

| | |
|--|--|
| UNITED STATES DISTRICT COURT | CENTRAL DISTRICT OF CALIFORNIA |
| UNITED STATES OF AMERICA v. ENRIQUE FAUSTINO AGUILAR NORIEGA | DOCKET NO. 09-2973M MAGISTRATE'S CASE NO. |

Complaint for violation of Title 15, United States Code § 78-dd 2(a) (Foreign Corrupt Practices Act) and Title 18, United States Code § 2.

| | | |
|---|--|--|
| NAME OF MAGISTRATE JUDGE HON. PAUL L. ABRAMS | UNITED STATES MAGISTRATE JUDGE | LOCATION Los Angeles, CA |
| DATE OF OFFENSE February 15, 2007 | PLACE OF OFFENSE Los Angeles County | ADDRESS OF ACCUSED (IF KNOWN) Unknown |

COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION:

LOGGED

2009 DEC 29 PM 3:29

SEE ATTACHMENT A

CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CA
LOS ANGELES

FILED
CLERK, U.S. DISTRICT COURT
DEC 29 2009
CENTRAL DISTRICT OF CALIFORNIA
BY *[Signature]* DEPUTY

BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED:

(See attached affidavit which is incorporated as part of this Complaint)

MATERIAL WITNESSES IN RELATION TO THIS CHARGE:

| | |
|---|--|
| Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge. | SIGNATURE OF COMPLAINANT FARRELL A. BINDER <i>[Signature]</i> |
| | OFFICIAL TITLE Special Agent - FBI |

Sworn to before me and subscribed in my presence,

| | |
|--|---------------------------|
| SIGNATURE OF MAGISTRATE JUDGE(1) <i>[Signature]</i> | DATE December 29, 2009 |
|--|---------------------------|

1) See Federal Rules of Criminal Procedure rules 3 and 54.

ATTACHMENT A

On or about the date set forth below, in Los Angeles County, within the Central District of California, and elsewhere, defendant ENRIQUE FAUSTINO AGUILAR NORIEGA ("ENRIQUE AGUILAR"), a domestic concern within the meaning of the Foreign Corrupt Practices Act ("FCPA"), and an officer, employee, and agent of L.M., a domestic concern within the meaning of the FCPA, willfully used, and aided, abetted, and caused others to use, means and instrumentalities of interstate and international commerce, corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of any money, and an offer, gift, promise to give, and authorization of the giving of anything of value to any foreign official for purposes of: (i) influencing acts and decisions of such foreign official in his official capacity; (ii) inducing such foreign official to do and omit to do acts in violation of the lawful duty of such official; (iii) securing an improper advantage; and (iv) inducing such foreign official to use his influence with a foreign government and instrumentality thereof to affect and influence any acts and decisions of such government and instrumentality, in order to assist defendant ENRIQUE AGUILAR and others in obtaining and retaining business for and with, and directing business to L.M.'s manufacturing company located in Azusa, California, namely, contracts for the sale of equipment to the Mexican state-owned utility company Comision Federal de Electricidad ("CFE Mexico") as follows:

| <u>COUNT</u> | <u>DATE</u> | <u>USE OF MEANS AND INSTRUMENTALITIES OF INTERSTATE AND INTERNATIONAL COMMERCE</u> |
|--------------|-------------|--|
| ONE | 2/14/07 | Wire transfer in the amount of approximately \$115,879.56 from L.M.'s Preferred Bank account to Grupo Internacional De Asesores S.A.'s Global Financial account. |

A F F I D A V I T

I, FARRELL A. BINDER, being duly sworn on oath, do hereby depose and say:

I.

INTRODUCTION

1. I am a Special Agent ("SA") for the Federal Bureau of Investigation ("FBI") and have served in that capacity for more than eleven years. I am currently assigned to the Los Angeles Office, White Collar Division, Public Corruption Squad. My main responsibility is the investigation of public corruption matters, including violations of the Foreign Corrupt Practices Act ("FCPA"). During my employment with the FBI, I have participated in investigations involving public corruption, bribery, fraud against the government, bank and loan fraud, wire fraud, mail fraud, social security fraud, and money laundering. Many of these investigations have involved the use of informants and cooperating witnesses, and have required financial analysis. I have also participated in the execution of numerous search and arrest warrants. I have conducted physical surveillance and have monitored electronic surveillance. In addition, I have attended numerous training sessions on the investigation of white collar crimes, including specialized training for FCPA investigations and international contract corruption. The opinions I have formed and set forth in this affidavit are based on my experience

and training, as well as my consultation with other experienced investigators and agents of the FBI.

