

United States District Court  
District of New Jersey

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


UNITED STATES OF AMERICA : CRIMINAL COMPLAINT  
: :  
v. : :  
: :  
EUGENIO MENDES : Mag. No. 10-3128 (PS)  
: :  
: :  
: :

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:

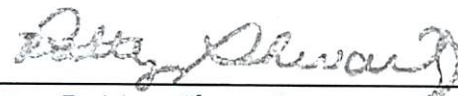
SEE ATTACHMENT A.

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 15 day of June 2010

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

**ATTACHMENT A**

**Count One  
(Wire Fraud Conspiracy)**

From in or about April 2009 through in or about May 2010, in the District of New Jersey and elsewhere, defendant

**Eugenio Mendes**

did knowingly and intentionally conspire and agree with 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 April 2009 through in or about January 2010, in the District of New Jersey and elsewhere, defendant

**Eugenio Mendes**

did knowingly and intentionally conspire and agree with 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 ("FBI"), 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 attachment are related in substance and in part and are not word-for-word transcripts or quotations.

### DEFENDANTS

1. At all times relevant to this Complaint:

a. Defendant **Eugenio Mendes** was a licensed real estate agent, working as such and registered with a realty company located in Newark, New Jersey ("Company-1").

b. Co-conspirator **Jairo Nunes** ("Nunes"), who is not named as a defendant herein but has already been charged separately with wire fraud conspiracy in connection with this investigation, Magistrate Number 10-8033 (MCA), created fraudulent documents in support of unqualified borrowers on behalf of defendant **Mendes** and other real estate agents, mortgage consultants and loan officers.

c. A cooperating witness ("CW") worked as a loan officer with a New Jersey mortgage company (the "**Mortgage Company**"). The in-person and telephonic conversations summarized below to which CW was a party were consensually recorded by the CW at the direction of the Federal Bureau of Investigation. CW used a Yahoo! email account in New Jersey ("CW's Yahoo! Account") to communicate with the defendant. 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. All emails to or from CW described herein pertain to this Yahoo! email account.

2. As of May 20, 2009, the **Mortgage Company** was a "financial institution" as defined in 18 U.S.C. § 20 because it was a "mortgage lending business[]" as defined in 18 U.S.C. § 27. It was an organization which finances or refinances debts secured by interests in real estate and whose activities affected interstate commerce.



### Mortgage Lending Generally

3. 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.

4. 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.

5. Another common type of mortgage loan is called the "conventional" mortgage loan. Lenders underwrite and fund conventional mortgage loans using their own funds and credit lines. After funding the conventional mortgage loans, the lenders can either service the loans during the mortgage loan period or sell the loans to institutional investors in the secondary market.

### The Mortgage Fraud Conspiracy

6. The investigation has uncovered evidence that **defendant Mendes** conspired with Nunes and others to obtain mortgage loans through fraudulent means. **Defendant Mendes** intended these loans to finance real estate transactions in and near Newark, New Jersey and elsewhere. To obtain these loans, **defendant Mendes** caused to be submitted materially false and fraudulent mortgage loan applications and supporting documents to mortgage companies while engaging in wire communications in interstate commerce, including email exchanges, to facilitate the conspiracy and execute its unlawful purpose.

7. On or about April 15, 2009, **defendant Mendes** contacted CW to gain CW's assistance on multiple fraudulent real estate deals. CW agreed to meet **defendant Mendes** at **defendant Mendes's** office the next day in order to discuss the deals.

8. On or about April 16, 2009, **defendant Mendes** met with CW as planned at **defendant Mendes's** office. **Defendant Mendes** presented CW with three fraudulent real estate deals for which he wanted CW to serve as the mortgage broker. These fraudulent deals involved two separate borrowers and three different properties.

9. **Defendant Mendes** first presented CW a fraudulent deal that involved a purchase by a borrower, J.M., of a property on South Seventeenth Street in Newark, New Jersey, which was being sold by J.R. **Defendant Mendes** advised CW that J.M. was an illegal alien, and **defendant Mendes** provided CW several fraudulent documents to support the loan application, all of which **defendant Mendes** advised were fraudulently made by Nunes. The fraudulent documents included W-2s, pay stubs, bank statements, copies of driver's license, and copies of a social security card.

10. **Defendant Mendes** next presented CW with two other fraudulent deals that involved the borrower L.A. One fraudulent transaction for borrower L.A. involved the purchase of a property on Sherman Avenue in Newark, New Jersey. The other fraudulent transaction for borrower L.A. involved the purchase of a property on Bigelow Street in Newark, New Jersey. **Defendant Mendes** again provided fraudulent documents prepared by Nunes for the fraudulent deals. These fraudulent documents included W-2s, pay stubs, bank statements, copies of a driver's license, and copies of a social security card.

