

AO 91 (Rev. 08/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America

v.

DIOCENYR SANTOS

)
)
)
)
)
)

Case No.

12-6425-SNOW

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 10, 2012 to the present in the county of Broward in the Southern District of Florida, the defendant(s) violated:

Code Section

50 U.S.C. 1705 (IEEPA) and the Iranian Transaction Regulations, Title 31, Code of Federal Regulations, Section 560 et. seq.

Offense Description

Engaging in the business brokering activities regarding a transaction involving the export of Airbus aircraft from China to Iran in violation of the International Emergency Economic Powers Act and the Iranian Transaction Regulations.

This criminal complaint is based on these facts:

See attached Affidavit.

Continued on the attached sheet.

Fergus Norton

Complainant's signature

Fergus Norton, Special Agent, HSI

Printed name and title

Sworn to before me and signed in my presence.

Date:

11/1/2012

Lurana S. Snow

Judge's signature

City and state:

Fort Lauderdale, Florida

LURANA S. SNOW, U.S. MAGISTRTE JUDGE

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Fergus Norton, being first duly sworn, state as follows:

PERSONAL BACKGROUND

1. I am currently employed as a Special Agent with The United States Department of Homeland Security, Homeland Security Investigations (HSI), and have been so employed since August of 2008. I am a graduate of the Federal Law Enforcement Training Center's Criminal Investigator Training Program and the HSI Special Agent Training Academy. I am presently assigned to the Counter Proliferations Group.
2. My current duties and responsibilities involve investigations related to the export laws of the United States, to include The Arms Export Control Act ("AECA"), The Export Administration Act ("EAA"), The Trading With The Enemy Act (TWEA) and The International Emergency Economic Powers Act ("IEEPA").
3. I am also familiar with the interpretation and application of federal laws and federal court procedures. I have previously conducted numerous federal arrests and executed numerous federal search warrants. I have participated in the investigations of violations of United States laws related to the brokering, sale and transfer of defense articles on the United States Munitions List and the unlawful export from the United States of goods and technologies restricted for export for reasons of national security, foreign policy, anti-terrorism, and embargoed destinations. I am empowered to make arrests in connection with such violations. I am aware that it is a violation of the International Emergency Economic Powers Act, Title 50, United States Code, Section 1705 and the Iranian Transactions Regulations, Title 31, Code of Federal Regulations,

Section 560 et seq. for a United States citizen to export or facilitate the export of goods or services to Iran or to act as a broker in the export or facilitation of the export of goods or services to Iran.

PROBABLE CAUSE

4. The information contained in this affidavit is based on my own observations and information obtained from other law enforcement personnel involved in the investigation, including other agents from Homeland Security Investigations (HSI) and law enforcement officers from Miami Dade Police Department. This affidavit is presented for the limited purpose of establishing probable cause for a criminal complaint, and as such does not include every fact known to me or others in connection with this investigation.

5. Based upon the facts set forth below, your affiant has probable cause to believe that DIOCENYR SANTOS, did knowingly and willfully engage in the business of brokering a transaction involving the export of Airbus aircraft from China to Iran, in violation of the International Emergency Economic Powers Act, Title 50, United States Code, Section 1705 and the Iranian Transactions Regulations, Title 31, Code of Federal Regulations, Section 560 et seq.

STATUTE AND REGULATIONS

6. The President of the United States of America (the "President"), by virtue of the International Emergency Economic Powers Act (IEEPA), Title 50, United States Code, Section 1701, et. seq., was granted authority to "deal with any unusual or

extraordinary threat ... to the national security, foreign policy or economy of the United States, if the President declares a national emergency with respect to such threat.”

7. Section 1705(a) of the IEEPA made it “unlawful for a person to violate, attempt to violate, conspire to violate, or cause a violation of any license, order, regulation or prohibition issued under this chapter.”

8. On March 15, 1995, pursuant to the IEEPA, the President issued Executive Order 12957 (E.O. 12957) finding that “the actions and policies of the Government of Iran constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States,” and declared “a national emergency to deal with that threat.”

9. On August 19, 1997, pursuant to the IEEPA, the President issued Executive Order 13059 (E.O. 13059) to “clarify the steps taken in Executive Order 12957 ... to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States ... in response to the actions and policies of the Government of Iran.”

10. E.O. 13059, Section 2, prohibited:

“(d) any transaction or dealing by a United States person, wherever located, including purchasing, selling, ... brokering, approving, financing, facilitating, or guaranteeing, in or related to:

...

