

State of Minnesota
County of Hennepin

District Court
4th Judicial District

Prosecutor File No. 18A09225
Court File No. 27-CR-18-24013

State of Minnesota,

Plaintiff,

vs.

RICARDO ERNESTO BATRES DOB: 08/17/1972

5644 Vera Cruz Avenue North
Crystal, MN 55430

Defendant.

COMPLAINT

Order of Detention

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Labor Trafficking; Individuals age 18 or older.

Minnesota Statute: 609.282.2, with reference to: 609.282.2

Maximum Sentence: 15 YEARS AND/OR \$30,000

Offense Level: Felony

Offense Date (on or about): 08/24/2017

Control #(ICR#): 17002179

Charge Description: On or about August 24 to November 14, 2017, in Hennepin, Carver and Washington Counties, Minnesota, RICARDO ERNESTO BATRES, date of birth 8/17/72, Defendant herein, knowingly engaged in the labor trafficking of victim, a known adult male.

COUNT II

Charge: Theft-By Swindle

Minnesota Statute: 609.52.2(a)(4), with reference to: 609.52.3(1)

Maximum Sentence: 20 YEARS AND/OR \$100,000

Offense Level: Felony

Offense Date (on or about): 11/14/2017

Control #(ICR#): 17002179

Charge Description: That on or about November 14, 2017, in Hennepin County, Minnesota, RICARDO ERNESTO BATRES, date of birth 8/17/72, Defendant herein, obtained property or services in public funds for himself, or another, by swindling Hennepin County Emergency Medical Assistance Program using artifice, trick, device or other means, and the property or services had a value in excess of Thirty-Five Thousand Dollars (\$35,000.00).

COUNT III

Charge: Insurance Fraud-Present False Representation/Conceals Facts-Policy Application

Minnesota Statute: 609.611.1(a)(1), with reference to: 609.52.3(2)

Maximum Sentence: 10 YEARS AND/OR \$20,000

Offense Level: Felony

Offense Date (on or about): 01/01/2017

Control #(ICR#): 17002179

Charge Description: That on or about January 1, 2017 through December 31, 2017, in Hennepin County, Minnesota, RICARDO ERNESTO BATRES, date of birth 8/17/72, Defendant herein, with intent to defraud, presented or caused to be presented, or prepared with knowledge or reason to believe that it would be presented, on behalf of an insured, claimant, or applicant to an insurer, insurance professional, or premium finance company, information that contained a false representation as to a material fact, or concealed a material fact concerning an application for, rating of, or renewal of, an insurance policy for the purpose of depriving another of property or for pecuniary gain that had a value in excess of Five Thousand Dollars (\$5,000.00).

STATEMENT OF PROBABLE CAUSE

Your complainant, Ephraim Holmgren, is a Special Agent with Minnesota Commerce Fraud Bureau. In that capacity, and working in conjunction with Fraud Bureau Senior Analyst Jill Bean, complainant has investigated the circumstances of this case and discovered the following facts that establish probable cause to believe that RICARDO ERNESTO BATRES (DOB 08/17/1972), Defendant herein, did commit the crimes of labor trafficking, insurance fraud, and theft of public funds.

Defendant recruited and enticed persons to work for his company, American Contractors and Associates, LLC, to complete wood framing and wall board installation construction work. Defendant knew the men he employed were undocumented workers and used that knowledge as leverage to force them to work long hours, for less than market pay, and without adequate safety protections. Defendant also knew that he had not purchased workers' compensation insurance as required by law. When workers were injured, Defendant told his employees that they would lose their jobs and be deported if they sought medical attention. In at least one instance, Defendant forced an employee to work for him through a combination of threats of physical restraint, threatened abuse of the legal process, and possession and control of immigration documents.

Defendant also repeatedly made false statements to insurance companies with the purpose of evading workers' compensation laws. In addition, when one employee was seriously injured, Defendant provided false information about the injury in support of an application for emergency medical insurance, resulting in more than \$45,000 of public funds going to cover medical bills that should have been covered by Defendant's mandatory workers' compensation policy.

