United States District Court
District of New Jersey

UNITED STATES OF AMERICA	:	**CRIMINAL COMPLAINT**
	:	
v.	:	
	:	
ROGERIO SILVA and RUI TALAIA	:	Mag. No. 10-3130 (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 1st day of June 2010

Hon. Patty Shwartz
U.S. Magistrate Judge

ATTACHMENT A

Count One
(Wire Fraud Conspiracy)

From in or about June 2008 through in or about January 2010, in the District of New Jersey and elsewhere, defendants

Rogerio Silva, and
Rui Talaia

did knowingly and intentionally conspire and agree with each other and 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 2008 through in or about January 2010, in the District of New Jersey and elsewhere, defendants

Rogerio Silva, and
Rui Talaia

did knowingly and intentionally conspire and agree with each other and 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 Rogerio Silva** was a licensed real estate agent and broker of record of a realty company in Riverside, New Jersey ("Realty Company-1").

b. **Defendant Rui Talaia** was a licensed real estate agent and broker of record of a realty company in Kearny, New Jersey ("Realty Company-2").

c. 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 **defendants Silva** and **Talaia** and other real estate agents, mortgage consultants and loan officers.

d. 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 **defendants**. 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.

4. A common type of mortgage loan is issued in connection with an insurance program administered by the Federal Housing Administration ("FHA"), which is a division of the United States Department of Housing and Urban Development ("HUD"), an agency of the United States. The FHA encourages designated lenders to make mortgage loans to qualified borrowers by protecting against loan defaults through a government-backed payment guarantee if the borrower defaults on mortgage loan. When lenders process an application for an FHA-insured mortgage loan, they use a system called "FHA Connection" that provides internet access to data residing in HUD's computer systems. HUD maintains these computer systems outside of New Jersey.

5. Another common type of mortgage loan is called the "conventional" mortgage loan. Lenders underwrite and fund conventional mortgage loans using their own funds and credit lines. After funding the conventional mortgage loans, the lenders can either service the loans during the mortgage loan period or sell the loans to institutional investors in the secondary market.

The Mortgage Fraud Conspiracy

6. The investigation has uncovered evidence that **defendants Silva** and **Talaia** have conspired with each other and others to obtain mortgage loans through fraudulent means. **Defendants Silva** and **Talaia** intended these loans to finance real estate transactions in and near Newark, New Jersey and elsewhere. To obtain these loans, **defendants Silva** and **Talaia** 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.

7. On or about October 2, 2008, a buyer, L.S., used false documents created and caused to be submitted by **defendants Silva** and **Talaia** to obtain a mortgage from a financial institution ("Bank-1") in connection with the property located at 819 South 16th Street, Newark, New Jersey ("819 South 16th Street Property").

8. The loan application submitted to purchase the 819 South 16th Street Property provided a Social Security number ("SSN") and date of birth ("DOB") for L.S., however the Social Security Administration has confirmed that the DOB on the loan application does not match the DOB associated with that SSN.

9. The loan application further falsely stated that L.S. was employed by a professional services company in Kearny, New Jersey ("Company-1") and earning a salary of $6,283.33 per month. The address provided for Company-1 is, in fact, the address of Realty Company-2, the realty company owned by **defendant Talaia**.

10. In support of L.S.'s employment and income, false and fraudulent pay stubs and W-2s for L.S. from Company-1, were provided to Bank-1. The investigation has found no records of such employment or wages for L.S.; also, the investigation has found that the Employer Identification Number provided on the W-2s did not belong to Company-1.

11. The loan application further falsely stated that as of October 2, 2008, L.S. held an account with a financial institution ("Bank-2") with a balance of $63,356 and had received a gift of $24,000.

12. In support of the balance in the Bank-2 account, false and fraudulent bank statements for Bank-2 were provided showing a balance of $65,476.49, as of August 25, 2008.

13. The false and fraudulent W-2s, pay stubs, and bank statements, described above, all stated L.S.'s home address as 7 Esther Street, Newark, New Jersey, where, in fact, he does not live.

