

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

Norfolk Division

UNITED STATES OF AMERICA	)	CRIMINAL NO. 2:08 CR <i>155</i>
	)	
v.	)	
	)	
JORGE LUIS SILVA DAVALOS,	)	
	)	
Defendant.	)	

STATEMENT OF FACTS

If this matter were to proceed to trial, the United States would prove the charges of credit union fraud (count one) and aggravated identity theft (count two) contained in the pending criminal information beyond a reasonable doubt, by proof of the following facts, among others:

Beginning in or about December 2007 and continuing through February 2008, defendant JORGE LUIS SILVA DAVALOS agreed with Nichole Easton and others to engage in a scheme and artifice to defraud and to obtain money and property by means of materially false pretenses, representations, and promises, from the Navy Federal Credit Union (NFCU), a federally chartered financial institution with shares insured by the National Credit Union Share Insurance Fund. During and in relation to this scheme and artifice designed to obtain fraudulent car loans from NFCU, JORGE LUIS SILVA DAVALOS and others engaged in aggravated identity theft by transferring, possessing, and using means of identifications belonging to other persons without the knowledge and permission of these victims.

At all times relevant to the criminal information, Nichole Ray Easton worked at the Bon Secours Hampton Roads DePaul Hospital as an Emergency Department Registrar. In this role, Easton regularly obtained patient information which included their means of identification,

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*Jolt*

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address, and billing information. As part of her job, Easton regularly created and updated such information in the hospital's records system. At the request of her future husband, as well as JORGE LUIS SILVA DAVALOS and others, Nichole Easton accessed DePaul Hospital's computerized patient records and obtained and provided the means of identification of a number of patients to the other members of the scheme.

On January 8, 9, and 17, 2008, Easton read and obtained the means of identification of two DePaul Hospital patients, identified below as victims #1 [K.Q.] and #2 [M.A.]. Easton provided the victims' information, along with copies of the patients' signatures, to other members of the scheme to aid in forging endorsements on fraudulently obtained loan checks from NFCU. Using the means of identification provided by Easton, others in the scheme applied by telephone and computer for NFCU car loans in the names of victim #1 and #2. Using the knowledge he gained as car salesman, JORGE LUIS SILVA DAVALOS advised and taught other members of scheme how to apply for loans online and ran credit checks on potential victims to determine whether they were creditworthy.

On January 15, 2008, a member of the scheme applied for an NFCU car loan in the name of victim #1. The member of the scheme represented that he was victim #1 -- an NFCU member -- and that he was buying a 2004 BMW 545i sedan for \$36,000. After approving the loan, NFCU issued a \$36,000 draft to victim #1, payable in blank. Because members of the scheme contacted NFCU and changed victim #1's address of record, NFCU mailed the draft to the new address supplied by the schemers, the address of a former roommate and friend of one of the scheme members. After obtaining the draft, members of the scheme made the draft payable to one of themselves and falsely listed the vehicle identification number (VIN) and car allegedly to be

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bought with the draft. On January 18, 2008, a member of the scheme cashed the \$36,000 draft at the NFCU branch on Salem Road in Virginia Beach in the Eastern District of Virginia. The proceeds of this fraud were then divided among the members at JORGE LUIS SILVA DAVALOS' residence. Later, victim #1 confirmed that he had never applied for such a loan. NFCU never received title to a vehicle and, in fact, there was no vehicle involved as the loan was a sham transaction. The VINs used in the scheme came back to vehicles scattered throughout the United States.

On January 14, 2008, a member of the scheme called NFCU impersonating victim #2, an NFCU member and a former DePaul Hospital patient, and changed the victim's address to that of the former roommate of the scheme member. On January 15, 2008, a member of the scheme applied online for an NFCU loan in the name of victim #2, allegedly to purchase a 2005 Acura MDX sport utility vehicle for \$25,000. On January 16, 2008, NFCU issued a \$25,000 draft to victim #2, payable in blank, and mailed it to the fraudulent address of record established by the schemers just two days earlier. In late January 2008, the former roommate and friend of a scheme member received the \$25,000 draft in the mail. The friend and Nichole Easton's husband then completed the draft, making it payable to the friend, and supplied a false VIN and information about the vehicle allegedly to be bought with the loan proceeds. On January 28, 2008, the friend and Nichole Easton's husband then went to the NFCU's Pembroke branch in Virginia Beach, where the friend negotiated the draft and obtained a cashier's check payable to himself for \$24,634. The friend and Easton's husband then took the cashier's check to the NFCU Lynnhaven branch where they cashed it and then shared the proceeds. NFCU never received title to a vehicle and, in fact, there was no vehicle involved as the loan was a sham

transaction. Later, victim #2 also confirmed that he had never applied for such a loan.

Victims #3 [R.C.] and #4 [S.D.] lived in the same Virginia Beach neighborhood as one of the scheme members, who also served on the neighborhood homeowners association and occasionally placed association flyers in neighborhood mailboxes. Victim #3 and #4's names and means of identification were used to apply for NFCU car loans, without their knowledge or consent, and their mail was pilfered to obtain the NFCU loan drafts mailed to their addresses, as further described below. To facilitate the misuse of these stolen identities, JORGE LUIS SILVA DAVALOS ran credit checks on victims #3 and #4.

