

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA)
)
 v.)
)
 PETER BORGIA, JR.,)
)
 Defendant.)

Criminal No. 1:12MJ66

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

Your Affiant, Samuel Koffman, being duly sworn, deposes and states:

Introduction

1. This affidavit is submitted in support of a criminal complaint charging Peter Borgia, Jr. (hereby referred to as BORGIA) with conspiring to commit wire fraud in violation of section 1349 of Title 18 of the United States Code.

2. I am a Special Agent of the United States Secret Service ("USSS") assigned to the Criminal Investigative Division. I have been employed by the USSS for approximately five years. I have received training at the Federal Law Enforcement Training Center in Glynco, Georgia and the USSS Academy in Beltsville, Maryland. As a Special Agent of the USSS, I am authorized to investigate crimes involving access device fraud and other financial crimes, stated under state and federal law, including Title 18 of the United States Code.

3. The facts set forth in this affidavit are based on my personal knowledge and review of records, documents, and other physical evidence obtained during this investigation, as well as information conveyed to me by other law enforcement officials and private persons. All observations referenced in this affidavit that were not made by

me were related to me by the person who made such observations. Unless specifically indicated, all conversations and statements described in this affidavit are related in substance and in part only and are not intended to be a verbatim recitation of such statements.

4. Since this affidavit is being submitted for the limited purpose of obtaining a criminal complaint and arrest warrant, it does not include each and every fact observed by me or known to the government. I have set forth only those facts necessary to support a finding of probable cause.

Probable Cause

5. As described more fully in this affidavit, there is probable cause to believe that BORGIA participated in a conspiracy to commit wire and mail fraud whereby he agreed to and did assist Tony Perez, III (hereinafter PEREZ) to encode stolen credit information onto counterfeit credit cards that PEREZ then sold to others over the Internet for fraudulent use. As part of the scheme to defraud and in furtherance of the conspiracy, PEREZ, using ICQ screen names, sent wire communications to ICQ log-on servers in the Eastern District of Virginia and sent ICQ chat communications to an undercover law enforcement officer located in Fairfax County within the Eastern District of Virginia.

6. During 2009-2010, an undercover USSS Special Agent (“UC1”) communicated over ICQ instant messenger¹ and e-mail with PEREZ about purchasing

¹ ICQ is an instant messaging service that, *inter alia*, allows its users to send communications to and to receive communications from other users of the service over the Internet. When an individual signed on to use the ICQ service during the times discussed in this affidavit, the user sent wire communications to and caused wire communications to be sent from Dulles, Virginia in Loudoun County within the Eastern District of Virginia where ICQ’s logon servers were located at times discussed herein.

counterfeit credit cards encoded with other people's financial account information. ICQ and e-mail messages in furtherance of the scheme to defraud were sent, *inter alia*, between UC1 located in the Eastern District of Virginia and PEREZ in Indiana.

7. On May 5, 2009, UC1 sent \$1980 via two Western Union Wire Transfers from Alexandria, Virginia to Tony Perez, Hammond, Indiana as payment for an order of counterfeit credit cards. I know from my training and experience that the Western Union wire transfer UC1 sent caused a wire communication to be sent from the Eastern District of Virginia to Hammond, Indiana.

8. On May 6, 2010, UC1 sent an e-mail to PEREZ containing an order for counterfeit credit cards.

9. On May 8, 2010, UC1 sent an e-mail to PEREZ providing an undercover address in Pennsylvania where he could send the counterfeit credit cards.

10. On May 10, 2010, BORGIA mailed a package at a FedEx store in Merrillville, Indiana. The package contained twenty (20) counterfeit Visa and MasterCard credit cards bearing the names UC1 had requested. BORGIA was recorded mailing the package on the store's video surveillance system.

