

## UNITED STATES DISTRICT COURT

## DISTRICT OF NEVADA

UNITED STATES OF AMERICA

v.

MIGUEL AVILA

## JUDGMENT IN A CRIMINAL CASE

Case Number: 2:14-CR-0041-JCM-PAL

USM Number: NONE PROVIDED

WILLIAM GAMAGE, CJA

Defendant's Attorney

## THE DEFENDANT:

☒ pleaded guilty to count(s) ONE [1] OF THE INFORMATION☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§ 1349; 1341 & 1343	Conspiracy to Commit Mail and Wire Fraud	2/2009	1

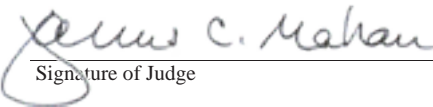
The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) \_\_\_\_\_☐ Count(s) \_\_\_\_\_ ☐ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

6/16/2015

Date of Imposition of Judgment


  
Signature of Judge

James C. Mahan,

U.S. District Judge

Name and Title of Judge

August 12, 2015

Date

DEFENDANT: MIGUEL AVILA  
CASE NUMBER: 2:14-CR-0041-JCM-PAL

## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

(12) months and (1) day.

☒ The court makes the following recommendations to the Bureau of Prisons:

F.C.I. OXFORD

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_.

☐ as notified by the United States Marshal.

☒ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☒ before 2 p.m. on 9/18/2015.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

a \_\_\_\_\_, with a certified copy of this judgment.

UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

DEFENDANT: MIGUEL AVILA  
CASE NUMBER: 2:14-CR-0041-JCM-PAL

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :

(3) YEARS

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The Defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court, not to exceed 104 tests annually. Revocation is mandatory for refusal to comply.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. *(Check, if applicable.)*
- ☐ The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which he or she resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- ☐ The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: MIGUEL AVILA

CASE NUMBER: 2:14-CR-0041-JCM-PAL

**SPECIAL CONDITIONS OF SUPERVISION**

1. Warrant less Search - To ensure compliance with all conditions of release, the defendant shall submit to the search of his/her person, and any property, residence, business or automobile under his/her control by the probation officer, or any other authorized person under the immediate and personal supervision of the probation officer without a search warrant at a reasonable time and in a reasonable manner. Provided, however, the defendant shall be required to submit to any search only if the probation officer has reasonable suspicion to believe the defendant has violated a condition or conditions of release.
2. Possession of Weapons - You shall not possess, have under by federal, state, or local law. your control, or have access to any firearm, explosive device, or other dangerous weapons, as defined by federal, state, or local law.
3. Access to Financial Information - You shall provide the probation officer access to any requested financial information, including personal income tax returns, authorization for release of credit information, and any other business financial information in which you have a control or interest.
4. Debt Obligations - You shall be prohibited from incurring new credit charges, opening additional lines of credit, or negotiating or consummating any financial contracts without the approval of the probation officer.
5. No Contact Condition - You shall not have contact, directly or indirectly, or associate with any co conspirators associated with any related cases identified in the presentence report or be within 500 feet of any co conspirators associated with any related cases identified in the presentence report, their residence or business. And if confronted by any co conspirators in a public place, you shall immediately remove yourself from the area.
6. Community Service - You shall complete 100 hours of community service, as approved and directed by the probation officer.
7. Deportation Compliance - If deported, you shall not reenter the United States without legal authorization.
8. True Name - You shall use your true name at all times and will be prohibited from the use of any aliases, false dates of birth, social security numbers, places of birth, and any other pertinent demographic information.
9. Report to Probation Officer after Release from Custody - You shall report, in person, to the probation office in the district to which you are released within 72 hours of discharge from custody.

**ACKNOWLEDGEMENT**

Upon finding of a violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed)

\_\_\_\_\_  
Defendant\_\_\_\_\_  
Date\_\_\_\_\_  
U.S. Probation/Designated Witness\_\_\_\_\_  
Date

DEFENDANT: MIGUEL AVILA  
 CASE NUMBER: 2:14-CR-0041-JCM-PAL

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 100.00	\$ 0.00	\$ 21,000.00

☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.

☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Vistana HOA: Attn: Richard Haskin, 7450 Arroyo Crossing Parkway, Ste. 270 Las Vegas, NV 89113	\$21,000.00		99.8%
Park Avenue HOA: Park Avenue Homeowners Associate, c/o FirstService Residential 8290 Arville Street, Las Vegas, NV 89139			0.2%

<b>TOTALS</b>	\$ 21,000.00	\$ 0.00
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☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

LEON BENZER, *et al.*

Defendants.

CASE NO. 2:13-cr-00018-JCM-GWF

UNITED STATES OF AMERICA,

Plaintiff,

v.

MIGUEL AVILA

Defendant.

CASE NO. 2:14-CR-00041-JCM-PAL

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROSALIO ALCANTAR, *et al.*

Defendants.

CASE NO. 2:12-cr-00113-JCM-VCF

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARY ANN WATTS

Defendant.

