

UNITED STATES DISTRICT COURT

for the

United States Court
Southern District of Texas
FILED

JUN 20 2016

David J. Bradley, Clerk of Court

United States of America)

v.)

Edgar Avila)

Case No.

H16-924 M

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 13, 2014 in the county of HARRIS in the SOUTHERN District of TEXAS, the defendant(s) violated:

Code Section

Offense Description

18 U.S.C. 1341

Mail Fraud

18 U.S.C. 1344

Bank Fraud

This criminal complaint is based on these facts:

SEE ATTACHMENT A, AFFIDAVIT OF PROBABLE CAUSE

Continued on the attached sheet.

Ryan Salinas
Complainant's signature

Special Agent Ryan Salinas

Printed name and title

Sworn to before me and signed in my presence.

Date: June 21, 2016

Stephen B. Smith
Judge's signature

City and state: HOUSTON, TEXAS

Stephen Smith United States Magistrate Judge

Printed name and title

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

AFFIDAVIT IN SUPPORT OF ARREST WARRANT

I, Ryan Salinas, upon being duly sworn, declare under penalty of perjury and say as follows:

AFFIANT

I am employed as a Special Agent by the U.S. Department of Veteran's Affairs, Office of Inspector General, Criminal Investigations Division (VA/OIG) and assigned to the Houston Resident Agency, Houston, TX. I have been in my current position since May 2013. Previously, I was employed by the U.S. Department of Education, Office of Inspector General, Office of Investigation Services (ED/OIG), in Dallas, TX, from July 2010 through May 2013. Prior to my employment with ED/OIG, I worked for the U.S. Postal Inspection Service (USPIS) in Miami, FL, from January 2006 through July 2010. During my ten years of federal law enforcement experience, I have participated in numerous searches, including searches involving fraud and corruption. I have received specialized training in the investigation of fraud provided by USPIS, ED/OIG, and VA/OIG. I have participated in numerous investigations involving the use and execution of federal search warrants, including cases involving fraud and financial crimes.

I am making this Affidavit in support of a Criminal Complaint to be presented to the United States District Court for the Southern District of Texas in the matter of United States v. **EDGAR AVILA**.

As a result of my personal participation in this investigation, through interviews with and analysis of reports submitted by other Federal Agents and the Houston Police Department, and based on information from witnesses, I am familiar with the relevant aspects of this investigation. On the basis of this familiarity, and on the basis of other information, which I have reviewed and

determined to be reliable, as will be detailed more fully below, there is probable cause to believe that the defendant committed the following federal FELONY offenses:

- A. Mail fraud, 18 U.S.C. 1341, whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, places in any post office or knowingly causes to be delivered by mail any matter or thing, shall be imprisoned for up to 20 years and fined up to \$250,000.
- B. Bank Fraud, 18 U.S.C. 1344, whoever knowingly executes or attempts to execute a scheme or artifice to defraud a financial institution or to obtain any money owned by or under the control of a financial institution by means of false or fraudulent pretenses or promises, shall be fined not more than \$1,000,000 or imprisoned for not more than 30 years or both.

PROBABLE CAUSE

SUMMARY

Affiant, Ryan Salinas, has probable cause to believe that Edgar Avila (a.k.a Michael Mendez, Michael Edgar Avila-Mendez, and Michael AvMen) (hereafter referred to as AVILA) was involved in two separate fraud schemes. A bank fraud scheme involved the use of false identifiers and a false employment history to obtain a home loan of over \$423,000 from Crestmark Mortgage that was guaranteed by the U.S. Department of Veterans Affairs (VA) (bank fraud). The second fraud scheme involved the use of similar fraudulent data to purchase an automobile from Audi Central Houston for over \$72,000 (mail fraud). The defendant then created a fake auto repair company and a fake mechanic's lien and mailed an item, allegedly the notice of sale, to Audi Central Houston with a return receipt requested "green card". After the fake sale on the mechanic's lien, AVILA, utilizing the "green cards" as proof of notice of sale, caused a new title to be mailed to himself, which allowed him to sell the vehicle to a legitimate dealer for about \$55,000.