II.

PURPOSE OF AFFIDAVIT

2. This affidavit is made in support of the issuance of a criminal complaint and arrest warrant for ENRIQUE FAUSTINO AGUILAR NORIEGA, who is believed to have made corrupt payments to a senior official in the Mexican government, in violation of Title 15, United States Code, Sections 78dd-1, et seq. (Foreign Corrupt Practices Act), and Title 18, United States Code, Section 2.

3. This affidavit is intended to establish probable cause for the requested criminal complaint and does not include all information known to me regarding this investigation. Where conversations are referred to herein, they are related in substance and in part, except where quotation marks are used. Where dollar figures and calculations are set forth herein, they are based on United States currency and approximate, unless expressly stated otherwise.

4. The facts set forth in this affidavit are based upon my own personal observations, my training and experience, and information obtained during this investigation from other sources, including: (a) other law enforcement agents; (b) statements made or reported by various witnesses with personal

knowledge of relevant facts; and (c) my review of records obtained during the course of the investigation, as well as summaries and analyses of such documents and records that have been prepared by others.

III.

SUMMARY OF APPLICABLE FEDERAL STATUTES

5. The anti-bribery provisions of the Foreign Corrupt Practices Act ("FCPA"), codified at Title 15, United States Code, Sections 78dd-1, et seq., among other things, make it unlawful for any "domestic concern," or for any officer, director, employee, or agent of such domestic concern, to knowingly make use of any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to any "foreign official," or while knowing that the money or thing of value will be offered, given, or promised, directly and indirectly, to any foreign official, for purposes of influencing any act or decision of such foreign official in his (or her) official capacity, in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person. 15 U.S.C. § 78dd-2(a) and (g).

6. The definition of a "domestic concern" under the FCPA includes: (a) any individual who is a citizen, national, or resident of the United States; and (b) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States. 15 U.S.C. § 78dd-2(h).

7. The definition of a "foreign official" under the FCPA includes: any officer or employee of a foreign government or any department, agency or instrumentality thereof, or of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization. 15 U.S.C. § 78dd-2(h).

IV.

PROBABLE CAUSE

A. BACKGROUND OF DEFENDANT

8. ENRIQUE FAUSTINO AGUILAR NORIEGA ("ENRIQUE AGUILAR") is a Mexican citizen and lawful permanent resident of the United States. He resides in Cuernavaca, Mexico and is

married to A.G.C.A. ("A.A.").¹ As discussed below, ENRIQUE AGUILAR owned several companies, including Sorvill International, S.A. ("Sorvill") and Grupo Internacional De Asesores S.A. ("Grupo"), and he and his wife maintained bank or brokerage accounts in the United States, Germany, Switzerland, and Mexico. ENRIQUE AGUILAR purportedly served as a consultant to L.M., a privately-held manufacturing company located in Azusa, California, and helped L.M. obtain contracts from the Mexican state-owned utility company Comision Federal de Electricidad ("CFE Mexico"). As discussed below, evidence obtained by the government indicates that ENRIQUE AGUILAR was involved in a scheme to make corrupt payments to a Mexican government official employed at CFE Mexico named N.M.D. ("N.M.").

B. OVERVIEW OF PROBABLE CAUSE

9. The instant investigation arose out of a FCPA and money laundering investigation conducted by the Department of Justice ("DOJ"), the Securities and Exchange Commission ("SEC"), and the Federal Bureau of Investigation's ("FBI") Houston Field Office ("FBI-Houston").

10. On April 18, 2005, ABB Ltd, an energy equipment and services company based in Switzerland ("ABB Switzerland") and listed on the New York Stock Exchange, reported to the SEC and

¹ In accordance with the United States Attorney's Manual 9-11.130, the names of possible unindicted coconspirators have been abbreviated throughout my affidavit.

the DOJ that its Sugarland, Texas subsidiary, ABB Inc., doing business as ABB Network Management ("ABB Sugarland"), may have made corrupt payments to public officials in Mexico to obtain contracts with CFE Mexico. According to ABB Switzerland, the possible corrupt payments were paid by ABB Sugarland using three intermediary companies, including ENRIQUE AGUILAR's company Sorvill.

