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Approved: Jacob Warren
JACOB WARREN
Assistant United States Attorney

Before: THE HONORABLE JAMES C. FRANCIS IV
United States Magistrate Judge
Southern District of New York

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	:	
UNITED STATES OF AMERICA	:	<u>SEALED COMPLAINT</u>
	:	
- v. -	:	Violation of
	:	29 U.S.C. § 501(c)
VICTOR DAVILA,	:	
	:	COUNTY OF OFFENSE:
Defendant.	:	BRONX
	:	
-----	x	

SOUTHERN DISTRICT OF NEW YORK, ss.:

VANESSA WASHINGTON, being duly sworn, deposes and says that she is an Investigator with the United States Department of Labor ("DOL"), Office of Labor-Management Standards ("DOL-OLMS"), and charges as follows:

COUNT ONE
(Embezzlement of Union Funds)

1. From at least in or about March 2011 up to and including at least in or about March 2014, in the Southern District of New York and elsewhere, VICTOR DAVILA, the defendant, embezzled, stole, and unlawfully and willfully abstracted and converted to his own use and the use of another, moneys, funds, securities, property, and other assets of a labor organization of which he was an officer, to wit, DAVILA, while serving as the elected President of the Hunts Point Police Benevolent Association ("HPPBA"), embezzled and stole money from the HPPBA by charging personal expenses to the HPPBA and withdrawing cash from HPPBA bank accounts for non-HPPBA purposes without authorization from HPPBA.

(Title 29, United States Code, Section 501(c).)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

2. I am an Investigator with DOL-OLMS and have been employed by DOL-OLMS since May 2016. I have participated in the investigation of this matter, and I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents, and conversations that I have had with other law enforcement officers and other individuals. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents, and the actions and statements of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Background

3. Based on my training and experience, my review of documents, and my conversations with others, I have learned the following, in substance and in part:

a. The Hunts Point Cooperative Market, Inc., commonly known as the "Hunts Point Market," is a large wholesale food market located in the Bronx, New York.

b. The Hunts Point Department of Public Safety (the "Hunts Point DPS") is a law enforcement agency charged with enforcing state and municipal laws at the Hunts Point Market.

c. The Hunts Point Police Benevolent Association (the "HPPBA") is the union for Hunts Point DPS peace officers working at the Hunts Point Market.

d. The HPPBA is a "labor organization" as defined in 29 U.S.C. § 402 (i).

Summary of the Scheme

4. As set forth in greater detail below, the investigation to date has revealed that VICTOR DAVILA, the defendant, a peace officer and emergency medical technician with

the Hunts Point DPS, while serving as the elected President of the HPPBA, stole at least \$35,000 from HPPBA by fraudulently charging personal expenses to the HPPBA and by withdrawing cash for his own purposes. Consistent with the unauthorized nature of his expenditures, DAVILA took steps to hide the financial transactions that are the subject of this Complaint from the HPPBA, see infra ¶ 8.d.

The Investigation

The Defendant's Role at the HPPBA

5. Based on my review of documents and conversations with other law enforcement officers, I have learned the following, in substance and in part:

a. VICTOR DAVILA, the defendant, has been employed as a Hunts Point DPS peace officer and emergency medical technician since in or about 1993.

b. DAVILA served as the elected President of the HPPBA from in or about March 2011 through in or about March 2014, when another peace officer was elected as its President.

Review of Bank Records

6. Based on my review of bank records of the HPPBA, and my conversations with another investigator who participated in the review, I have learned the following, in substance and in part:

a. VICTOR DAVILA, the defendant, was one of three signatories on a business checking account of the HPPBA (the "HPPBA Checking Account") during the time he was President of the HPPBA.

b. From at least in or about July 2011 up through in or about February 2014, the sole ATM/debit card linked to the HPPBA Checking Account (the "HPPBA ATM Card"), which was issued in name "Victor Davila, Hunts Point PBA," was used to charge expenses with no apparent relation to the business of the HPPBA, including groceries, gasoline, and other personal expenses. These expenses included, among other things: (1) multiple charges at a wholesale club in Westchester, New