11. On May 11, 2010, the package was delivered to the undercover address in Pennsylvania.

12. On June 10, 2010, the United States Secret Service executed a federal search warrant on PEREZ's apartment in the Northern District of Indiana. Among others, BORGIA and PEREZ were both present in the apartment where counterfeit credit cards were in the process of being produced. Among other items, the United States Secret Service seized several different types of equipment that allowed BORGIA and

PEREZ to make counterfeit credit cards, such as an embosser/printer to print cards, a heat stamp press to add false security features, and a magnetic stripe encoder to place stolen credit card account information onto the counterfeit cards. Much of this equipment, supplies and hundreds of counterfeit credit cards in various states of being made were in plain view in the apartment.

13. Included in items seized on June 10, 2010, was a box addressed to Peter Borgia containing printer ribbons of the type used by the credit card printer described above.

14. In addition, USSS seized two Western Union receipts listing Peter Borgia as the recipient of money transfers. As further described in paragraph 17, PEREZ has informed the United States Secret Service that BORGIA sent and received Western Union transfers for PEREZ related to the counterfeit credit card operation. As described below, the Western Union receipts correlate with e-mails in which "customers" are arranging to pay for counterfeit credit cards they ordered from PEREZ:

- a. One of the Western Union receipts (Money Transfer Control Number ("MTCN") 245-294-0154) bears a signature "Peter Borgia." It lists the recipient as "Peter Borgia," the sender as "Michael Williams," and the amount as \$600.00. The same MTCN was referenced in an e-mail to PEREZ on June 3, 2010, listing the same sender name "Michael Williams" and the same amount \$600. Earlier the same day, PEREZ had received another e-mail from the same sender stating "this is 25 pcs to be embossed in that name. Plz ship overnight by 1030 with the other 250 totaling 275 pcs to

this address.” In my training and experience, this e-mail is consistent with a request to purchase counterfeit credit cards and the follow up e-mail is consistent with arranging payment for those cards.

- b. The second Western Union receipt (MTCN number 478-809-5699) lists Jose Aguilar as the sender and Peter Borgia as the recipient. The same MCTN, sender and amount were referenced in a June 7, 2010, e-mail to PEREZ that also included an attached text file containing 30 bank card numbers, the name to be printed on the cards, and instructions to send the cards to Jose Aguilera at a particular address in Tucson, Arizona.

15. On November 4, 2010, Oak Brook, Illinois Police executed a state search warrant at BORGIA’s apartment. PEREZ and BORGIA were both at the residence along with BORGIA’s grandmother. PEREZ told police officers where to find computers, equipment and credit cards that were subject to the warrant because he did not want police to damage the home looking for the items. Among other items, local authorities seized from BORGIA’s bedroom the following counterfeit credit card manufacturing supplies: a magnetic stripe reader/writer, an embossing and indenting machine, a hot foil stamping machine, silver foil paper showing names and credit card numbers, holograms of the kind used on credit cards, counterfeit credit cards in the process of being manufactured, and numerous gift cards with altered magnetic stripes along with other assorted computer equipment.

16. After announcing their presence and entering the residence, Oak Brook Police located BORGIA running out the side door of the home. Oak Brook Police seized from BORGIA's person a Cricket wireless USB card as well as two gift cards with altered magnetic stripes. In my training and experience, the magnetic stripes on gift cards can be re-encoded with stolen credit card account information.

17. According to PEREZ – who pled guilty to federal wire fraud and aggravated identity theft charges and has agreed to cooperate with investigators – BORGIA assisted PEREZ in creation of the counterfeit credit cards and in the mailing of such cards during the counterfeit credit card conspiracy. In addition, BORGIA sent and received Western Union transfers for PEREZ related to the counterfeit credit card operation. In return, PEREZ supported BORGIA and purchased items for him.

Conclusion

18. Based on the foregoing, there is probable cause to believe that Peter Borgia, Jr., has conspired with Tony Perez, III to send to and caused to be sent from the Eastern District of Virginia wire communications in furtherance of a scheme to defraud in violation of section 1349 of Title 18 of the United States Code. Accordingly, a complaint and an arrest warrant are requested.