11. Based upon the information provided by ABB Switzerland, the SEC conducted a financial investigation into the three intermediary companies, including Sorvill, and ENRIQUE AGUILAR's other companies. The SEC discovered, among other things, that L.M. had made several large payments in the name of ENRIQUE AGUILAR's company Grupo to Global Financial ("Global"), a brokerage firm located in Houston, Texas.

12. According to bank and brokerage records, Sorvill and Grupo are controlled by ENRIQUE AGUILAR and his spouse A.A. In the Global records for Grupo, A.A. claimed that she and her husband were related to N.M., a Mexican public official who, at the time of the L.M.'s payments to Grupo, was the Sub-Director of Generation for CFE Mexico and later CFE Mexico's Director of Operations.

13. According to bank records, between September 2003 and May 2008, Grupo received \$5,330,022.38 in payments from L.M. There is probable cause to believe that ENRIQUE AGUILAR and

others used the money Grupo received from L.M. for the benefit of N.M. In fact, records show that ENRIQUE AGUILAR used part of the money L.M. paid to Grupo (\$2,262,301) to help buy N.M. a Ferrari automobile and a yacht costing over a million dollars. Grupo money was also used to make over \$100,000 in payments towards N.M.'s American Express (AMEX) credit card bills.

14. At the same time ENRIQUE AGUILAR was using L.M.'s payments to Grupo for the benefit of N.M., CFE Mexico, where N.M. serves as a foreign official, awarded nineteen (19) government contracts to L.M. worth approximately \$160,029,918 Mexican pesos (or approximately \$14,911,659 U.S. dollars).

C. ORIGINS OF THE INVESTIGATION

15. In June 2008, FBI Special Agent Susan Guernsey ("SA Guernsey") and I spoke with Tonia J. Tornatore ("Tornatore"), Senior Counsel, SEC Division of Enforcement and learned the following:

a. On or about April 18, 2005, ABB Switzerland disclosed to the SEC and the DOJ that its subsidiary, ABB Sugarland, may have paid bribes to Mexican foreign officials at CFE Mexico.

b. The potential bribes were paid to CFE Mexico through three intermediary companies, namely, Sorvill, Obras Maritimas, and Equipos y Sistemas Mexico.

c. The three intermediary companies were

~~purportedly retained by ABB Sugarland to provide various services on contracts with CFE Mexico.~~

d. ABB Switzerland conducted an internal investigation and found that for many of the payments no goods or services had been provided by the intermediaries. In other instances, the goods and services provided were not commensurate with the size of the payments.

e. The investigation into ABB Sugarland's payments to ENRIQUE AGUILAR's company Sorvill and other intermediaries has resulted in the guilty plea to a Superseding Criminal Information of Fernando Maya Basurto, a former sales representative of ABB Sugarland (SDTX CR-09-325), and the indictment of John Joseph O'Shea, the former general manager of ABB Sugarland (SDTX CR-09-629), in the Southern District of Texas on FCPA related charges. The investigation of other targets is still on-going.

D. SORVILL AND GRUPO

16. On or about November 3, 2008, I reviewed copies of Sorvill's bank records from a Swiss bank account at UBS, which the SEC had obtained pursuant to an information request from the Swiss Federal Banking Commission. Sorvill listed ENRIQUE AGUILAR as the Director of Sorvill and A.A. as one of the signatories on the bank account. ENRIQUE AGUILAR's and A.A.'s Mexican passports were included in the Sorvill bank records I reviewed. Although

all of the biographical information listed on the passports was readable, the photographs on the passports were unreadable.

17. On December 18, 2009, I compared the biographical information listed on the passport ENRIQUE AGUILAR provided to UBS in Switzerland with information I obtained from ENRIQUE AGUILAR's Alien File (or A-File) and determined that the information regarding ENRIQUE AGUILAR's name, place of birth, and date of birth matched.