Based on the facts as set forth below, Defendant is charged with labor trafficking, theft by swindle of public funds and insurance fraud.

I. AMERICAN CONTRACTORS AND ITS EMPLOYEES.

Defendant registered his company, American Contractors and Associates, as a Limited Liability Company with the Minnesota Secretary of State in 2008 and obtained a Residential Building Contractor license from the Minnesota Department of Labor and Industry that same year.

The business was run by Defendant out of locations in Crystal, Hennepin County, Minnesota. The company provided wood framing, wallboard installation work, and other construction work throughout Hennepin County and several adjoining counties. The number of employees fluctuated over time, but at its height in the summer of 2017, Defendant had over a dozen workers. Defendant knowingly recruited and hired undocumented workers, because doing so allowed him to take more profit for himself, at the expense of his workers' safety and wellbeing.

As an employer and registered contractor, Defendant was obligated under Minnesota law to maintain workers' compensation insurance. Defendant knew of those obligations as he submitted Certificates of Compliance for Minnesota Workers' Compensation Law in 2008, 2012, 2014, 2016, and 2018. Defendant also applied for workers' compensation through a government managed plan in 2008 and 2009. After this policy was canceled, Defendant improperly operated without insurance for a period of time. After he faced administrative action by the Minnesota Department of Labor and Industry ("DOLI") in 2013, he reapplied for insurance from the government plan, but was not granted insurance because he did not provide the documents they needed to complete an audit and because of issues stemming from his operation in 2009 and 2010. He then applied for a new policy from a private insurance company. He provided false statements on that application, which lead that company to issue an insurance policy and which lead to

substantially lower premiums that he would have been required to pay had he been truthful.

Interviews with several of Defendant's former employees revealed the same facts – Defendant hired them as hourly employees. They did not bid on jobs and did not buy their own construction materials. While some of them had their own tools, Defendant provided some tools and also provided larger construction machinery needed for their work. Defendant directed them where to work and when to work. They submitted their hours to Defendant, who paid them based on the number of hours worked. Defendant made no deductions from their paychecks for taxes or any other reason. The employees did not maintain their own businesses, were not registered with the Minnesota Department of Labor and Industry as independent contractors, did not have federal or state tax payer identification numbers, and did not maintain their own workers' compensation policies. Under Minnesota law, and under the plain understanding of the term, they were Defendant's employees. Defendant knew they were employees and he treated them as such, requiring them to log their hours, moving them from one project to the next, and hiring and firing them. Defendant made false statements on his applications for workers' compensation insurance and during his audits with his insurance company to hide the fact he had employees and to lower his premium payments. These false statements included, but were not limited to, the fact that he had employees and the type of work they completed.

While Defendant operated his company in this manner for many years, this complaint focuses on Defendant's actions in 2017. Starting in or around May 2017, Defendant began to recruit workers for the summer construction season. He enticed as many as twelve people to work for him by promising an hourly wage, benefits, and in some cases, housing. In at least one instance, he recruited an undocumented worker to move to Minnesota to work for his company. Defendant had his employees work at elevation, sometimes as high as six stories, and without proper safety equipment. Employee job duties primarily involved framing work, using prefabricated wood walls at large development projects located in Golden Valley, Bloomington, and Maple Grove, Hennepin County, Minnesota, and in other locations in other counties in Minnesota. Defendant had his employees work 10 to 12 hours per day, Monday through Saturday and occasionally on Sunday. He did not pay overtime and did not take deductions from their paychecks. Bank records show Defendant paid his workers each week for the hours they worked and that none of the workers shared in the profit from the jobs.

II. EMPLOYEE INJURIES.

Due to the risks involved in construction work, particularly in light of inadequate safety protections for his employees, several of Defendant's employees sustained injuries while working for Defendant.