11. On or about April 22, 2009, Nunes met with CW at Nunes's residence in Newark, New Jersey. During the meeting Nunes explained that he was a document maker who worked for several real estate agents in the area. Nunes stated that he could provide false pay stubs, W-2s, bank statements, tax returns, and copies of driver's licenses and social security cards. Nunes explained that he charged \$350 for a set of four pay stubs and two W-2s, and \$250 for two months of bank statements. Nunes further advised that **defendant Mendes** was one of his customers and that he had been creating fraudulent documents for **defendant Mendes** for approximately five years.

12. While the fraudulent deals for borrowers J.M. and L.A. were pending, **defendant Mendes** approached CW to initiate another fraudulent real estate transaction for the purchase of a property on Cedar Avenue in Elizabeth, New Jersey (the "Cedar Avenue Property").

13. On or about May 19, 2009, **defendant Mendes** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that

contained documents related to the proposed Cedar Avenue Property transaction. The purported borrower for the transaction was M.A. **Defendant Mendes** provided CW with a date of birth and Social Security Number for M.A. and informed CW that the seller for the fraudulent deal was A.A. The fraudulent documents included in the fax were a Uniform Residential Loan Application, which indicated that M.A. was an office manager for a company in North Bergen, New Jersey ("Company-2") and had a base monthly income of \$6,152. The documents further falsely showed that M.A. had total assets of \$106,292, of which \$53,092 was purportedly held in an account at a specific financial institution ("Bank-1"); and included four false and fraudulent pay stubs from Company-2 for M.A. showing net pay of \$1,063 for the periods ending 3/5/2009, 3/12/2009, 3/19/2009, and 3/26/2009; a false and fraudulent 2007 W-2 from Company-2 for M.A. showing wages of \$66,379; a false and fraudulent 2008 W-2 from Company-2 for M.A. showing wages of \$68,250; a false and fraudulent Bank-1 statement in M.A.'s name showing ending balances of \$50,784 on 2/14/2009 and \$53,093 on 3/14/2009; and a false and fraudulent Contract of Sale for the deal listing the contract price as \$230,000.

14. On or about May 20, 2009, Nunes spoke with CW and discussed the content of the false documents he was preparing for **defendant Mendes's** client, M.A.

15. On or about May 21, 2009, Nunes received an email from CW explaining that some of the fraudulent documents Nunes had provided needed to be changed and requesting an updated fraudulent bank statement and pay stub for **defendant Mendes's** client, M.A.

16. On or about May 28, 2009, in response to the prior discussions and email, Nunes sent two separate emails to CW's Yahoo! Account related to **defendant Mendes's** client, M.A. The emails from Nunes contained two months of fraudulent bank statements from Bank-1 in M.A.'s name showing ending balances of \$55,191 on 4/15/2009 and \$58,797 on 5/15/2009. The emails from Nunes also included four fraudulent pay stubs for **defendant Mendes's** client, M.A. The fraudulent pay stubs showed net pay of \$1,090 for 5/7/2009, \$1,090 for 5/14/2009, \$1,099 for 5/21/2009, and \$1,105 for 5/28/2009.

17. On or about June 1, 2009, **defendant Mendes** informed CW that the appraisal for the Cedar Avenue Property transaction had been completed and **defendant Mendes** wanted to expedite and complete the transaction before the Cedar Avenue Property went into foreclosure.

18. On or about June 3, 2009, Nunes met with CW at Nunes's residence so that Nunes could receive payment for the fraudulent

documents he produced in relation to the transaction for **defendant Mendes's** client M.A., as well as fraudulent documents Nunes created for **defendant Mendes's** client L.A., described above. Nunes accepted the \$500 as payment from CW for the fraudulent documents and Nunes explained the charges were \$250 for updated pay stubs and bank statements for **defendant Mendes's** client M.A., and \$250 for bank statements for **defendant Mendes's** client L.A.

19. On or about March 9, 2010, the FBI executed a search warrant for Nunes's residence in Newark, New Jersey. During the search, agents seized computer equipment used by Nunes to create false documents, including a thumb drive Nunes used to save the documents he had created. On the thumb drive was a folder labeled "EUGENIO." The folder included the same fraudulent pay stubs for M.A. for the periods ended 3/5/2009, 3/12/2009, 3/19/2009, and 3/26/2009, that **defendant Mendes** had provided to CW on May 19, 2009. Also, included in that folder were the fraudulent pay stubs for M.A. for the periods ended 5/7/2009, 5/14/2009, 5/21/2009, and 5/28/2009, that Nunes had provided to CW on behalf of **defendant Mendes** on May 28, 2009, by email. The folder also included the same bank statements from Bank-1 that Nunes provided on May 28, 2009 by email to CW on behalf of **defendant Mendes**.