18. On July 12, 2008, I reviewed copies of Grupo's Global Financial records, which the SEC had obtained pursuant to an administrative subpoena. Although Grupo listed A.A. as the Director of Grupo, Global's records indicated that ENRIQUE AGUILAR had authorized wire transfers of funds from Grupo's account.

19. On December 18, 2009, I reviewed copies of Grupo invoices to L.M. and emails obtained during a search of L.M.'s offices conducted by the FBI on November 20, 2008 pursuant to a search warrant. I learned from reading the emails, which were attached to invoices at L.M., that ENRIQUE AGUILAR had directed L.M. to pay Grupo by wire transfer to an account ending X871. This account had previously been identified as Grupo's account at Global.

E. L.M.

20. On or about May 22, 2008, I reviewed search

~~results from a database commonly used by law enforcement~~

personnel and learned that L.M. was founded by L.E.L. in 1947 and incorporated in the State of California on July 5, 1962. L.M. is currently run by L.E.L.'s son, Dr. K.E.L., who is listed as L.M.'s president.

21. On or about June 3, 2008, I learned from Ms. Tornatore and L.M. website (www.l-----usa.com) that L.M. is a privately-held manufacturing company that specializes in utility products like Emergency Restoration Systems, Current and Voltage Monitoring Devices, and Transmission and Distribution Lines Hardware. L.M. has supplied over 1000 Emergency Restoration System structures to over 50 Electric Transmission Asset Owners in over 20 countries, including Mexico.

22. Based upon my review of law enforcement databases, my conversations with Ms. Tornatore, my internet searches and my training and experience, I have determined that L.M. qualifies as a "domestic concern" under the FCPA and that ENRIQUE AGUILAR qualifies as a "domestic concern" and as an agent of a "domestic concern" under the FCPA.

F. CFE MEXICO

23. On or about June 3, 2008, I spoke with Ms. Tornatore, who is involved in the SEC's on-going investigation of ABB Sugerland's payments to CFE Mexico, and learned that CFE Mexico is a federal company owned by the Mexican government that, at the time generated, transmitted, and

~~distributed electrical power to all of Mexico, except the Mexico~~
City area.

G. N.M.

24. On July 13, 2008, I performed various internet searches on the name N.M. and learned the following:

a. The Business News America's website (www.bnamericas.com) contains a company profile for CFE Mexico and currently lists N.M. as CFE Mexico's Operation Director and his email address as n-----m-----@cfe.gob.mx.

b. According to news articles posted on the internet, N.M. has served as CFE Mexico's Operations Director since April 2007. Before becoming the Operations Director, N.M. served as CFE Mexico's Sub-Director for Generation from 2002 to 2007.

25. Based upon my internet searches and my training and experience, I have determined that N.M. qualifies as a "foreign official" under the FCPA.

H. CORRUPT PAYMENTS

26. For the reasons set forth below, there is probable cause to believe that L.M. wire transferred \$2,262,301 into Grupo's Global account, which ENRIQUE AGUILAR and others then used to help buy N.M. a Ferrari automobile, a yacht costing over a million dollars, and to make over \$100,000 in payments towards N.M.'s AMEX credit card bills.

THE FERRARI

27. On July 10, 2008, SA Guernsey and I interviewed Bryant Kreaden (Bryant), the Sales Manager for Ferrari of Beverly Hills, located at 9372 Wilshire Blvd, Beverly Hills, California 90212 (the "Ferrari dealership"), and learned the following:

a. Bryant sold an individual who identified himself as ENRIQUE AGUILAR a Ferrari in 2007.

b. ENRIQUE AGUILAR came into the Ferrari dealership several times before purchasing the Ferrari and, on one occasion, was accompanied by someone who appeared to be his friend.

c. The person who appeared to be ENRIQUE AGUILAR's friend may have been the one who later picked up the car for ENRIQUE AGUILAR.