York, including for the purchase of eggs, soap, facial cream, a baking set, a waterproof camcorder, flowers, a video game, a mystery novel, women's clothing, and a showerhead, (2) multiple charges at fast food and other restaurants, and (3) multiple charges for plane tickets to Puerto Rico. To date, DOL-OLMS has identified more than \$8,000 in charges with no apparent relation to HPPBA business during the period in which DAVILA was President of the HPPBA.

c. The HPPBA ATM Card was also used to make cash withdrawals in 2011 from the HPPBA Checking Account by a person presenting the HPPBA ATM Card and signing as "Victor Davila." In particular, (i) on or about April 4, 2011, a \$300 cash withdrawal was made from the HPPBA Checking Account using a teller by a person presenting the HPPBA ATM Card and signing as "Victor Davila," and (ii) on or about April 16, 2011, a \$400 cash withdrawal was made from the HPPBA Checking Account using a teller by a person presenting the HPPBA ATM Card and signing as "Victor Davila."

d. In addition, from at least in or about July 2011, and continuing into at least in or about December 2013, repeated cash withdrawals by an individual using the HPPBA ATM Card were also made from the HPPBA Checking Account at ATMs located in the Bronx, New York and elsewhere. For example, a \$500 cash withdrawal was made at an ATM on July 27, 2011; between September 28, 2011 and October 7, 2011, more than \$1,000 was withdrawn from the HPPBA Checking Account at ATMs; between April 11, 2012 and May 1, 2012, more than \$1,800 was withdrawn from the HPPBA Checking Account at ATMs; between September 25, 2013 and October 21, 2013, more than \$1,100 was withdrawn from the HPPBA Checking Account at ATMs; and on December 30, 2013 and December 31, 2013, \$400 was withdrawn from the HPPBA Checking Account at ATMs. Between in or about July 2011 and in or about December 2013, more than \$18,000 was withdrawn in cash from the HPPBA Checking Account at ATMs.

e. Some of the cash withdrawals from the HPPBA Checking Account at ATMs mentioned above appear to be connected to deposits into DAVILA's personal checking account. For example, on November 22, 2013, \$600 was deposited into DAVILA's personal checking account. Between November 12, 2013 and November 22, 2013, approximately \$640 was withdrawn, through five separate withdrawals, from the HPPBA Checking Account at

ATMs by an individual using the HPPBA ATM Card. On October 27, 2011, a cashier's check made out to DAVILA, dated October 18, 2011, for \$1,001.01 was deposited into DAVILA's personal checking account.¹ Between October 7, 2011 and October 18, 2011, approximately \$1,000 in cash was withdrawn, through seven separate withdrawals, from the HPPBA Checking Account at ATMs by an individual using the HPPBA ATM Card.

f. As of at least in or about April 2011, and continuing into at least in or about June 2013, cash was also repeatedly withdrawn from a savings account of the HPPBA (the "HPPBA Savings Account"), maintained at the same bank as the HPPBA Checking Account, using a teller, by a person signing as "Victor Davila." These withdrawals totaled at least \$9,000.

g. The HPPBA Savings Account and the HPPBA Checking Account were closed in December 2013 and March 2014, respectively, right before DAVILA left office as the President of the HPPBA.² A new HPPBA Savings Account and Checking Account were opened by DAVILA in January 2014 and February 2014, respectively.

Interview by DOL-OLMS of the Defendant

7. On or about August 8, 2014, an investigator with DOL-OLMS, conducting an investigation of the financial affairs of the HPPBA, participated in an interview of VICTOR DAVILA, the defendant, in the Bronx. From my review of documents and my conversations with the DOL-OLMS investigator, I have learned that, during the interview, DAVILA stated the following, in substance and in part:

a. DAVILA served as the elected President of the HPPBA between 2011 and March 2014. During this time, he had an ATM card, linked to a bank account of the HPPBA, which he used to purchase food for HPPBA meetings and to purchase

¹ Based on bank records, it appears that the cashier's check was funded by cash.