BANK FRAUD
(FRAUDULENT INFORMATION FOR HOME LOAN)

Affiant initiated an investigation into the activity of AVILA in April of 2015 based on information provided by the Houston Police Department (HPD). During HPD's investigation of an unrelated automobile fraud scheme it was discovered that Edgar Michael AVILA-Mendez (AVILA), provided false information to obtain a \$423,320 VA¹ guaranteed home loan from Crestmark Mortgage Company (Crestmark) for a residential property located at 2915 Legend Hill Drive, Katy, TX 77494.²

On January 22, 2014, a Uniform Residential Loan Application was submitted by AVILA and his wife to finance a residence located at 2915 Legend Hill Drive, Katy. AVILA made a number of material false statements to obtain the loan and he provided false documents to support the false statements. AVILA stated on the loan application that he worked for AvMen Entertainment located at 924 Town and County 800, Houston for a year and a half as a line producer, with a salary of \$13,600 a month. He also stated that he attended Devry College of Business (Devry) from September 2009 through May 2013 to account for his history before working at AvMen.

FALSE REPRESENTATIONS OF EMPLOYMENT BY AVILA

In January 2014, a verification of employee (VOE) form was faxed from AvMen to Crestmark Mortgage Company.³ The VOE indicates that AVILA earned approximately \$6,800 up to January 10, 2014, and approximately \$183,000 for fiscal year 2013. The VOE indicates

1 The Defense Personnel Records Information System shows that AVILA served in the reserves.

2 The investigation showed that AVILA used this location as his residence and obtained a Temporary Texas ID card listing 2915 Legend Hill Drive as his address in November 2014.

3 The loan originator is listed as Robin Gifford of Crestmark Mortgage Company, 13100 Northwest Freeway, Suite 200A, Houston, TX 77040. The VOE was requested in order to approve the loan. The loan application has two signatures for borrowers AVILA and Mandy Avila.

AVILA completed an internship for AvMen Entertainment from July 2012 through December 2012. The loan file also contained pay stubs for AVILA from AvMen Entertainment from November 1, 2013 through December 27, 2013.

Affiant was unable to find a legitimate business under the name AvMen Entertainment, but it was discovered that AVILA created the entity as part of his fraud scheme. Affiant checked with the Texas Secretary of State and found that no businesses or individuals were on file using the name of AvMen Entertainment. However, Affiant discovered an assumed name certificate filed in August of 2010 with the Harris County Clerk establishing that Michael AvMen of 26618 Boulder Cove Court, Katy, TX would be doing business as AvMen Entertainment, located at the same address.⁴ Affiant notes that 26618 Boulder Cove Court, Katy is the same address listed on AVILA's Texas driver's license copy, which was contained in the home loan documentation of Crestmark.⁵

Affiant also found that AVILA's loan file with Crestmark contained pay stubs for AVILA from AvMen Entertainment from November 1, 2013 through December 27, 2013. The paystubs appeared to be fraudulent because they did not contain detailed information regarding AVILA's deductions, such as medical, dental, life insurance, and retirement. The paystubs did not contain earned vacation time or sick leave and the stubs indicated that AVILA worked throughout the entire holiday season without any vacation or sick time taken.

As stated earlier, Affiant discovered that AVILA and Michael AvMen are the same person. Affiant verified this conclusion through several sources. On or about July 7, 2015, Affiant discovered a Twitter account for Michael AvMen, which had a photograph of AVILA. The

⁴ It is significant to note that AVILA uses his business entities and false identities over very long periods of time. The filing in 2010 shows that he maintained records for AvMen for at least 4 years.