28. On July 10, 2008, myself and SA Guernsey interviewed Sharon Berman (Berman), the Office Manager for the Ferrari dealership, and learned the following:

a. On February 16, 2007, an individual identifying himself as ENRIQUE AGUILAR executed a sales contract with the Ferrari dealership for the purchase of a 2005 Ferrari F430 F1 Spider at a cost of \$297,500.

b. There is an undated "Statement of Facts" accompanying the sales contract that states,

I/WE [A.A.] THE UNDERSIGNED, HEREBY STATE THAT THE VEHICLE/VESSEL DESCRIBED ABOVE HAVE PAID IN FULL THE AMOUNT OF USD \$297,500.00 (TWO HUNDRED NINETY SEVEN

~~THOUSAND FIVE HUNDRED 00/100 USD) AND WITH THE~~
PAYMENT TO BE APPLIED TO THE ABOVE-MENTIONED VEHICLE
AND TITLED IN THE NAME OF ENRIQUE AGUILAR. I
AUTHORIZE MR. [N.M.] TO PICK UP THE CAR AT YOUR
FACILITIES.

(Emphasis added)

c. An insurance document from Robert Moreno Insurance Services lists the drivers of the Ferrari as ENRIQUE AGUILAR and N.M., and states that both ENRIQUE AGUILAR and N.M. have been employees of Global for twenty years.

d. On or about February 16, 2007, A.A. wrote a check against Grupo's Global account in the amount of \$297,500 and made it payable to the Ferrari dealership.

29. On July 11, 2008, I reviewed the Ferrari sales contract and accompanying paperwork and observed the following:

a. A sales contract between the Ferrari dealership and ENRIQUE AGUILAR, with what purports to be ENRIQUE AGUILAR's signature on the contract.

b. A copy of a Mexican passport in the name of A.A. and a passport photograph that was unreadable. The biographical information (name and date of birth) listed on the passport in the Ferrari sales contract, however, matches the biographical information listed on the A.A. passport contained in Sorvill's bank records.

c. A Texas Department of Public Safety Identification Card in the name of ENRIQUE FAUSTINO AGUILAR (ENRIQUE AGUILAR) and a photograph that was unreadable. The

~~biographical information (name and date of birth) listed on the~~
Texas identification card, however, matches the biographical information listed on the ENRIQUE AGUILAR passport contained in Sorvill's bank records and listed in ENRIQUE AGUILAR's A-File.

30. On July 11, 2008, I reviewed Grupo's Global account records between February 1, 2007 and February 28, 2007 (the time period when the Ferrari was purchased from the Ferrari dealership), and discovered a check written by A.A. in the amount of \$297,500 that was posted to Grupo's Global account on February 23, 2007.

31. On July 11, 2008, I reviewed L.M.'s Preferred Bank records (Account #XXXXXXXXXBB701) between January 18, 2007 and February 15, 2007 (the time period when the Ferrari was purchased from the Ferrari dealership for \$297,500), and discovered that on February 14, 2007, L.M. wire transferred \$115,879.56 into Grupo's Global Financial account. In total, L.M. wire transferred \$297,038.56 into Grupo's Global account between January and February 2007. There were no other wire transfers into Grupo's Global account during this time period and all of the wire transfers from L.M. referenced "CFE, Mexico," where N.M. was acting as a foreign official at the time.

THE YACHT

32. On September 11, 2008, SA Guernsey and I

~~interviewed Robin Goodman (Goodman), owner of South Shore Yacht~~
Sales, located at 550 Marina Parkway D-3, Chula Vista, California
92154 (the "Yacht dealership"), and learned the following:

a. Goodman was the broker for a Mexican buyer identified to him as N.M., who purchased a yacht costing \$1.8 million.

b. The yacht was purchased through a limited liability corporation named Baja Horizon.

c. Goodman met N.M., who said he owned a metal company in Mexico.

d. Goodman had N.M. sign all of the paperwork relating to the purchase of the yacht himself, including the offer to purchase, the purchase agreement, the counter offer, and the conditional acceptance of vessel, because Goodman required the actual owner of the yacht to sign such paperwork.

e. Much of the transaction was handled by C.M., someone who said he was N.M.'s brother and lived in Chula Vista, California.

f. Although C.M. handled much of the transaction, C.M. made it clear to Goodman that the yacht was being purchased for his brother, N.M., who lived in Mexico and intended to take the yacht back to Mexico.

g. The payments for the yacht came in

~~"lumps," some of it by wire transfer at ENRIQUE AGUILAR's~~

direction, and some through a check signed by A.A.

h. Goodman did not recall meeting ENRIQUE AGUILAR, but said he thought he was N.M.'s business partner.