On February 15, 2008, members of the scheme applied online to NFCU for a \$48,000 loan in victim #3's name to purchase a 2006 Mercedes Benz CLK 500. NFCU approved the loan and mailed a draft worth up to \$48,000 to victim #3's address, where members of the scheme stole the draft from the mail on or about February 21, 2008. Near this same date at Nichole Easton's residence, JORGE LUIS SILVA DAVALOS and other scheme members practiced forging victim #3's signature to determine who could do it the best. A scheme member then forged victim #3's signature to the draft, supplied false information about the vehicle to be bought with the loan proceeds, and made the draft payable for \$47,500 to an alleged, former business partner of one of the scheme members. On February 25, 2008, a scheme member deposited the draft into a business account at a BB&T branch in Virginia Beach. After making the deposit, the scheme member sought to access the proceeds and transfer them to another account at Wachovia Bank. BB&T officials advised, however, that the money could only be paid out by means of a cashier's check to the business partner to whom the draft was made payable. A scheme member then recruited an acquaintance to assume the identity of the alleged business

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partner and to withdraw the loan proceeds from BB&T. BB&T and NFCU, however, discovered the fraud and the proceeds were later returned to NFCU.

On February 27, 2008, members of the scheme applied online to NFCU for a \$30,000 loan in victim #4's name to purchase a 2004 Mercedes Benz CLK 300. NFCU approved the loan and mailed a draft worth up to \$30,000 to victim #4's address, where members of the scheme stole the draft from the mail on or about February 28, 2008. They later forged victim #4's signature to the draft, supplied false information about the vehicle to be bought with the loan proceeds, and made the draft payable for \$25,000.

Several days later, JORGE LUIS SILVA DAVALOS recruited a local car salesman for assistance in negotiating the draft, in return for a portion of the fraudulent loan proceeds. The car salesman, in turn, recruited a recent car buyer with an account at NFCU, who also agreed to help cash the draft for a share of the proceeds. On March 3, 2008, Nichole Easton's husband made the draft payable to this NFCU member. Then, followed by and at the direction of JORGE LUIS SILVA DAVALOS and another, the car buyer and the salesman went to NFCU's Pembroke branch office where the car buyer negotiated the draft and bought a \$25,000 cashier's check payable to himself. JORGE LUIS SILVA DAVALOS and another then followed and directed the car salesman and the car buyer to NFCU's Lynnhaven branch office, where the car buyer attempted to cash the cashier's check. After discovering that the cashier's check was bought with a loan draft issued to another person and suspecting a fraud, NFCU officials contacted Virginia Beach police, who responded and arrested the person trying to cash the check. When the police responded, JORGE LUIS SILVA DAVALOS and the other scheme members present at scene fled unobserved. The \$25,000 was thus restored to NFCU and there was no actual loss.

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AVSA*

*JS*      *JL*

*RJK*

The known, intended losses from the defendant's scheme total \$133,500. Actual losses incurred by NFCU as a result of the scheme, however, total \$61,000 and defendant SILVA DAVALOS agrees that he owes that sum as restitution.

On April 25, 2008, Virginia Beach police searched the residence of JORGE LUIS SILVA DAVALOS. Defendant SILVA DAVALOS was advised of and waived his rights, including his right to counsel. He stated, among other things, that: 1) several members of the scheme, including Nichole Easton, had a system in which they played various roles and that he was recruited to participate in the scheme by another; 2) he ran credit checks on the victims whose identities were under consideration for possible use in the scheme; 3) he taught other scheme members how to obtain car loans in the victims' names by submitting online loan applications; 4) he had received monies from other scheme members for assisting with the scheme; and 5) he had enlisted the aid of another car salesman who he knew to assist in finding someone to cash the \$25,000 NFCU draft issued to victim #4 and promised to pay that salesman a fee for his services.

Respectfully submitted,

CHUCK ROSENBERG  
UNITED STATES ATTORNEY

By:

  
James Ashford Metcalfe  
Assistant United States Attorney

  
Robert J. Krask  
Assistant United States Attorney

*James  
AUSA*

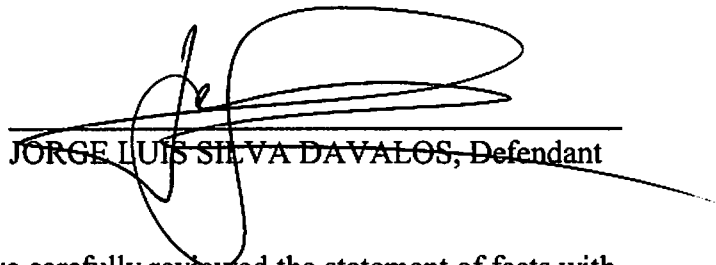
*JS*

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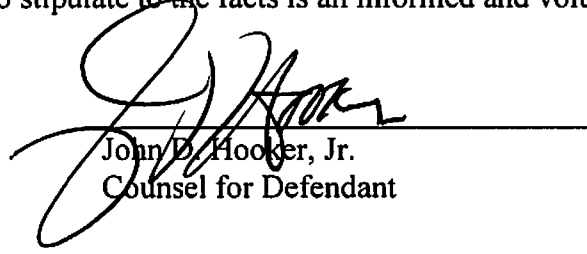
*RJK*

Dated this 24<sup>th</sup> day of September, 2008:

After consulting with my attorney, I stipulate that the above statement of facts is true and accurate, and agree that had the matter proceeded to trial, the United States would have proved the charge beyond a reasonable doubt.

  
\_\_\_\_\_  
JORGE LUIS SILVA DAVALOS, Defendant

I am counsel for the defendant. I have carefully reviewed the statement of facts with defendant. I believe the government could prove the facts and the charge beyond a reasonable doubt and that defendant's decision to stipulate to the facts is an informed and voluntary one.

  
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John D. Hooker, Jr.  
Counsel for Defendant

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