CASE NO. 2:11-cr-00336-JCM-GWF

1 UNITED STATES OF AMERICA, )  
2 Plaintiff, ) CASE NO. 2:11-cr-00339-LDG-GWF  
3 v. )  
4 DEBORAH GENATO, )  
5 Defendant. )  
6 UNITED STATES OF AMERICA, )  
7 Plaintiff, ) CASE NO. 2:14-cr-00010-JCM-VCF  
8 v. )  
9 BARRY LEVINSON, ) **FIRST AMENDED FINAL OMNIBUS**  
10 Defendant. ) **RESTITUTION ORDER**  
11 )  
12 )

13 Based on findings made during the sentencings of the individual defendants enumerated  
14 below, the Court hereby enters the following order regarding restitution in the above-captioned  
15 cases.

16 The following defendants are ordered to pay up to the following dollar amounts, jointly  
17 and severally, as restitution to the Vistana Homeowners' Association and the Park Avenue  
18 Homeowners' Association. Of restitution payments received, 99.8% shall be directed to the  
19 Vistana HOA, and 0.2% shall be directed to the Park Avenue HOA, as is commensurate with  
20 their share of the restitution awards.

Defendant Name	Case Number	Restitution Amount (Joint and Several Liability)
Alcantar, Rosalio	2:12-cr-00113-JCM-VCF	\$25,826.20
Alvarez, Jose Luis	2:13-cr-00018-JCM-GWF	\$184,200.84
Alvarez, Rudy	2:13-cr-00018-JCM-GWF	\$119,585.81
Anderson, Ricky	2:13-cr-00018-JCM-GWF	\$41,642.49
Avila, Miguel	2:14-cr-00041-JCM-PAL	\$21,000.00
Benzer, Leon	2:13-cr-00018-JCM-GWF	\$12,228,913.40

Bolten, Robert	2:12-cr-00113-JCM-VCF	\$135,932.36
Brown, Glenn	2:12-cr-00113-JCM-VCF	\$5,295.00
Deluca, Michelle	2:12-cr-00113-JCM-VCF	\$10,000.00
Genato, Deborah	2:11-cr-00339-LDG-GWF	\$30,000.00
Gillespie, Edith	2:13-cr-00018-JCM-GWF	\$85,780.00
Gregory, Keith	2:13-cr-00018-JCM-GWF	\$12,154,913.40 <sup>1</sup>
Hawkins, Charles	2:12-cr-00113-JCM-VCF	\$147,884.00
Hindiye, Sami	2:12-cr-00113-JCM-VCF	\$6,000.00
Jones, Brian	2:12-cr-00113-JCM-VCF	\$10,000.00
Levinson, Barry	2:14-cr-00010-JCM-VCF	\$12,228,913.40 <sup>2</sup>
Limon, Maria	2:13-cr-00018-JCM-GWF	\$24,000.00
Mattingly, Morris	2:12-cr-00113-JCM-VCF	\$190,471.03
McChesney, Charles	2:13-cr-00018-JCM-GWF	\$100,000.00
Watts, Mary Ann	2:11-cr-00336-JCM-GWF	\$39,350.00
Winkler, Jeanne	2:12-cr-00113-JCM-GWF	\$47,000.00

These funds should be directed to the following:

- Vistana HOA: Attn: Richard Haskin, 7450 Arroyo Crossing Parkway, Suite 270, Las Vegas, NV 89113
- Park Avenue HOA: Park Avenue Homeowners Association, c/o FirstService Residential, 8290 Arville Street, Las Vegas, NV 89139

In addition, once Defendant Leon Benzer has satisfied his mandatory restitution to the above-listed HOAs (or other defendants have paid the \$12,228,913.40 he owes to those HOAs), Defendant Leon Benzer is hereby ordered to pay \$1,165,186.81 in restitution to the United States Treasury, pursuant to the restitution award in *United States v. Benzer*, Case No. 2:13-cr-174-

<sup>1</sup> The Court originally ordered Defendant Gregory to pay \$12,604,913.40 in restitution. However, Defendant Gregory should have received a credit for the \$450,000 paid to Silver Lining Construction but ultimately recovered by the Vistana HOA, and his restitution amount is hereby reduced by that amount.

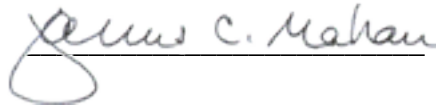
<sup>2</sup> The Court originally ordered Defendant Levinson to pay \$19,000,000 in restitution. However, given that Defendant Leon Benzer was ordered to pay \$12,228,913.40 in restitution and Leon Benzer was the leader of the conspiracy, Defendant Levinson's restitution award should not exceed Defendant Benzer's.



1 KJD-CWH. These funds should be directed to: IRS-RACS, Attn: Mail Stop 6261, Restitution,  
2 333 W. Pershing Ave., Kansas City, MO 64108.

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5 **IT IS SO ORDERED.**

6 Dated: August 12, 2015

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10 United States District Judge  
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DEFENDANT: MIGUEL AVILA  
CASE NUMBER: 2:14-CR-0041-JCM-PAL

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 100.00 due immediately, balance due
- ☐ not later than \_\_\_\_\_, or  
☐ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
- Restitution Re-Payment - You shall make restitution payments at a rate at no less than 10% of gross income subject to an adjustment by the probation officer based upon your ability to pay.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☒ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

" SEE FIRST AMENDED FINAL OMNIBUS RESTITUTION ORDER ATTACHED"

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- ☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.