33. On July 12, 2008, I reviewed documents the Yacht dealership provided to the SEC pursuant to an SEC subpoena and learned that three separate entities made payments totaling \$1,800,000 towards the purchase of the yacht. The first payment was a check for \$540,000. It came from Grupo's Global account and was dated August 28, 2006. The second and third payments were wires transfers for \$360,000 and \$450,000. The wire transfers came from Sorvill's bank account and were dated August 25, 2006 and September 11, 2006, respectively. The payments from Sorvill were authorized by ENRIQUE AGUILAR. The last five payments were wires transfers totaling \$450,000. The last five wire transfers came from Assets Management Plus, a Mexican company about which little information is known at this stage of the investigation. The Asset Management Plus wire transfers were dated September 18, 2006 (\$85,900), September 21, 2006 (\$91,430), September 21, 2006 (\$79,220), September 22, 2006 (\$93,450), and September 27, 2006 (\$100,000).

34. On July 12, 2008, I reviewed Grupo's Global account records from September 1 through November 30, 2006 (the time period when Goodman sold N.M. the yacht) and discovered a check made payable to "South Shore Yacht Sales" in the amount of

~~\$540,000. As in the documents provided by the Yacht dealership,~~
the check was dated August 28, 2006.

35. On July 12, 2008, I reviewed L.M.'s Preferred Bank records (Account #XXXX132) between September 29, 2006 and November 28, 2006 (the time period when Goodman sold N.M. the yacht). During this time period, L.M. wire transferred a total of \$3,378,932.70 into Grupo's Global account. Although the amount of money L.M. transferred into Grupo's Global account exceeded the cost of the yacht and the \$540,000 withdrawn from Grupo's Global account, I know, based on my training and experience, that persons receiving corrupt payments will often purchase very expensive items like a home or a yacht using multiple accounts in an effort to conceal the true source of the funds. Thus, the additional money L.M. wired into Grupo's Global account was likely used, at least in part, to cover the payments towards the yacht that came from the accounts other than Grupo's Global account (\$1,260,000). I further know, based on my training and experience, that intermediaries like Grupo and Sorvill will often receive a substantial fee for facilitating corrupt payments to foreign officials. Finally, if N.M. is, in fact, the brother-in-law of A.A. or ENRIQUE AGUILAR, as explained in paragraph 37(d) below, then any funds remaining in the Grupo account could be considered funds for the benefit of N.M. in that they benefit his family.

THE AMEX BILLS

36. On July 12, 2008, I reviewed a February 5, 2008 letter Jane E. Bates (Bates), Global's Chief Compliance Officer, wrote to the SEC and learned the following:

a. Although N.M. did not have a brokerage account with Global, he did have a Corporate American Express (AMEX) credit card affiliated with Grupo.

b. The payments for N.M.'s AMEX bills were paid by Grupo according to written instructions from A.A., acting as a Director of Grupo.

37. On July 12, 2008, I reviewed N.M.'s AMEX statements from September 5, 2006 through January 5, 2008, and learned the following:

a. N.M. incurred AMEX charges totaling \$164,791.22.

b. All of the payments towards N.M.'s AMEX balance were paid from Grupo's Global account.

c. For each payment, A.A. signed a form authorizing the transfer of funds from Grupo's Global account to pay N.M.'s AMEX bill.

d. Under the "must provide detailed explanation" section, A.A. wrote "brother-in-law of company owner," as the apparent justification for paying N.M.'s AMEX bills.

38. On July 12, 2008, I reviewed each of the wire

transfers L.M. paid into Grupo's Global account from January 12, 2007 through October 12, 2007, excluding "the Ferrari" and "the Yacht" payments referenced above, and discovered that each of these wire transfers contained a reference to either "CFE" and/or "outside service and commission."

39. On July 12, 2008, I reviewed all of the wire transfers between L.M. and Grupo's Global account, including those discussed in the Ferrari, the Yacht and the AMEX sections referenced above and discovered that they totaled \$5,330,022.38.