Samuel Koffman
Special Agent
U.S. Secret Service

Submitted by SAUSA William A. Hall

Sworn to and subscribed before me this
3rd day of February, 2012 /s/ _____


Theresa Carroll Buchanan
United States Magistrate Judge

Honorable Theresa C. Buchanan
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA,)	
)	
v.)	1:12-CR-185
)	Count 1: 18 U.S.C. § 371
PETER BORGIA, JR.,)	(Conspiracy to Commit Wire
)	Fraud)
Defendant.)	Count 2: 18 U.S.C. § 1028A(a)(1)
)	(Aggravated Identity Theft)

INDICTMENT

May 2012 Term at Alexandria, Virginia

THE GRAND JURY CHARGES THAT:

COUNT ONE

Conspiracy to Commit Wire Fraud (18 U.S.C. § 371)

1. Starting before May 6, 2010 and lasting until after November 15, 2010, the defendant,

PETER BORGIA, JR.,

did conspire with another person, Tony Perez, III, to commit an offense against the United States, to wit, violations of Title 18, United States Code, Section 1343, and one or more such persons did acts to effect the object of the conspiracy, that is, on May 6, 2010, in the Eastern District of Virginia, and elsewhere, Tony Perez, III, while outside of Virginia, logged into an ICQ account on computers located in Loudon County, Virginia and conducted an on-line chat with an undercover law enforcement officer in which Tony Perez, III agreed to sell counterfeit credit cards to the undercover officer.

(All in violation of Title 18, United States Code, Section 371.)

COUNT TWO

Aggravated Identity Theft (18 U.S.C. § 1028A(a)(1))

2. During the conspiracy and the scheme to defraud described above, in the Eastern District of Virginia and elsewhere, the defendant,

PETER BORGIA, JR.

did knowingly transfer, possess, and use, without lawful authority, means of identification of another person during and in relation to a violation of Title 18, United States Code, Section 1343, in that he used stolen credit card information that he knew belonged to specific individuals to make fraudulent purchases.

(All in violation of Title 18, United States Code, Section 1028A(a)(1).)

A TRUE BILL

NEIL H. MACBRIDE

United States Attorney

Pursuant to the E-Government Act,
the original of this page has been filed
under seal in the Clerk's Office.

By:



Michael J. Stawasz
Special Assistant United States Attorney

Foreperson

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 1:12-CR-185-LMB
)	
PETER BORGIA, JR.)	
)	
Defendant.)	

**GOVERNMENT'S MOTION FOR
ALTERNATIVE VICTIM NOTIFICATION PROCEDURES**

The United States of America, by and through its counsel, hereby respectfully moves this Court, pursuant to Title 18, United States Code, Section 3771(d)(2), for authorization to employ the victim notification procedures described below in lieu of those prescribed by section 3771(a), (b) and (c), on the grounds that the number of crime victims in this case - potentially over 20,000 of them - makes it impracticable to accord all of the crime victims the rights described in subsection 3771(a). In support of this Motion, the government states as follows:

A "a person directly and proximately harmed" as a result of the commission of a federal criminal offense has "[t]he right to reasonable, accurate, and timely notice of any public court proceeding . . . involving the crime or of any release or escape of the accused," and "[t]he right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding." 18 U.S.C. § 3771(a)(2), (a)(4), (e). Unless otherwise ordered by the Court, "[o]fficers and employees of the Department of Justice . . . [must] make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection [3771](a)," 18 U.S.C. § 3771(c)(1).

Recognizing that, in cases involving large numbers of potential victims, the burdens

imposed by the Act would be overwhelming, Congress provided that

In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection [3771](a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

18 U.S.C. § 3771(d)(2).

The charges in this case arise out of the defendant's participation in a conspiracy that involved illegal possession and distribution over the Internet of **20,987** stolen credit card accounts issued by numerous banks to tens of thousands of customers. All of these credit card accounts were associated with one of the four major credit card brands owned by Visa, Inc., MasterCard Incorporated, American Express Company and Discover Financial Services. Together, these four credit card associations reported to the government thousands of fraudulent charges on the stolen accounts totaling **\$ 3,138,678.05**. The number of potential victims in this case – both banks and merchants who likely bore some part of the loss as well as the individuals whose identifying information was stolen and/or sold – make compliance with the requirements outlined in section 3771(a), (b) and (c) impracticable. Neither the government nor the Court has the resources to accord over 20,000 potential victims all of the rights prescribed in subsection 3771(a).

