

FILED IN OPEN COURT

1/24/2018

AO (Rev. 5/85) Criminal Complaint

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

CLERK U. S. DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE, FLORIDA

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

vs.

CASE NUMBER: 3:18-mj- 1017-JRK

OSCAR RODRIGUEZ-CRUZ

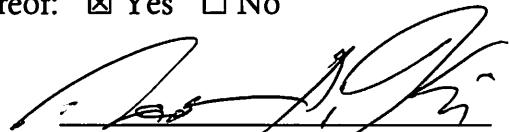
I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about November 28, 2016, in the Middle District of Florida, the defendant,

for the purpose of executing a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises concerning workers' compensation insurance, did knowingly and with intent to defraud transmit and cause to be transmitted in interstate commerce, by means of a wire communication, certain signs, signals, and sounds, that is, an e-mail, with an attached application for workers' compensation insurance,

in violation of Title 18, United States Code, Section 1343. I further state that I am a Special Agent for the United States Department of Homeland Security, U.S. Immigration and Customs Enforcement, Homeland Security Investigations, and that this Complaint is based on the following facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part hereof:  Yes  No



Signature of Complainant  
Scott R. Kraich

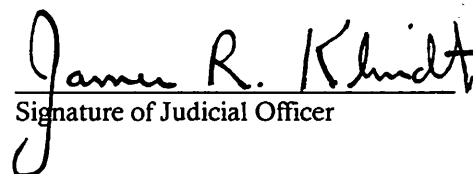
Sworn to before me and subscribed in my presence,

January 24, 2018

at

Jacksonville, Florida

JAMES R. KLINDT  
United States Magistrate Judge  
Name & Title of Judicial Officer

  
Signature of Judicial Officer

CRIMINAL COMPLAINT AFFIDAVIT

I, Scott R. Kraich, being a duly sworn and appointed Special Agent for the United States Department of Homeland Security, U.S. Immigration and Customs Enforcement (“ICE”), Homeland Security Investigations (“HSI”), hereby declare as follows:

1. Your affiant has been a Special Agent of ICE since November, 2008. Previously, your affiant was employed as a Correctional Probation Senior Officer and Correctional Probation Officer for the Florida Department of Corrections for approximately nine years and six months. Your affiant has training and experience in the preparation, presentation, and service of criminal complaints and training and experience in the service of arrest warrants.

2. The information set forth in this affidavit is based on your affiant’s personal knowledge as well as information obtained from other sources, as described herein. Because this affidavit is submitted for the limited purpose of establishing probable cause, this affidavit does not set forth all information known to me regarding this investigation. Your affiant has only set forth facts sufficient to support a finding of probable cause.

Background of Investigation

3. This affidavit is a result of a joint investigation by ICE / HSI and the Internal Revenue Service – Criminal Investigation (“IRS-CI”). The investigation

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uncovered a scheme by which businesses in the construction industry pay workers, many of whom are aliens living and working illegally in the United States, through shell companies, thereby avoiding the payment of state and federal payroll taxes and the provision of adequate workers' compensation insurance. Your affiant is the lead agent in the investigation of this scheme in northeast Florida.

4. During the investigation, your affiant has learned that construction contractors and subcontractors seek to avoid the potential liability of directly hiring undocumented aliens. Individuals have found a profitable niche in facilitating the hiring and payment of undocumented aliens. These individuals exploit the use of shell companies, which are established in a name implying links to the construction trade, often by having words such as "construction", "stucco", "drywall", "roofing", "services" or "exteriors" in their names. These individuals purchase minimal workers' compensation insurance, "rent" their workers' compensation insurance to construction contractors and subcontractors, cash payroll checks issued to the shell company for payroll, and provide cash payments to workers, including many undocumented workers.

5. Typically, undocumented alien workers hear by word of mouth of the shell companies that are promoting their services for a fee, most often a percentage of the weekly payroll. A work crew leader in need of the shell

company's services will approach the shell company owner or representative and determine the terms of service. The work crew leader will ask the shell company owner to send the witting or unwitting construction contractor or subcontractor a certificate of insurance ("COI") purporting to show that the work crew is working for the shell company and that the company is in compliance with state law regarding workers' compensation insurance. The contractor or subcontractor will then write payroll checks directly to the shell company, thereby avoiding having to directly hire the undocumented aliens. By circumventing the lawful employment process, the contractor or subcontractor avoids workers' compensation premiums of 12% to 35% of payroll, as well as state and federal taxes such as for Medicare and Social Security. In addition, insurance providers are unlikely to provide undocumented aliens with workers' compensation insurance.