⁵ The business address of AvMen and residence of AVILA show the company is an alter-ego of the AVILA.

investigation further revealed a website associated with AvMen Entertainment at <http://bcmavila.wix.com/avmen-entertainment>. The website did not provide an address for the business, but a review of the website revealed multiple photographs of AVILA. Michael AvMen also appeared in a YouTube video at <https://www.youtube.com/watch?v=YelSfvoPwYw>. The individual appearing in the YouTube video as Michael AvMen appears to be AVILA based on his Texas driver's license photos.

Affiant also checked to determine if AVILA received income from any other company which approached the \$13,000 per month indicated on his loan application. AVILA claimed that he had two bank accounts in his loan application; USAA and JP Morgan Chase. A review of both accounts by Affiant did not reveal any income associated with AvMen Entertainment or income approaching \$13,000 per month.

FALSE REPRESENTATION REGARDING EDUCATION

AVILA claimed that he was an intern at AvMen Entertainment and before his employment he attended Devry College of Business and Technology. In January 2014, to bolster his claim, AVILA provided a transcript from the college which contained the signature of John J. Getek, registrar. The transcript is dated November 19, 2012.

The investigation showed that John J. Getek was not the registrar for Devry. However, in 2001, Getek was the Deputy Inspector General of Audit for the U.S. Department of Labor, Office of Inspector General. Affiant discovered that digital signatures for Getek were available online from his annual reports to Congress and Affiant believes the digital online signature of Getek resembles the signature on AVILA's Devry transcript. Affiant also has reason to believe that

AVILA keeps the transcripts for use in other fraud schemes.⁶

In March 2015, AVILA defaulted on his loan. In September 2015, AVILA's mortgage lender modified AVILA's loan and negotiated a new payment plan for AVILA to avoid foreclosure and future defaults. The modification was based on a statement from AVILA that he was diagnosed with "cephalic neuralgias" and "Bell's palsy". AVILA claims that the illness caused him to lose his job and that his current job does not pay him the same. The application has signatures for both Edgar AVILA and Mandy Avila. While Affiant cannot rule out some type of medical condition, Affiant has personal knowledge that AVILA was arrested by the Houston Police Department for fraud in 2015, which is the more likely reason for his sudden lack of income.

The investigation into the loan obtained by AVILA shows that he submitted false information related to his income and education. The false information was material and substantially changed AVILA's debt to income ratio. As such, Crestmark Mortgage Company and the U.S. Department of Veteran's Affairs unknowingly relied on the false information submitted by AVILA to fund his home loan and renew his loan in September 2015.

⁶ Affiant has personal knowledge that AVILA used the fraudulent Devry transcript in a fraud scheme to obtain a vehicle in 2014, which shows that he maintained the documents for use in multiple schemes. (See probable cause statement for fraud involving Audi RS5.)

MAIL FRAUD
(Fraudulent Information provided to purchase a vehicle.)

The investigation into AVILA revealed that he used a similar fraud scheme to obtain an automobile valued at over \$72,000. On January 13, 2014, a Consumer Credit Application was completed for Edgar AVILA, residing at 2104 Canal Street C127, Houston.⁷ The application was initially declined, and the comments indicated that “red flags” needed to be cleared. To certify the information for the loan, AVILA provided a fake social security card, a false Texas driver’s license and a fake Devry University transcript. On or about January 16, 2014, Edgar AVILA was allowed to purchase a 2013 Audi RS5, from Audi Central Houston, 2120 Southwest Freeway, Houston, Southern District of Texas, for \$72,912. The Application for a Texas Title lists Edgar AVILA with a Texas driver’s license number of 17142195.

On February 13, 2015, T. Harding, Sergeant, HPD met with Emmanuel Agramonte. Mr. Agramonte was the sales associate, who assisted AVILA with the purchase of the Audi RS5. Mr. Agramonte identified Edgar AVILA in a photo spread as the purchaser of the Audi.

AVILA’s FAKE COMPANY

On July 30, 2014, an assumed name record was filed with the Fort Bend County Clerk for ‘Creative Customs’ in Richmond, Texas. The owner was listed as Performance Auto Group and Michael Mendez as the officer.⁸ On or about August 21, 2014, a private mailbox application was completed by Michael Mendez, utilizing a Venezuelan passport number 034669361, for “Creative Customs”. The Venezuelan passport 034669361 was in the name of Edgar Michael AVILA-Mendez and contained a photo that Affiant recognized as AVILA.

