
United States District Court
District of New Jersey

UNITED STATES OF AMERICA : CRIMINAL COMPLAINT
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SIMONE FERNANDES : Mag. No. 10-3131 (PS)

I, Timothy B. Stillings, the undersigned complainant being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A.

I further state that I am a Special Agent with the Federal Bureau of Investigation and that this complaint is based on the following facts:

SEE ATTACHMENT B.



Timothy B. Stillings
Special Agent, Federal Bureau
of Investigation

Sworn to and subscribed before
me in Newark, New Jersey
this 18th day of June 2010



Hon. Patty Shwartz
U.S. Magistrate Judge

ATTACHMENT A

**Count One
(Wire Fraud Conspiracy)**

From in or about June 2009 through in or about April 2010,
in the District of New Jersey and elsewhere, defendant

Simone Fernandes

did knowingly and intentionally conspire and agree with others to devise a scheme and artifice to defraud, which would affect financial institutions, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted by means of wire communications in interstate commerce certain writings, signs, signals, pictures, and sounds, contrary to 18 U.S.C. § 1343.

In violation of 18 U.S.C. § 1349.

**Count Two
(Bank Fraud Conspiracy)**

From in or about June 2009 through in or about April 2010,
in the District of New Jersey and elsewhere, defendant

Simone Fernandes

did knowingly and intentionally conspire and agree with others to execute a scheme and artifice to defraud financial institutions, and to obtain moneys, funds, assets and other property owned by, and under the custody and control of, financial institutions by means of materially false and fraudulent pretenses, representations and promises, contrary to 18 U.S.C. § 1344.

In violation of 18 U.S.C. § 1349.

ATTACHMENT B

I, Timothy B. Stillings, a Special Agent with the Federal Bureau of Investigation ("FBI"), having conducted this investigation and discussed this matter with other law enforcement officers who have participated in the investigation, have knowledge of the facts set forth below. Because this affidavit is being submitted for the limited purpose of establishing probable cause, I have not included every detail of every aspect of the investigation. All conversations and statements described in this attachment are related in substance and in part and are not word-for-word transcripts or quotations.

DEFENDANTS

1. At all times relevant to this Complaint:

a. Defendant **Simone Fernandes** was a mortgage consultant and loan officer who worked out of an office in Newark, New Jersey.

b. Co-conspirator **Jairo Nunes** ("Nunes"), who is not named as a defendant herein but has already been charged separately with wire fraud conspiracy in connection with this investigation, Magistrate Number 10-8033 (MCA), created fraudulent documents in support of unqualified borrowers on behalf of defendant **Fernandes** and other real estate agents, mortgage consultants and loan officers.

c. A cooperating witness ("CW") worked as a loan officer with a New Jersey mortgage company (the "**Mortgage Company**"). The in-person and telephonic conversations summarized below to which CW was a party were consensually recorded by the CW at the direction of the Federal Bureau of Investigation. CW used a Yahoo! email account in New Jersey ("CW's Yahoo! Account") to communicate with the defendant. These emails necessarily were transmitted in interstate commerce because once a user submits a connection request to website servers such as Yahoo!'s or data is transmitted from those website servers back to the user, the data has traveled in interstate commerce. All emails to or from CW described herein pertain to this Yahoo! email account.

2. As of May 20, 2009, the **Mortgage Company** was a "financial institution" as defined in 18 U.S.C. § 20 because it was a "mortgage lending business[]" as defined in 18 U.S.C. § 27. It was an organization which finances or refinances debts secured by interests in real estate and whose activities affected interstate commerce.

Mortgage Lending Generally

3. Mortgage loans are loans funded by banks, mortgage companies and other institutions ("lenders") to enable borrowers to finance the purchase of real estate. In deciding whether the borrowers meet the lenders' income, credit eligibility and down payment requirements, the lenders are supposed to evaluate the financial representations set forth in loan applications and other documents from the borrowers and assess the value of the real estate that will secure the loan.