6. Under sections 440.10(1)(a) and 440.38(1) of the Florida Statutes, any contractor or subcontractor who engages in any public or private construction must secure and maintain workers' compensation insurance. Under section 440.10(c), a contractor must require a subcontractor to provide it with evidence that it has workers' compensation insurance for its workers. Under section 440.105(4)(a) & (f), failure to maintain workers' compensation insurance is a felony.

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7. Shell company operators knowingly provide fraudulent information to an insurance company to purchase a minimal workers' compensation policy at a low price. Prior ICE / HSI investigations have documented that shell companies often provide their services for a fee of 4% to 7% of the payroll checks. These investigations have documented shell companies negotiating payroll checks for cash at rates in excess \$1,000,000 per month, yielding \$40,000 to \$70,000 per month in illicit proceeds from the criminal scheme.

Investigation of RODRIGUEZ-CRUZ

8. Records of the Florida Department of State, which your affiant has reviewed, reflect that Gedeon Multi Services, Inc. ("Gedeon") was a corporation created in or about November, 2016, and had its principal place of business in Orange County, Florida. The records also reflect that OSCAR RODRIGUEZ-CRUZ was the only officer or director of Gedeon.

9. On or about November 28, 2016, RODRIGUEZ-CRUZ, on behalf of Gedeon, caused to be submitted, by electronic mail ("e-mail") in interstate commerce, a Florida Workers Compensation Application to NorGUARD Insurance Company ("NorGUARD") through Select Insurance Group, an insurance agency located in Orlando, Florida. Your affiant obtained and reviewed the e-mail and application from Paychex Insurance Agency, Inc. ("Paychex") that was signed and notarized at the Select Insurance Group office.

In the application, RODRIGUEZ-CRUZ represented that Gedeon employed five people and had an estimated annual payroll of \$121,000.

10. The submission of the workers' compensation insurance application caused NorGUARD to issue a workers' compensation insurance policy to Gedeon covering the period from November 29, 2016, until November 29, 2017. Your affiant obtained and reviewed the policy and associated documents from NorGUARD. The annual premium for the policy was \$20,473.20, which was based on the information provided in the application, including the number of employees and estimated payroll to be covered.

11. The policy documents reflect that NorGUARD is a subsidiary of Berkshire Hathaway GUARD Insurance Companies. On November 29, 2016, a notarized copy of the application, signed by RODRIGUEZ-CRUZ and Susan Geist, insurance agent for Paychex, was received by Berkshire Hathaway GUARD Insurance through their on-line Policy Service Center. Scott Hercher, SIU ("Special Investigations Unit") Coordinator for Berkshire Hathaway GUARD Insurance Companies, provided your affiant with records reflecting the submission of this application. Hercher told your affiant that all the servers for this service center portal are located in Wilkes Barre, Pennsylvania, thereby establishing that this application traveled in interstate commerce.

12. Through a grand jury subpoena, your affiant obtained and reviewed records from Paychex. The records provided by Paychex included an agreement with Paychex, signed by RODRIGUEZ-CRUZ on or about November 28, 2016, to provide payroll services for Gedeon. On the initial Paychex services application, RODRIGUEZ-CRUZ stated that Gedeon employed five people. The e-mail address listed on the Paychex application for Gedeon was gedeonmultiservicesinc@gmail.com. The application stated that payroll would be deducted from a Gedeon checking account located at JP Morgan Chase Bank. The Paychex payroll journals show that Gedeon paid eight employees in 2016 and 2017. Total wages shown on the Paychex records were \$8,320 and \$81,160 in 2016 and 2017, respectively.

13. Through a grand jury subpoena, your affiant obtained and reviewed records from JP Morgan Chase Bank. The records reflect that on or about November 17, 2016, RODRIGUEZ-CRUZ opened a business checking account with an account number ending in 2382. Bank statements show that Paychex debited Gedeon payroll from this account.

14. On December 6, 2017, your affiant and IRS-CI Special Agent Justin Wisnaskas interviewed Ashley Malcom, a Sales Consultant for Paychex, in Lake Mary, Florida. Malcom explained that on November 28, 2016—the day that RODRIGUEZ-CRUZ signed the workers' compensation insurance application—

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RODRIGUEZ-CRUZ wanted COIs to provide to contractors. Malcom stated that a new workers' compensation policy may take one or two days to be bound and active, but she can request COIs on the same day for a new client if needed. Malcom located two e-mails that she sent to Susan Geist, a Paychex employee in Rochester, New York, on November 28, 2016. The first e-mail transmitted RODRIGUEZ-CRUZ's signed and notarized Workers Compensation Application. The second e-mail was a request for five COIs to contractors, representing that Gedeon was insured.