(ii) goods, technology, or services for exportation, reexportation, sale, or supply, directly or indirectly, to Iran

or the Government of Iran;

- (e) any approval, financing, facilitation, or guarantee by a United States person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by this order if performed by a United States person or within the United States; and
- (f) any transaction by a United States person ... that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set for in this order.”

11. Pursuant to E.O. 13059, Section 4(c) “the term ‘United States person’ means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.”

12. In order to implement E.O. 12957 and E.O. 13059, the Secretary of the United States Treasury Department, through the Office of Foreign Assets Control, issued the Iranian Transactions Regulations, Title 31, Code of Federal Regulations, Part 560.

(A) Title 31, Code of Federal Regulations, Section 560.206 provided that:

“(a) ... no United States person, wherever located, may engage in any transaction or dealing in or related to:

... (2) Goods, technology or services for exportation, reexportation, sale or supply, directly or indirectly, to Iran or the Government of Iran.

(b) For purposes of paragraph (a) of this section, the term

transaction or dealing includes but is not limited to purchasing, selling, transporting, swapping, brokering, approving, financing, facilitating or guaranteeing.”

(B) Title 31, Code of Federal Regulations, Section 560.208 provided that “ ... no United States person, wherever located, may approve, finance, facilitate, or guarantee any transaction by a foreign person where the transaction by that foreign person would be prohibited by this part if performed by a United States person or within the United States.”

(C) Title 31, Code of Federal Regulations, Section 560.416(b), provided that “A person within the United States, or a United States person, wherever located, may not: (1) Act as broker for the provision of goods, services or technology, from whatever source, to or from Iran or the Government of Iran; ... (3) Act as broker for the provision of financing, a financial guarantee or an extension of credit by any person to Iran or the Government of Iran; ... (5) Act as broker for the provision of financing, a financial guarantee, or an extension of credit to any person specifically to enable that person to provide goods, services or technology intended for Iran or the Government of Iran.”

(D) Title 31, Code of Federal Regulations, Section 560.203 provided that “Any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the provisions contained in this part is hereby prohibited.”

(E) Title 31, Code of Federal Regulations, Section 560.314 defined “United States Person” as “any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.”

13. **DIOCENYR RIBAMAR BARBOSA-SANTOS** was a naturalized United States citizen from Brazil.

FACTS

14. Your affiant has been engaged in an investigation of DIOCENYR SANTOS, a naturalized U.S. citizen, originally from Brazil. The investigation was initiated after receiving information from a Confidential Source (CS) that DIOCENYR SANTOS was involved in an attempt to broker the purchase of multiple Airbus aircrafts to a buyer in Iran from a seller in China.

15. On or about January 10, 2012, DIOCENYR SANTOS and the CS, exchanged emails wherein DIOCENYR SANTOS outlined the terms of a financial arrangement for the purchasing of seven Airbus passenger aircrafts for Iran Air for 19.5 million U.S. dollars per aircraft totaling 136.5 million dollars. In the email DIOCENYR SANTOS requested a draft of the bank guarantee that would have to be issued in favor of Iran.

16. On or about January 11, 2012, DIOCENYR SANTOS sent an e-mail to the CS from realbrasil.participacoes@gmail.com, in which DIOCENYR SANTOS advised that the bank must confirm that they will accept a Letter of Credit from Iran and will issue a bank guarantee.

17. On or about February 21, 2012, DIOCENYR SANTOS sent an e-mail to the CS from realbrasil.participacoes@gmail.com, in which DIOCENYR SANTOS advised that the aircraft were from China and that the deal is for a sale to Iran Air. DIOCENYR SANTOS further stated that the problem was finding a bank who would accept the transaction, specifically, that the bank must accept a letter of credit from Iran and issue a bank guarantee in the amount of 136.5 million dollars. DIOCENYR SANTOS stated that he would send the bank guarantee to Iran Air and they would send

the Letter of Credit to the bank.

