage loan. These documents included:

a. Forms W-2 from V.B.'s purported employer -- a Newark, New Jersey restaurant equipment supplier -- claiming V.B. had earned approximately \$75,288.46 during 2008 and approximately \$72,392.08 during 2007;

b. paystubs from V.B.'s purported employer claiming V.B. was earning approximately \$3,011.54 biweekly and had earned approximately \$36,138.48 as of June 6, 2009;

c. a bank statement for an account supposedly in V.B.'s name with a purported balance of approximately \$97,178.17 as of May 15, 2009 but with only two deposits totaling \$1,640 during the statement period;

d. Forms W-2 from A.M.'s purported employer -- a Newark, New Jersey bakery -- claiming A.M. had earned approximately \$95,192.30 during 2008 and approximately \$91,531.07 during 2007;

e. paystubs from A.M.'s purported employer claiming A.M. was earning approximately \$3,807.69 biweekly and had earned approximately \$41,884.59 as of May 30, 2009; and

f. a bank statement for an account supposedly in A.M.'s name with a purported balance of approximately \$55,910.30 as of June 2, 2009 but with only two deposits totaling \$801.07 during the statement period.

13. On or about June 26, 2009, **defendant Graca** spoke with CW by telephone. She told CW that she needed V.B.'s loan processed as soon as possible. She also emphasized that her and **defendant Malheiro's** loans had to be submitted to lenders who would not require the borrowers to complete a Form 4506. And **defendant Graca** cautioned CW that although verifying the borrow-

ers' purported employment was feasible, verifying the borrowers' purported bank account balances could not be done.

14. On or about July 15, 2009, **defendant Malheiro** spoke with CW by telephone about the C.N. file and discussed with CW verifying deposits and employment for borrowers. **Defendant Malheiro** assured CW that verifying a borrower's employment would be fine, but to ensure a successful verification of the borrower's bank account, **defendant Malheiro** would have to figure out how to get the money in the account. **Defendant Malheiro** and CW discussed, as an alternative, misrepresenting to the lender that the money was in escrow and having **defendant Malheiro** obtain a fraudulent escrow letter from the closing attorney that effect. In a later call that day, **defendant Malheiro** told CW that obtaining such an escrow letter would be difficult, because new bank statements would have to be created showing money leaving the borrower's account and entering the closing attorney's trust account. **Defendant Malheiro** promised to work on it, though.

15. On or about July 20, 2009, **defendant Graca** left a voice mail message for CW demanding that CW deal with her, not **defendant Malheiro**, regarding the **defendants'** deals with CW because "I run the show." When **defendant Graca** answered CW's return call, she sounded very upset and complained that her loans were taking too long to process. When **defendant Graca** heard from CW that the A.M. file was with the underwriter, she said "whatever it takes," explaining that she was prepared to pay the underwriter to move her files to the top of the pile. After hearing CW's concern that offering the underwriter money would result in CW being reported, **defendant Graca** asked for a meeting with CW, which they scheduled for the next day.

16. On or about July 21, 2009, **defendants Graca and Malheiro** met CW at **defendant Malheiro's** office and demanded the C.N. and F.H. loan files back. By this time, **defendant Malheiro** had left Mortgage Company 1 and was working for Mortgage Company 2. **Defendant Graca** said she was very disappointed with CW because one of her deals had taken two months with no results. The **defendants** said they had found another, unidentified mortgage company to do the loans. To expedite the transfer of the files, **defendant Malheiro** provided CW with Mortgage Company 2's FHA number. During the following weeks, Mortgage Company 3 released the loan files that the **defendants** had demanded.

17. Law enforcement has determined that at least one of the **defendants'** borrowers -- F.H. -- purportedly purchased an East Orange, New Jersey property for a stated price of \$240,000 on or about December 2, 2009. F.H. financed this transaction with a \$218,762 FHA-insured loan through a Danvers, Massachusetts



mortgage company ("**Mortgage Company 4**"). The loan file included preliminary and final loan applications signed by **defendant Malheiro** as the interviewing loan officer. These loan applications misrepresented that F.H.'s bank account balance exceeded \$55,000, but accurately stated that F.H. had been working for the Paint Company since approximately May 2008 -- not the Consulting Company mentioned in ¶¶ 10-11 above. The loan file also contained a fraudulent bank account statement claiming that F.H. had an account balance of approximately \$57,177.34 as of November 3, 2009. The bank subsequently informed Mortgage Company 4 that it could not locate the purported F.H. account.