15. On December 12, 2017, Scott Hercher, SIU Coordinator for Berkshire Hathaway GUARD Insurance ("GUARD") advised your affiant that the user name for access by Gedeon to the GUARD Policy Service Center was gedeonmultiservicesinc@gmail.com. Hercher stated that Gedeon could access the GUARD Policy Service Center and request that COIs be e-mailed by the GUARD system directly to Gedeon to distribute as they saw fit. Hercher stated that Gedeon's e-mail address was the same as the user name of gedeonmultiservicesinc@gmail.com. Because the service center portal is located in Pennsylvania, Gedeon's request would have been transmitted to and received in Pennsylvania and the system's response would have been transmitted from Pennsylvania to Gedeon. Hercher provided your affiant with 118 COIs that were requested in this manner between the dates of December 1, 2016, through



October 3, 2017. Your affiant has reviewed these COIs, which state that Gedeon carried workers' compensation insurance but did not state the number of employees or the amount of payroll covered by the insurance.

16. On October 6, 2017, your affiant learned from speaking to a confidential source ("CS") with personal knowledge of the matter that he/she had been cashing checks with RODRIGUEZ-CRUZ for several months. The CS stated that he/she was a crew chief who received payroll checks from Gator Drywall of Jacksonville, Inc., for himself/herself and the work crew. These checks were made payable to Gedeon. The CS gave these checks to RODRIGUEZ-CRUZ to be cashed. Originally, RODRIGUEZ-CRUZ charged the CS a 6% fee to cash the checks, but at the time of the interview the fee had increased to 7%. On the date of the interview, the CS presented your affiant with a \$3,840 payroll check from Gator Drywall of Jacksonville, Inc., and stated that he/she would be meeting RODRIGUEZ-CRUZ on October 11, 2017, to cash the check.

17. On October 11, 2017, the CS met with your affiant and ICE / HSI Special Agent Francisco Villafane before the scheduled meeting with RODRIGUEZ-CRUZ to cash the payroll check. Your affiant and Special Agent Villafane traveled to the location where the CS said that he/she was meeting with RODRIGUEZ-CRUZ. At the location, your affiant and Special Agent Villafane

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then witnessed RODRIGUEZ-CRUZ approach and meet with the occupants of two other vehicles. RODRIGUEZ-CRUZ then entered Citiwide Check Cashing (“Citiwide”). A short time later, RODRIGUEZ-CRUZ left Citiwide carrying a black plastic bag and got into a vehicle.

18. After the vehicle drove away, officers from the Jacksonville Sheriff’s Office (“JSO”) conducted a traffic stop of the vehicle, in which RODRIGUEZ-CRUZ was a passenger. Your affiant and Special Agent Villafane went to the scene of the stop. The driver, identified as Jony Guevara-Acosta, consented to a search of the vehicle orally and in writing. During a search of the vehicle, Special Agent Villafane discovered a black plastic bag containing bulk amounts of U.S. Currency inside the center console compartment of the vehicle. The bag and the currency were seized by your affiant. JSO Officer L.M. Rini located nine white envelopes with the following handwriting on them: (1) “Raul \$5,435”, (2) “Octavio \$16,440”, (3) “Marta \$9,891 – 200”, (4) “Eusovio \$2,304”, (5) “Andrfo \$19,995”, (6) “Rocher \$25,586”, (7) “[First Name of CS] \$3,571”, (8) “David \$4,884”, and (9) “Antony \$13,020”. These envelopes were discovered under the rear passenger seat of the vehicle. Based on the knowledge gained by your affiant from previous investigations of similar schemes, this handwriting reflects the amounts the construction crew chiefs were intended to get paid in cash payroll by RODRIGUEZ-CRUZ.

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19. Officer Rini also discovered photocopies of the following checks, under the rear passenger seat of the vehicle:

- (1) Payor: Pedel Painting, Inc. / Payee: Gedeon Multiservices, Inc. / Check #1455 / Amount: \$21,500.
- (2) Payor: Vatos, Inc. / Payee: Gedeon Multiservices, Inc. / Check #58716 / Amount: \$5,845.
- (3) Payor: Vatos, Inc. / Payee: Gedeon Multiservices, Inc. / Check #58715 / Amount: \$17,678.
- (4) Payor: Marvel Custom Builders / Payee Gedeon Multiservices, Inc. / Check #1050 / Amount: \$14,000.
- (5) Payor: Burton Paint and Coatings, Inc. / Payee: Gedeon Multiservices, Inc. / Check #5663 / Amount: \$10,636.40.
- (6) Payor: Gator Drywall of Jacksonville, Inc. / Payee: Gedeon Services / Check #11714 / Amount: \$3,840.
- (7) Payor: Contr3ras, Inc. / Payee: Gedeon Multi Services / Check #7661 / Amount: \$1,282.50.
- (8) Payor: Walker Block, Inc. / Payee: Gedeon Multiservices, Inc. / Check #10752 / Amount: \$10,170.17.
- (9) Payor: Walker Block, Inc. / Payee: Gedeon Multiservices, Inc. / Check #10729 / Amount: \$17,342.98.
- (10) Payor: Vatos, Inc. / Payee: Gedeon Multiservices, Inc. / Check #58714 / Amount: \$5,252.50.
- (11) Payor: Contr3ras, Inc. / Payee: Gedeon Multi / Check #7692 / Amount: \$1,196.

20. Officer Rini also discovered Citiwide receipts dated 10/11/2017, which state that the check fee for every check is 3%. The amount of \$3,571



written on the outside on the white envelope intended for the CS was exactly 7% less than the Gator Drywall of Jacksonville, Inc., check #11714 made payable to Gedeon Services in the amount of \$3,840 given to RODRIGUEZ-CRUZ by the CS earlier in the afternoon. Thus, the “rental fee” intended to be kept for cashing the check was 4%. In addition, the total amount of the 11 checks cashed was \$108,743.55. Subtracting the 3% check-cashing fee and the 4% “rental fee” from this total results in the amount of \$101,130. The total of the amounts written on the outside of the white envelopes is \$101,126. Thus, the “rental fee” intended to be withheld from the 11 checks was 4%.

21. During the course of the traffic stop, your affiant asked RODRIGUEZ-CRUZ and Guevara-Acosta some questions, with Special Agent Villafane acting as a Spanish interpreter. Your affiant held up the black plastic bag mentioned above containing the bulk cash and asked RODRIGUEZ-CRUZ, “Is this money for drugs, what was this money for?” RODRIGUEZ-CRUZ stated that the money was to pay workers. Your affiant then asked what the name of his company was and RODRIGUEZ-CRUZ said Gedeon Construction. Your affiant asked if the workers he was paying were his workers and RODRIGUEZ-CRUZ said they were not his workers. When your affiant asked RODRIGUEZ-CRUZ if he had proper insurance and paid taxes for the workers, he stated he wanted an attorney. Your affiant asked Guevara-Acosta if this

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money was payroll for undocumented workers and he stated that he believed it was. Guevara-Acosta also stated the payroll money was related to RODRIGUEZ-CRUZ's company, Gedeon Construction. Your affiant showed Guevara-Acosta the white envelopes mentioned above and he stated they planned to put the cash in the envelopes and drop it off for the workers.

22. On January 3, 2018, your affiant and ICE / HSI Special Agent Donald Wells called and spoke with Mark Lee, the owner of Gator Drywall of Jacksonville, Inc. Your affiant stated that over a period of time 30 Gator Drywall of Jacksonville, Inc., checks had been made payable to Gedeon Multi Services, Inc., totaling approximately \$154,777. Lee responded, "It could be, sounds about right." Your affiant then asked, "Was Gedeon Multi Services, Inc., the subcontractor?" Lee stated, "Correct". Lee then stated the correct first name for the CS and said that the CS was given these checks for the purposes of payroll. Your affiant asked who employed the CS and Lee stated, "Gedeon". Your affiant asked if the CS had others working under him/her and Lee stated he believed the CS had four others working under him/her. Your affiant asked Lee who was responsible for paying the workers compensation premiums and payroll taxes. Lee stated, "Gedeon was, he sent me the paperwork to include insurance and corporate paperwork." Your affiant asked who was responsible for the federal income tax withholdings and Lee stated, "Gedeon was". Lee stated he

heard about Gedeon from the CS and he/she said to him that he/she worked for Gedeon. Lee stated the CS and his/her crew were drywall hangers who worked for Gedeon that he subcontracted labor out to.