Employees were injured when they stepped on nails, when heavy prefabricated walls fell on them, and by falling from heights as they worked on multiple-story buildings. Due to the risks inherent in the construction industry, Minnesota law requires employers to maintain workers' compensation insurance to provide medical care, lost income, and vocational rehabilitation for injured employees. Defendant knew that he had made false statements on his workers' compensation policy applications denying that he had employees, so, when workers began to suffer injuries he told them not to seek medical attention and not to report the injuries. Defendant told his workers that if they reported the injuries, they and their coworkers would lose their jobs. He also told them that they would be deported for illegally working in the United States. Defendant sent workers to a massage therapist / traditional healer who would provide massages and other types of care for injured workers. Defendant sent at least three workers to this "traditional healer" in the summer of 2017. Defendant told these workers he would pay them while they were unable to work, but he did not follow through with that promise. As such, multiple workers returned to working for Defendant while still injured, without receiving adequate medical attention and without being compensated while they were injured at work.

III. DETENTION BY ICE

On or about July 5, 2017, after a number of workplace injuries had occurred, a group of employees decided they could no longer work for Defendant. In addition to the concerns about injuries and lack of medical care, Defendant had put the workers up in an overcrowded house in Bloomington with no hot water. Defendant then stopped paying their rent. Defendant expressed concern about losing his workers and being left in ruins if he didn't have people to work for him. On the morning of July 11, 2017, as the men left the Bloomington house to go to work for Defendant, they were stopped by officers with Immigration Customs and Enforcement ("ICE"). Multiple workers were arrested and detained. Several of them were quickly deported, but others remained in ICE custody as their immigration cases proceeded. During this time, Defendant went to see these employees in custody multiple times. Defendant gave the men advice on how to handle the immigration proceedings and told them he had hired a lawyer for them. No attorney showed up at any court proceedings and records indicate that no attorney hired by Defendant did any work on their cases. After about a month in custody, on August 23, 2017, one of the employees was able to get an immigration bond set on his case.

When he was released, Defendant was waiting for him outside of the detention center. Defendant spoke on the employee's behalf to the immigration officials in English, and also completed the release and bond paperwork. The employee does not speak English and could not participate in the interview or forms. The employee knew that Defendant was claiming to be a friend and listed Defendant's address and phone number as the contact information for the employee. In order to be in compliance with the terms of his release from detention, the employee had to go to Defendant's home every week to complete his "check in" call with immigration officials. Defendant also told this employee that he had to go with him to his monthly meetings with immigration officials. On the way to the first of these meetings, Defendant told the employee that several years ago Defendant had considered working for ICE and, although he decided not to take the job, he knew people at ICE. Defendant's message to the employee was, "don't leave me, you have to continue working with me until we finish this, if you try to leave I can harm you. If you leave me, you'll lose all of the good opportunities you have with me." This statement made the employee fearful of what would happen to him if he tried to stop working for Defendant.

After his release from ICE custody, Defendant told this employee that he had paid \$7,000 for an attorney for him and another \$6,000 to get him out of custody. Defendant said the employee now owed Defendant \$13,000 and had to work for him to pay off the debt. The day after his release, Defendant sent the employee back to work, doing the same work he had done before his arrest and detention. Defendant lowered the employee's hourly rate of pay, ostensibly to be repaid for the \$13,000, but did not keep track of how much was paid back and the employee did not know how much Defendant was claiming was still owed.

Over the coming weeks and months, Defendant used his knowledge of the employee's immigration status and his claim that the employee owed him money to force the employee to work for him. Defendant made promises to the employee to help with his immigration status. For example, Defendant told him that he had hired an attorney who would help the employee obtain a work permit, licenses, and a residency card. Other times, Defendant threatened the employee, saying that he was responsible for him and that if he didn't do what Defendant said he would be deported. For example, Defendant led the employee to believe that he was responsible for the employee's arrest by ICE and for his subsequent release from custody. He also told the employee about people he knows in ICE and suggested that he would use his connections to have the employee deported if he tried to quit. Through a combination of promises to help and threats of deportation Defendant made the employee fearful that he would be deported if he stopped working for Defendant. The employee continued working for Defendant until November of 2017, when he was badly injured at a work site.