18. On February 24, 2012, an undercover meeting was conducted between an HSI undercover agent (UCA), the CS and DIOCENYR SANTOS in Fort Lauderdale, Florida. At this meeting DIOCENYR SANTOS was positively identified as DIOCENYR SANTOS, DOB 07-07-1960. A computer check of immigration databases revealed that DIOCENYR SANTOS is a naturalized U.S citizen from Brazil. During the meeting DIOCENYR SANTOS indicated his knowledge of the illegality of conducting the aircraft transactions and advised the UCA that because they were all American citizens they could all go to jail just for talking about the sale of the aircraft to Iran. DIOCENYR SANTOS discussed how to facilitate the purchase, finance and delivery of the aircraft. SANTOS also discussed the possibility of acquiring other items such as C-130 aircraft and other controlled items on the United States Munitions List. At the conclusion of the meeting DIOCENYR SANTOS agreed to contact his clients in Iran to discuss the potential financing methods for the aircraft.

19. On March 7, 2012, the UCA and the CS conducted a consensually monitored telephone call with DIOCENYR SANTOS. The UCA, CS and DIOCENYR SANTOS discussed the possibility of using HINDUJA BANK in Zurich, Switzerland and a Swiss banking specialist to finance the sale of the A300 series aircraft to Iran.

20. On March 20, 2012, the UCA conducted a consensually monitored telephone call with DIOCENYR SANTOS. The UCA and DIOCENYR SANTOS discussed the agreements necessary to complete the deal for the A300 series aircraft that will be sold to Iran. Specifically, DIOCENYR SANTOS stated that the bank guarantee

should be written for his company, REAL BRASIL PARTICIPACOES, and upon receiving the bank guarantee and showing that agreement to the Iranians, the Iranians would make a deposit to his bank in Brazil.

21. On or about February 24, 2012, a subpoena for tolls was served on AT&T for DIOCENYR SANTOS' cell phone (954) 394-3601. On March 15, 2012, your affiant received and reviewed the toll records results. These toll records indicated that a call was placed from SANTOS' cell phone outbound to an international number (011) 98-0912120029 on 02/01/2012 at 2:03 A.M. The call lasted for 7 minutes and 12 seconds. Computer checks revealed that the country code for IRAN is 98.

22. On March 26, 2012, the UCA conducted a consensually monitored telephone call with DIOCENYR SANTOS. The UCA and DIOCENYR SANTOS discussed meeting in Ft. Lauderdale on Friday, March 30, 2012 to discuss possible ideas for structuring the deal for the A300 airplanes to IRAN. DIOCENYR SANTOS advised the UCA that he would contact the UCA on Wednesday, March 28, 2012 to confirm that he could attend the meeting.

23. On April 6, 2012, DIOCENYR SANTOS and the UCA met at an undercover proprietary location in Broward County to discuss the financing of 7 Airbus A300 aircraft to Iran from China. The UCA and DIOCENYR SANTOS discussed multiple aspects of the deal including how to finance the aircraft and how to ferry the aircraft to Iran from China.

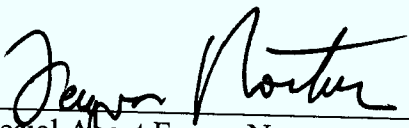
24. On August 7, 2012, the UCA and DIOCENYR SANTOS discussed the possibility of selling engines from Pratt & Whitney to Iran.

25. On August 22, 2012, DIOCENYR SANTOS and the UCA discussed DIOCENYR SANTOS' attempts to contact his Iranian contacts regarding the sale of the Pratt and Whitney parts and the progress of the sale of the aircraft to Iran Air.

26. On October 16, 2012, DIOCENYR SANTOS and the UCA discussed meeting on November 2, 2012, in Fort Lauderdale to discuss the progress of the financing of the sale of the A300. DIOCENYR SANTOS agreed to meet the UCA in Fort Lauderdale on November 2, 2012.

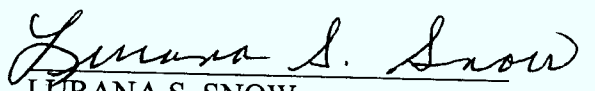
27. Based upon the above stated facts, there is probable cause to believe DIOCENYR SANTOS has committed violations of Federal law, that is willfully acting as a broker in the financing of goods on behalf of Iran in violation of Title 50, United States Code, Section 1705, The International Emergency Economic Powers Act (IEEPA), and the Iranian Transaction Regulations, Title 31, Code of Federal Regulations, Section 560 et seq.

FURTHER YOUR AFFIANT SAYETH NAUGHT.



Special Agent Fergus Norton
Homeland Security Investigations

Sworn to and subscribed before me this
1st day of November, 2012.



LURANA S. SNOW
UNITED STATES MAGISTRATE JUDGE