The Mortgage Fraud Conspiracy

4. The investigation has uncovered evidence that **defendant Fernandes** has conspired with others to obtain mortgage loans through fraudulent means. **Defendant Fernandes** intended these loans to finance real estate transactions in and near Newark, New Jersey and elsewhere. To obtain these loans, **defendant Fernandes** caused to be submitted materially false and fraudulent mortgage loan applications and supporting documents to mortgage companies while engaging in wire communications in interstate commerce, including email exchanges, to facilitate the conspiracy and execute its unlawful purpose.

5. On or about June 18, 2009, **defendant Fernandes** and Nunes met with CW at Nunes's residence in Newark, New Jersey. **Defendant Fernandes** and Nunes solicited CW to serve as the loan officer for a mortgage loan sought by Nunes for the purchase of a property on Livingston Street in Elizabeth, New Jersey for the price of \$460,000.

6. In support of the transaction, **defendant Fernandes** and Nunes provided CW with numerous false documents, including some that Nunes created and printed directly from his computer in the presence of **defendant Fernandes** and CW. Among the false documents that **defendant Fernandes** and Nunes provided to CW were pay stubs, W-2s, bank statements, tax returns, a copy of a New Jersey driver's license, a copy of a Social Security card, a copy of a certified check, and other documents related to Nunes that were needed to support a mortgage loan application.

7. The fraudulent pay stubs and W-2s that **defendant Fernandes** and Nunes provided to CW indicated that Nunes's employer was a plumbing company in Elizabeth, New Jersey ("Plumbing Company").

8. **Defendant Fernandes** and Nunes further provided to CW a false verification of deposit ("VOD") from a financial institution ("Bank-1") for an account purportedly held by Nunes.

The VOD was purportedly completed and signed by a Bank-1 employee with the initials S.P. Defendant Fernandes and Nunes told CW that S.P. would complete false VODs in exchange for a \$1,000 fee.

9. After CW expressed amazement at the quality and thoroughness of the documents provided by defendant Fernandes and Nunes, both defendant Fernandes and Nunes told CW that they once spent an entire day at the computer thinking of all aspects of a real estate transaction for which they could create false documents.

10. On or about June 23, 2009, in further support of the transaction, defendant Fernandes received an email from Nunes with four false pay stubs created by Nunes in Nunes's home. On or about June 25, 2009, defendant Fernandes forwarded Nunes's June 23, 2009 email to CW with the four false pay stubs. Defendant Fernandes also received from Nunes by email on or about June 23, 2009, and forwarded to CW by email on or about June 25, 2009, a false bank statement in Nunes's name from Bank-1. The false bank statements showed Nunes as the sole account-holder and the balance of the account on June 18, 2009 to be \$61,410. The account was in fact jointly held between Nunes and Nunes's wife, and containing an actual balance in the account on June 18, 2009 of \$896.

11. On or about June 30, 2009, Nunes contacted CW via email to instruct CW to put the loan application on hold because Nunes was no longer going to buy the property on Livingston Street in Elizabeth. Nunes did not resume the application.

12. On or about March 9, 2010, the FBI executed a search warrant for Nunes's residence in Newark, New Jersey. During the search, agents seized computer equipment used by Nunes to create false documents, including a portable USB flash drive (also known as a "thumb drive") Nunes used to save the documents he had created. On the thumb drive was a folder labeled "SIMONE." Contained in the folder were numerous false documents Nunes had created on behalf of defendant Fernandes. Included in the folder were many of the fraudulent documents that defendant Fernandes and Nunes provided to the CW related to the Nunes loan application, including the fraudulent pay stubs, W-2s, bank statements, tax returns, a copy of a New Jersey driver's license, a copy of a Social Security card, and a copy of a certified check. In addition, fraudulent documents were found in the "SIMONE" folder that related to at least 14 other individuals.