I. CONTRACTS BETWEEN L.M. AND CFE MEXICO

40. On July 19, 2008, I reviewed printouts from the Mexican government's public access website for government documents, Portal de Obligaciones de Transparencia, at www.portaltransparencia.gob.mx/pot/, which lists, among other things, the contracts between L.M. and CFE Mexico. The printout shows each contract and the amount of each contract, in Mexican pesos. According to this printout, L.M. was awarded the following contracts from CFE Mexico:

- a. Contract number 700113303, starting on March 10, 2004, for 2,081,641 Mexican pesos.
- b. Contract number 700131808, starting on October 20, 2004, for 5,490,347 Mexican pesos.
- c. Contract number 700191011, starting on May 22, 2006, for 4,538,600 Mexican pesos.

- d. Contract number 700190421, starting on May 24, 2006, for 1,804,919 Mexican pesos.
- e. Contract number 700191352, starting on May 24, 2006, for 3,870,984 Mexican pesos.
- f. Contract number 800311925, starting on June 11, 2007, for \$358,546 Mexican pesos.
- g. Contract number 700195528, starting on July 3, 2006, for 4,931,881 Mexican pesos.
- h. Contract number 700195444, starting on July 5, 2006, for 4,294,010 Mexican pesos.
- i. Contract number 700197454, starting on July 20, 2006, for 116,341,284 Mexican pesos.
- j. Contract number 700193790, starting on July 24, 2006, for 5,026,266 Mexican pesos.
- k. Contract number 700197867, starting on August 3, 2006, for 3,285,777 Mexican pesos.
- l. Contract number 700236626, starting on August 17, 2007, for 1,540,111 Mexican pesos.
- m. Contract number 700237280, starting on August 29, 2007, for 1,174,892 Mexican pesos.
- n. Contract number 700238137, starting on September 13, 2007, for 1,313,259 Mexican pesos.
- o. Contract number 700238282, starting on September 17, 2007, for 937,649 Mexican pesos.

p. Contract number 700238207, starting on

September 18, 2007, for 1,006,465 Mexican pesos.

q. Contract number 700238918, starting on September 21, 2007, for 941,813 Mexican pesos.

r. Contract number 700239186, starting on September 28, 2007, for 153,176 Mexican pesos.

s. Contract number 700240396, starting on October 3, 2007, for 938,298 Mexican pesos.

41. On or about September 25, 2008, I reviewed an online currency converter, as well as the currency exchange rate between the U.S. dollar and the Mexican peso for the time period of the above contracts. Although there was some minor fluctuation over that period of time, the average exchange rate was roughly 9.3 Mexican pesos per one U.S. dollar. Applying this average rate to L.M.'s Bank of America account records, I determined that between September 2, 2003 and July 18, 2008, CFE Mexico wired contract payments to L.M. totaling approximately \$19,146,715.77 U.S. dollars.

J. LINK BETWEEN THE CONTRACTS AND L.M. PAYMENTS

42. On or about November 3, 2008, I reviewed the memo sections for each of the wire transfers sent from L.M.'s Preferred bank account to Grupo's Global account between January 19, 2005 and February 14, 2007. I discovered that on at least six of the wire transfers, the numbers referenced in the memo section of the wire transfer matched the contract numbers for

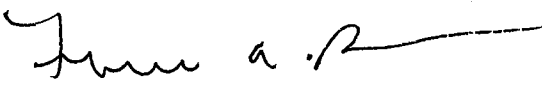
contracts CFE Mexico awarded to L.M. around that same time period.

IV.

CONCLUSION

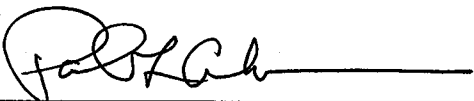
43. Based on the foregoing, there is probable cause to believe that on or about February 14, 2009, ENRIQUE AGUILAR, a domestic concern within the meaning of the FCPA, and an officer, employee, and agent of L.M., also a domestic concern within the meaning of the FCPA, used means and instrumentalities of interstate and international commerce to make a corrupt payment in the amount of \$115,879.56 to a foreign official, in violation of Title 15, United States Code § 78-dd 2(a) and Title 18, United States Code § 2.

Date: 12/29/09



Farrell A. Binder
Special Agent
Federal Bureau of Investigation

Sworn and subscribed to before me
on this 29th day of December, 2009.



United States Magistrate Judge