IV. EMPLOYEE INJURIES IN NOVEMBER 2017.

On November 14, 2017, while working for Defendant, the employee was seriously injured. A large, prefabricated wall fell on top of him causing multiple spinal fractures. The employee was hospitalized for six days and required extensive follow-up treatment. The injury happened while the employees were attempting to put a large prefabricated wall into position when a strong wind caused it to fall. When the wall fell, it landed on the employee's back and pinned him to the ground. His coworkers were able to lift the wall and pull the employee out from underneath. Following the accident, the employee was in intense pain and could not walk. The workers called Defendant, who told them not to call an ambulance. He said the ambulance would alert immigration officials and the employee would be deported. He told them to bring the employee to the woman who had given massages to the workers that summer. When the men insisted that the employee needed medical treatment, Defendant told them to wait for him to arrive. The men waited for about 30 minutes, but they decided they could not wait any longer because of the severity of the employee's injuries. Defendant, however, intercepted them in route to the hospital and took the employee to the hospital himself.

Defendant took this employee to the Hennepin County Medical Center, located in Minneapolis, Hennepin County, Minnesota. When they arrived at the hospital, emergency medical professionals put the employee on a backboard and brought him to the emergency room. He was examined by neurology and surgery specialists, and diagnosed with multiple spinal fractures. Initially, the doctors thought he would need surgery. After several days of observation, however, the doctors decided on a more conservative plan of treatment and fitted the employee with a body cast to immobilize him. The employee was discharged after spending six days in the hospital and continues to have physical therapy appointments nearly a year later. He still experiences pain from the injury, he has difficulty bending over, and cannot stay in the same position for long periods of time.

When the employee was admitted to the emergency room, Defendant was with him and acted as a translator. Defendant lied to the hospital staff about how the injury happened, telling them that the employee was injured at Defendant's home as they tried to lift a heavy object into a dumpster. Defendant told the employee to go along with that story because he would be deported if he told the truth about being injured at work.

Because Defendant lied about how the employee was injured, the hospital did not know that his injuries occurred on the job. On the day he was first admitted to the hospital, November 14, 2017, a financial counselor with HCMC met with him. Defendant was present during this conversation and had already coerced and convinced his employee to deny the injury happened at work. The employee went along with Defendant's story, telling the financial counselor that he was injured in an accident at home. Defendant knew this was false information submitted to obtain government assistance for the employee and Defendant knew that since the employee was injured while working for him that the injury should have been submitted to his workers' compensation policy. The employee went along with these false statements because Defendant told him he would be deported if he said he was injured at work.

Based on the false representations, Hennepin County approved emergency medical assistance for the employee. The cost of the medical treatment was covered by a combination of publically funded programs. Over \$31,000 was covered by Medicaid, over \$10,000 was paid for by Minnesota Care, and an additional \$4,200 was paid for by Hennepin County Charity Care program. In total, more than \$45,000 in public funds paid for the employee's medical care because Defendant lied about how the employee was injured and failed to report the injury to workers' compensation insurance.

V. EFFORTS TO CONCEAL CRIMINAL ACTS.

Defendant knew that he had defrauded his insurance company and he knew of his obligations to his employees. Because of this, he took steps to hide his crimes after they were discovered. For example, Defendant tried to get several workers to sign documents that indicated they were actually independent contractors, who would be responsible for their own workers' compensation insurance. Defendant only asked them to sign the documents long after they had been working for him and he withheld paychecks from the employees to force them to sign the documents. The employees could not read English and did not know what the documents said. Defendant forced and coerced his employees into signing these documents by claiming they could force deportation if they didn't, by withholding pay, and by otherwise intimidating and lying to his workers.

Defendant also made false statements to an insurance company to cover up his crimes. After it was discovered that Defendant had employees that he did not disclose on his applications for workers' compensation insurance and during his audits, Defendant's insurance company asked him questions about his company and its employees. Defendant lied to them about his company, claiming that he only worked with subcontractors. He specifically lied about the employee who suffered the spinal fracture and another employee, claiming that they did not work for him. During his conversation with the insurance company, Defendant expressed an understanding of workers' compensation laws and his requirement to maintain insurance to cover employees.