² Based on my review of bank records, I know that the HPPBA Savings Account was closed by DAVILA in December 2013; the HPPBA Checking Account was closed by the bank in March 2014 due to insufficient funds.

gasoline used to pick up or drop off materials for the HPPBA. DAVILA also used the ATM card to make withdrawals in cash, which he then used to purchase food for the HPPBA or to re-pay HPPBA members who were owed money by the HPPBA. Based on DAVILA's interview and my review of bank records, I believe that the ATM card that DAVILA referenced in his interview was the HPPBA ATM Card.³

Interviews by DOL-OLMS of Other HPPBA Officers

8. From my review of documents and my conversations with other law enforcement officers, I have learned that, as part of the ongoing investigation, DOL-OLMS has interviewed multiple former and/or current officers of the HPPBA, who advised DOL-OLMS of the following, in substance and in part:

a. During the period VICTOR DAVILA, the defendant, was President of the HPPBA, HPPBA members were occasionally provided with water by the HPPBA during the summer months, but were generally not otherwise provided with food, other than at HPPBA meetings, which were infrequent and took place at the Hunts Point Market.

b. During the period in which DAVILA was President of the HPPBA, HPPBA members received cash bonuses from the HPPBA each December, ranging from \$50 to \$100 each. The HPPBA generally did not otherwise have a need for cash, and there would be no need for ATM withdrawals from the HPPBA Account outside the month of December for thousands of dollars, see supra ¶ 6.e.

c. DAVILA did not receive authorization from the HPPBA to make the expenditures with the HPPBA ATM Card that are the subject of this Complaint. See supra ¶ 6.b. DAVILA also did not receive authorization from the HPPBA to make the cash withdrawals from the HPPBA Checking Account and HPPBA Savings Account that are the subject of this Complaint. See supra ¶ 6.c-f.

d. After DAVILA ceased being HPPBA President in March 2014, DAVILA refused to turn over any account records from

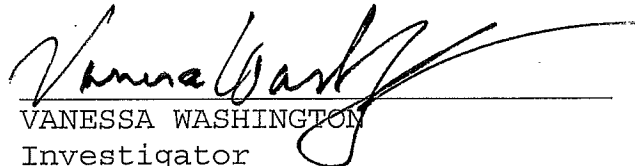
³ DAVILA confirmed that no other HPPBA Officers or HPPBA Members had an ATM card linked to the HPPBA Checking Account.

the HPPBA Checking Account and the HPPBA Savings Account, which were closed before he left office, see supra ¶ 6.g., to the new HPPBA leadership.

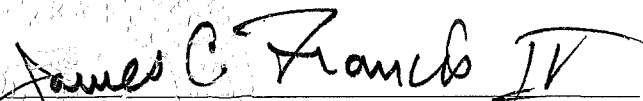
Summary of Loss

9. Based on the investigation to date, it appears that VICTOR DAVILA, the defendant, took more than \$35,000 in total from the HPPBA, funds to which he was not entitled.

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of VICTOR DAVILA, the defendant, and that he be imprisoned, or bailed, as the case may be.


VANESSA WASHINGTON
Investigator
DOL-OLMS

Sworn to before me this
31st day of March, 2017


THE HONORABLE JAMES C. FRANCIS IV
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT

for the

Southern District of New York

17 MAG 2443

United States of America

v. VICTOR DAVILA

Case No.

Defendant

ARREST WARRANT

To: Any authorized law enforcement officer

YOU ARE COMMANDED to arrest and bring before a United States magistrate judge without unnecessary delay

(name of person to be arrested) VICTOR DAVILA

who is accused of an offense or violation based on the following document filed with the court:

- Indictment, Superseding Indictment, Information, Superseding Information, Complaint, Probation Violation Petition, Supervised Release Violation Petition, Violation Notice, Order of the Court

This offense is briefly described as follows:

Title 29 United States Code Section 501(c) (Embezzlement of Union Funds)

Date: 03/31/2017

City and state: New York, New York

Signature of James C. Francis IV, U.S. Magistrate Judge

Issuing officer's signature, Hon. James C. Francis IV, U.S. Magistrate Judge, Printed name and title

Return

This warrant was received on (date) ... and the person was arrested on (date) ... at (city and state) ...

Date:

Arresting officer's signature

Printed name and title