⁷ During this same time period, AVILA was providing false information to Crestmark to purchase 2915 Legend Hill Drive, Katy, TX 77494 for over \$423,000.

⁸ Michael Mendez is Edgar AVILA, Michael AvMen, and Michael Edgar Avila-Mendez.

On or about April 9, 2015, AVILA was arrested by HPD based on warrants related to criminal case numbers 145685901010-3 and 146090901010-3. During the arrest, HPD found and documented AVILA's possession of a Venezuelan passport 034669361 in the name of Edgar Michael AVILA-Mendez. This is the same passport utilized to open the private mailbox at "Creative Customs" and to verify AVILA's identity for a notary on his assumed name record for "Creative Customs" that was filed with the Harris County Clerk. Affiant also has personal knowledge that the alleged location of "Creative Customs" at 19840 FM 1093, Richmond, TX 77407 is actually a Cube Smart self-storage business.

CLEANING THE TITLE TO THE AUDI RS5

On September 6, 2014, "Creative Customs" allegedly performed repairs and modifications to the 2013 Audi RS5 totaling \$65,680. On or about October 1, 2014, "Creative Customs" mailed an envelope, allegedly containing a legal notice of collections on the fake debt, to Edgar AVILA, via the United States Postal Service (USPS) by certified mail. Another envelope, allegedly containing the legal notice of collections on the fake debt owed by AVILA, was mailed to Audi Financial Services.⁹ Affiant knows that subjects can mail empty envelopes with certified mail return receipts and then later claim that some item was included in the envelope and provide the executed signed certified mail return receipt as alleged proof.

On November 6, 2014, an Application for a Texas Certificate of Title was filed based upon a mechanic's lien foreclosure for the 2013 Audi RS5. "Creative Customs", after providing notification to Edgar AVILA and Audi Financial Services sold the 2013 Audi RS5 for \$5,000 to Michael Mendez (aka AVILA). On or about November 13, 2014 a "clean" Texas Certificate of Title was issued to Michael Mendez (aka AVILA) for the 2013 Audi RS5 and sent by mail.

⁹ Affiant obtained the USPS tracing information for both notices to verify that the mailings occurred.

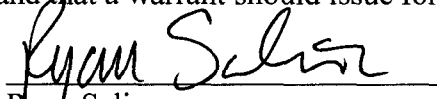
SALE OF THE AUDI RS5

On or about November 18, 2014, Michael Mendez (aka AVILA) took the 2013 Audi RS5, to Westside Lexus, 12000 Katy Freeway, Houston. A photocopy of the seller's temporary identification card was made. The temporary identification card is for Edgar Michael AVILA-Mendez of 2915 Legend Hill Drive, Katy, TX 77494.¹⁰

On November 25, 2014, Westside Lexus issued a check in the amount of \$55,000 to Michael Mendez (aka AVILA) for the 2013 Audi RS5. On December 4, 2014, Billy Bryant, a Westside Lexus employee identified AVILA as the person who sold him the 2013 Audi RS5.

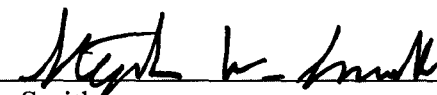
CONCLUSION

Based on the aforementioned facts, Affiant has probable cause to believe that Mr. AVILA was engaged in multiple fraud schemes (Bank Fraud & Mail Fraud) in the Southern District of Texas and that a warrant should issue for his arrest.



Ryan Salinas
Special Agent, VA OIG

Sworn to and Subscribed before me this 21st day of June, 2016
and I find Probable Cause.



Stephen Smith
United States Magistrate Judge
Southern District of Texas

¹⁰ This is the address of the home Edgar AVILA purchased through Crestmark and the address to be searched.