14. In reliance on the false representations described above relating to the identification, employment, income, and assets of L.S., Bank-1 approved a mortgage in the amount of $445,500 for L.S.'s purchase of the 819 South 16th Street Property. As a result of this approval the mortgage funds totaling $455,534.18 were transmitted via wire transfer from Bank-1 in Pennsylvania to an account in New Jersey at a financial institution ("Bank-3").

15. According to Bank-1 only one payment was received related to the mortgage on the 819 South 16th Street Property. The payment was made on December 16, 2008. The mortgage is currently in default.

16. On or about March 9, 2010, the FBI executed a search warrant for Jairo Nunes's residence in Newark, New Jersey. During the search agents seized computer equipment used by Nunes to create false documents, including a thumb drive Nunes used to save the documents he had created. On the thumb drive was a folder labeled "ROGERIO." Contained in the folder were the bank statements, W-2s, and copies of the driver's license and Social Security card provided by **defendants Silva** and **Talaia** to secure the mortgage for L.S. on the 819 South 16th Street Property.

17. **Defendants Silva** and **Talaia** continued their fraudulent scheme by creating and causing to be submitted false documents concerning the employment, income, assets, and identification of other borrowers in an attempt to carry out various other fraudulent real estate transactions.

18. For example, **defendants Silva** and **Talaia** provided CW with numerous false documents related to the employment, income, assets, and identification of various borrowers, and had numerous conversations with CW, in person and via email and telephone, related to the production and delivery of the false documents and other aspects of the transactions, including as follows:

a. On or about April 29, 2009, **defendants Silva** and **Talaia** met with CW at the offices of Realty Company-2 in Kearny, New Jersey. During the meeting, **defendant Silva** presented CW with a transaction involving the purchase of 815-817 South 16th Street, Newark, New Jersey, by P.C. from M.P.P. for a purchase price of $510,000. **Defendant Silva** provided CW with a copy of the contract of sale related to the transaction. **Defendant Silva** told CW that he would provide P.C. with a job in order to qualify for a mortgage and would also have P.C. file federal income tax returns showing income from a shell company in order to conceal P.C.'s true income, since the lender would be required to submit an IRS Form 4506 to the IRS which would allow the lender to verify P.C.'s income with the IRS.

b. On or about June 15, 2009, **defendants Silva** and **Talaia** met with CW at the offices of Realty Company-2. During the meeting, **defendant Silva** changed the previously discussed transaction and presented CW with a transaction involving the purchase of 520 Devon Street, Kearny, New Jersey by P.C. from I.F. for a purchase price of $510,000.

Defendant Silva told CW that even though the sales price for the property was $510,000, the seller wanted $365,000. **Defendant Silva** told CW that because the property was listed as for sale by owner, **defendant Silva** would be paid under the table related to the transaction. As **defendant Silva** presented the transaction to CW, **defendant Talaia** commented that he needed cash from the deal as well.

c. **Defendant Silva** told CW that the stated employer for P.C. would be a professional services company in Newark, New Jersey ("Company-2"). **Defendant Silva** then said he expected CW to contact him later in the week with the income amount needed for P.C. to be approved for a mortgage so that **defendant Silva** could create the false pay stubs and W-2s for P.C. **Defendant Silva** also told CW that he would complete tax returns for P.C. for 2008 and 2007 showing the income amount needed for the mortgage. **Defendant Silva** told CW that the tax returns would be filed with the IRS and **defendant Silva** would try to get a refund.

d. On or about June 16, 2009, **defendant Talaia** was told by CW that $2,550 per week was the income amount needed for P.C. in order to be approved for a mortgage to purchase 520 Devon Street, Kearny, New Jersey at $510,000. **Defendant Talaia** told CW that he would pass the information onto **defendant Silva**.

e. On or about July 7, 2009, **defendant Talaia** told CW that P.C. would be purchasing a different house because the appraisal for 520 Devon Street was less than the asking price.