23. On January 4, 2018, Mark Lee provided your affiant with an e-mail he received with the following heading:

From: OSCAR RODRIGUEZ [mailto:gedeonmultiservicesinc@gmail.com]  
Sent: Tuesday, January 24, 2017 5:48 PM  
To: gatordrywall@comcast.net  
Subject: Gator drywall

An image of a COI was contained within the body of this e-mail. The COI is dated January 24, 2017, with the insured Gedeon Multi Services, Inc., the certificate holder Gator Drywall, the producer Paychex Insurance Agency, and the insurer NorGUARD Insurance Company. Attached to this e-mail was a four page document containing a copy of a W-9 Request for Taxpayer Identification Number and Certification in the business name of Gedeon Multi Services, Inc., with a signature of Oscar Rodriguez and date of December 1, 2016, on the bottom of the form. This document also contained a Local Business Tax Receipt from Orange County, Florida, with an expiration date of 09/30/2017 in the name of Oscar Rodriguez and Gedeon Multi Services, Inc. Additionally, a color photograph of RODRIGUEZ-CRUZ's Honduras passport was contained in the document.



24. On January 8, 2018, your affiant reviewed documents received from Google, Inc., that listed the subscriber for e-mail address gedeonmultiservicesinc@gmail.com as Oscar Rodriguez and reflected that the e-mail address was created on November 14, 2016.

25. Grand jury subpoenas were issued to Community Choice Financial, Citiwide Check Cashing, and Tienda El Castillo Mexican Store for records of checks cashed by RODRIGUEZ-CRUZ, and your affiant has reviewed the responsive records. The records reflect that during the time frame of the investigation, local contractors made at least 1,570 checks payable to Gedeon for employee wages totaling \$13,581,061.75. RODRIGUEZ-CRUZ signed all of the checks and he was the only person to cash checks made payable to Gedeon. All three check cashers had a copy of RODRIGUEZ-CRUZ's Honduras passport on file.

26. Community Choice Financial maintained a Business/Commercial Check Cashing customer file for RODRIGUEZ-CRUZ. This file listed RODRIGUEZ-CRUZ as the only officer of Gedeon and the only person who could conduct transactions. Also listed was Gedeon's workers' compensation policy #GEWC751456. Included in the file was a copy of Gedeon's IRS Form SS-4, notifying RODRIGUEZ-CRUZ that Gedeon had been assigned EIN #81-4402011. The file also included documentation from the State of Florida showing

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that Gedeon had maintained a workers' compensation policy for his employees. The file also included a Commercial Account – Check Cashing Application completed by RODRIGUEZ-CRUZ for Gedeon. This application listed an e-mail address of gedeonmultiservicesinc@gmail.com as Gedeon's e-mail address.

27. Grand Jury subpoenas were also issued to JP Morgan Chase Bank, N.A., for the Gedeon business account ending in 2382, and your affiant has reviewed the responsive records. This account was opened in November, 2016, and had activity through November, 2017. RODRIGUEZ-CRUZ was the only authorized signatory on this account. The bank statements for the account show numerous large contractor check deposits totaling \$2,089,376.94 and large cash withdrawals totaling \$1,762,771.

28. In sum, the responsive records show that over the period from December, 2016, through October, 2017, RODRIGUEZ-CRUZ cashed checks totaling approximately \$15,670,438 from companies with names indicating that they are in the construction business. The 4% fee deducted from the payroll checks would have totaled approximately \$626,817.

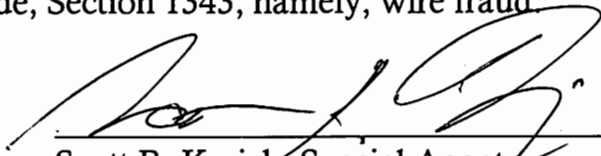
29. On January 23, 2018, your affiant received an affidavit from Hilary Mihoch, a representative of NorGUARD Insurance Company. Mihoch states in the affidavit that if NorGUARD had known about the \$15,670,438 in payroll



exposure, Gedeon would have been charged an additional \$2,511,060 in workers' compensation premium.

30. Your affiant also obtained a worksite contact report prepared by Florida Department of Financial Services ("DFS") Division of Workers' Compensation Senior Investigator Jose Bird. The report reflects that from December 7, 2016, through June 29, 2017, Division of Workers' Compensation investigators established contact with a total of 82 workers on 25 different occasions who were affiliated with Gedeon. Several workers encountered by DFS left the jobsite before they could be interviewed and did not provide names. Based upon your affiant's training and experience, this behavior on construction worksites indicates that these workers likely are undocumented aliens living and working in the United States illegally.

31. Based upon the foregoing, your affiant believes there is probable cause to establish that OSCAR RODRIGUEZ-CRUZ has committed violations of Title 18, United States Code, Section 1343, namely, wire fraud.

  
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Scott R. Kraich, Special Agent  
U.S. Immigration and Customs Enforcement  
Jacksonville, Florida

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