Consistent with the Court's discretion to fashion reasonable alternative victim notification procedures in cases such as this under section 3771(d)(2), the United States requests authorization from the Court to provide notification to the four major credit card associations,

Visa, Inc., MasterCard Incorporated, American Express Company and Discover Financial Services, whose brands are associated with the credit card accounts illegally possessed. Because these associations process transactions on behalf of credit card issuers who in turn issue credit accounts to their customers, and because it is these companies' records that document which accounts were fraudulently used and where, the associations are uniquely positioned to communicate directly and/or indirectly with all impacted entities and individuals. Accordingly, the United States requests the Court to adopt the notification procedures outlined in the attached proposed Order.

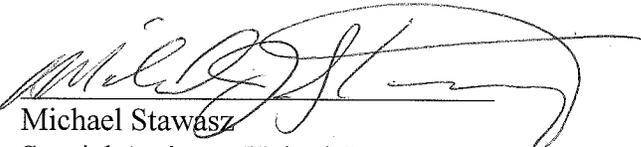
The number of potential victims in this case - over 20,000 of them - renders individual notification to each impracticable. In such cases, this Court may fashion a reasonable alternative notification procedure. The government's proposed notification procedures are reasonable under the circumstances. For the reasons set forth above, the government respectfully requests that this Court grant this motion and issue the proposed Order.

Dated this 10th day of May, 2012.

Respectfully submitted,

Neil H. MacBride
United States Attorney

By:

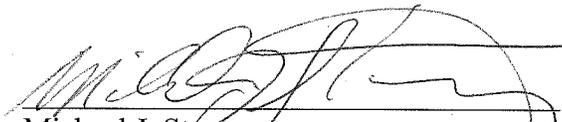

Michael Stawasz
Special Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of May 2012, a true and accurate copy of the Government's Motion For Alternative Victim Notification Procedures was sent by electronic mail and by U.S. Mail to counsel for the defendant, Mark Bodner, Esq., at the following addresses respectively:

rendob@gmail.com

Mark Bodner
3925 University Drive
Fairfax, Virginia 22030



Michael J. Stawasz
Special Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal No. 1:12-CR-185-LMB
)	
PETER BORGIA, JR.)	
)	
Defendant.)	

ORDER

The United States of America, having moved this Court pursuant to Title 18, United States Code, Section 3771(d)(2), for authorization to employ alternative victim notification procedures in lieu of those prescribed by section 3771(a), (b) and (c), on the grounds that the number of crime victims in this case makes it impracticable to accord all of the crime victims the rights described in subsection 3771(a), and full consideration having been given to said Motion, the Court finds:

- a. that the number of potential crime victims in this case renders compliance with the victim notification requirements prescribed by Title 18, United States Code, Section 3771(a), (b), and (c) impracticable pursuant to Subsection 3771(d)(2); and
- b. that the alternative notification procedures proposed by the government are reasonable and sufficient to give effect to the crime victim rights outlined in Section 3771 and will not unduly complicate or prolong the proceedings.

WHEREFORE, IT IS HEREBY ORDERED that the United States shall provide notice to to Visa, Inc., MasterCard Incorporated, American Express Company and Discover Financial Services on behalf of the victims, which notice shall include the following information:

- The name of the defendant, the case number, and charges;

- Notification that the associations' members and the associations' members' customers may have been victimized by the illegal activities of the named defendant;
- All of the victim rights codified at 18 U.S.C. § 3771(a);
- The means by which the association and potential victims they may notify can obtain current case information from the web site for the United States Attorney's Office for the Eastern District of Virginia. The United States will post notices of upcoming case events on its website.

The Honorable Leonie M. Brinkema
United States District Court Judge

May __, 2012
In Alexandria, Virginia