VI. DEFENDANT'S FINANCES.

By evading his workers' compensation insurance obligations, and by underpaying his workers, Defendant was able to obtain significant personal gain from his business. For example, starting in June 2017, he took more than \$50,000 out of his company and used it to buy a home. In 2017, he withdrew more than \$20,000 in cash and he used company money to pay for personal expenses. He paid almost \$4,000 in 2017 for health insurance for himself, at the same time as he failed to maintain required insurance for his workers. He spent more than \$4,000 at gas stations and more than \$3,000 on groceries and he spent nearly \$12,000 purchasing a car.

VII. SEARCH WARRANT AND ARREST

On September 25, 2018, a search warrant was executed at Defendant's business and home. Records relating to the operation of American Contractors, including time cards and payroll information for employees were located. Electronic devices were also seized and will be analyzed, along with the records taken pursuant to the warrant.

On that same date, Defendant was located and taken into custody and transported to the Hennepin County Detention Facility. Due to the seriousness of the offenses, in particular labor trafficking that resulted in serious injury to an employee, theft of public funds and insurance fraud, the State is requesting that bail be ordered in the sum of \$200,000.

SIGNATURES AND APPROVALS

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Ephraim Holmgren
Special Agent
85 7th Place East
Suite 100
St. Paul, MN 55101
Badge: 109

Electronically Signed:
09/25/2018 03:36 PM
Hennepin County, Minnesota

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Morgan D Kunz
Assistant Hennepin County
Attorney
300 S 6th St
Minneapolis, MN 55487
(612) 348-5550

Electronically Signed:
09/25/2018 03:10 PM

FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear on _____, _____ at _____ AM/PM before the above-named court at 300 S Sixth Street, Minneapolis, MN 55487 to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only

Execute Nationwide

Execute in Border States

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$200,000.00

Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: September 25, 2018.

Judicial Officer

Toddrick Barnette
District Court Judge

Electronically Signed: 09/25/2018 03:57 PM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF HENNEPIN
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

RICARDO ERNESTO BATRES

Defendant

*LAW ENFORCEMENT OFFICER RETURN OF SERVICE
I hereby Certify and Return that I have served a copy of this Order of
Detention upon the Defendant herein named.*

Signature of Authorized Service Agent:

DEFENDANT FACT SHEET

Name: RICARDO ERNESTO BATRES
DOB: 08/17/1972
Address: 5644 Vera Cruz Avenue North
Crystal, MN 55430

Alias Names/DOB:

SID: MN05043444

Height:

Weight:

Eye Color:

Hair Color:

Gender: MALE

Race: White

Fingerprints Required per Statute: Yes

Fingerprint match to Criminal History Record: Yes

Driver's License #:

SILS Person ID #: 322180

SILS Tracking No. 3027160

Case Scheduling Information: This case should be blocked to the serious felony calendar, due to its complexity, length of trial, and because it was charged from the HCAO complex crime unit.

Alcohol Concentration:

STATUTE AND OFFENSE GRID

Cnt Nbr	Statute Type	Offense Date(s)	Statute Nbrs and Descriptions	Offense Level	MOC	GOC	Controlling Agencies	Case Numbers
1	Charge	8/24/2017	609.282.2 Labor Trafficking; Individuals age 18 or older.	Felony	M8603		MN062095Y	17002179
	Penalty	8/24/2017	609.282.2 Labor Trafficking; Individuals age 18 or older.	Felony	M8603		MN062095Y	17002179
2	Charge	11/14/2017	609.52.2(a)(4) Theft-By Swindle	Felony	U1061		MN062095Y	17002179
	Penalty	11/14/2017	609.52.3(1) Theft-Firearm or Property Value Over \$35,000	Felony	U1061		MN062095Y	17002179
3	Charge	1/1/2017	609.611.1(a)(1) Insurance Fraud-Present False Representation/Conceals Facts-Policy Application	Felony	U1119		MN062095Y	17002179
	Penalty	1/1/2017	609.52.3(2) Theft-Value over \$5,000 or Trade Secret, Explosive, Controlled Substance I or II	Felony	U1119		MN062095Y	17002179