f. On or about July 27, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained false and fraudulent W-2s, a New Jersey driver's license copy, and a copy of the contract of sale related to P.C.

i. The W-2s for 2007 and 2008 for P.C. from Company-2 in Newark, New Jersey, falsely showed 2007 income for P.C. of $126,800.60 and 2008 income for P.C. of $128,600.32.

ii. The New Jersey driver's license copy falsely showed P.C.'s date of birth as 04/14/1962 and his address as 7 Esther Street, Newark, New Jersey.

iii. The contract of sale falsely showed P.C. purchasing a property on Livingston Street in

Elizabeth, New Jersey from H.F.C. for $435,000, with a mortgage of $408,500. The contract listed the buyer's real estate agent as **Rogerio C. Silva**, Realty Company-1, and the seller's real estate agent as **Rui Talaia**, Realty Company-2.

g. On or about August 3, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained fraudulent pay stubs for P.C. from Company-2 showing weekly income of $2,573.65.

h. On or about August 13, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained two months of Bank-3 bank statements for P.C. The bank statements showed P.C. with a checking account balance of $43,177.15 on June 20, 2009 and $50,184.57 on July 20, 2009.

i. On or about August 14, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained a copy of a Social Security card in the name of P.C. bearing a Social Security number and other documents purportedly signed by P.C.

j. On or about November 2, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained a new contract of sale for P.C. The contract of sale was for the purchase of 157 Devon Street, Kearny, New Jersey by P.C. from C.O. for $435,000. The contract states the mortgage amount as $413,250. The contract listed the buyer's real estate agent as **Rogerio C. Silva**, Realty Company-1, and the seller's real estate agent as **Rui Talaia**, Realty Company-2.

k. On or about November 17, 2009, **defendant Talaia** informed CW that P.C. would be purchasing a different property.

l. On or about November 18, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained another new contract of sale for P.C. The contract of sale was for the purchase of a property on Fanny Street in Elizabeth, New Jersey by P.C. from J.S. for $475,000. The contract stated the mortgage amount as $451,250. The contract listed the buyer's real estate agent as **Rogerio C. Silva**, Realty Company-1, and the seller's real estate agent as **Rui Talaia**, Realty Company-2.

m. On or about November 24, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained a new contract for P.C. showing the mortgage amount as $427,500 and $46,500 as the deposit on the property.

n. On or about December 28, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained false and fraudulent pay stubs from Company-2 for P.C. showing a weekly gross income of $2,573.65.

o. On or about January 12, 2009, **defendant Talaia** caused a fax to be sent to CW by way of an "eFax" to CW's Yahoo! Account that contained bank statements from Bank-2 for an account held in the name of P.C. The bank statements showed a balance in the account of $7,039.98 on December 4, 2009 and $8,176.17 on January 4, 2010.

p. The W-2s and pay stubs for P.C., which showed P.C. employed by Company-2, and earning $126,800.60 in 2007 and $128,600.36 in 2008, were false in several respects:

i. The investigation has found no records of such employment or wages for P.C.; also, the investigation has found that the Employer Identification Number provided on the W-2s did not belong to Company-2.

ii. Surveillance of the business address by FBI agents found no evidence of Company-2 or the purported address. The location where a Garmin GPS unit indicated that Company-2 should have existed found only two adjacent businesses.

q. The copy of the driver's license provided to CW for P.C. was found not to be a valid New Jersey driver's license. A search of New Jersey DMV records found no driver's license on file for P.C.

r. The false and fraudulent W-2s, pay stubs, bank statements, and driver's license, all stated P.C.'s home address as 7 Esther Street, Newark, New Jersey, the same location claimed as the residence of L.S., as described above.

s. 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 thumb drive

Nunes used to save the documents he had created. On the thumb drive was a folder labeled "ROGERIO." Contained in the folder were the bank statements, and copies of the driver's license and Social Security card in the name of P.C. that **defendants Silva** and **Talia** provided to CW.