

UNITED STATES DISTRICT COURT

FILED CHARLOTTE, NC

for the

FEB 28 2018

Western District of North Carolina

United States of America

v.

Evelyn P. Mack, d/b/a Evelyn Mack Academy

Case No. 3:18mj 64

US District Court Western District of NC

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 March 1, 2011-December 31, 2016 in the county of Mecklenburg in the Western District of North Carolina, the defendant(s) violated:

Table with 2 columns: Code Section, Offense Description. Row 1: 8 U.S.C. § 1324(a)(1)(A)(iii), (v)(I) | Conspiracy to Conceal, Harbor or Shield from Detection an Alien who Unlawfully Entered or Remained in the United States

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet.

Complainant's signature

Special Agent Russell H. Vensk, Jr. HSI

Printed name and title

Sworn to before me and signed in my presence.

Date: 02/28/2018

Judge's signature

City and state: Charlotte, North Carolina

David C. Keesler, U.S. Magistrate Judge

Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

AFFIDAVIT

I, Russell H. Vensk Jr., being duly sworn, depose and state as follows:

Introduction

1. I am a Special Agent with U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI), an agency of the United States Department of Homeland Security (DHS). I have been so employed since March 2003. Prior to my service with HSI, I served as a Border Patrol agent with the United States Border Patrol from February 1991 until April 1996. I also worked as a Special Agent with the United States Immigration & Naturalization Service (predecessor to HSI) from April 1996 until March 2003. I am currently assigned to the HSI Charlotte, North Carolina office. My currently assigned duties include investigating immigration benefit fraud.

2. I have attended the Criminal Investigator Training Program at the Federal Law Enforcement Training Center in Brunswick, Georgia. I am classified and trained as a federal law enforcement officer, and I have federal statutory arrest authority. In my capacity as a Special Agent, I have participated in various investigations, and I have conducted or participated in physical surveillance, undercover transactions, executions of search and arrest warrants, and controlled delivery transactions of narcotics and other contraband. I also hold a Bachelor of Science degree in Accounting from St. John's University from 1985, and I have attended advanced training in criminal investigations.

3. The facts set forth in this Affidavit are based on my personal knowledge and review of records and documents obtained during this investigation, as well as information conveyed to me by other law enforcement officials and obtained as a result

of other investigative activity. It does not include each and every fact known by me or the Government, but only those necessary to establish a probable cause finding that sufficient facts exist to support the issuance of a criminal complaint against Evelyn P. Mack, d/b/a Evelyn Mack Academy (“MACK”) for violating 8 U.S.C. § 1324(a)(1)(A)(iii) and (v)(I) (conspiracy to conceal, harbor or shield from detection an alien who unlawfully entered or remained in the United States).

Background Information On Visas For Foreign Students

4. Defendant Evelyn P. Mack, d/b/a Evelyn Mack Academy (“MACK”) was the owner, operator, principal and primary designated school official (“PDSO”) of Evelyn Mack Academy (“EMA”), located at 6850 Monroe Road, Charlotte, NC 28212. EMA was a private school with kindergarten through twelfth grades that was certified by the North Carolina Department of Non-Public Education. Additionally, the Department of Homeland Security (“DHS”) Student and Exchange Visitor Program (“SEVP”) approved and authorized EMA to enroll foreign national students (F1 visa) in grades nine through twelve and approved MACK to serve as the PDSO for EMA. SEVP provides approval and oversight to schools authorized to enroll F and M nonimmigrant students, and it gives guidance to both schools and students about the requirements for maintaining their statuses.

5. As the PDSO, MACK was responsible for all student immigration matters, including but not limited to: creating and maintaining student records in the Student and Exchange Visitor Information System (“SEVIS”), in accordance with Title 8, Code of Federal Regulations; preparing immigration forms, specifically Form I-20 A-B, and other necessary documents for incoming foreign students and registering current foreign

students; processing requests for changes of status and reinstatement for foreign students; and staying current with changes in immigration law and modifications in SEVIS.

6. The I-20 form is the Certificate of Eligibility for Nonimmigrant Student Status. I-20 forms are necessary for potential foreign national students to obtain their F-1 student visas. In order to maintain compliance with the terms of their F-1 visa status while in the United States, foreign students must maintain full-time enrollment and attendance at a designated educational institution. The F-1 visa status lasts for the period of time during which an F-1 student is pursuing a full course of study at an approved educational institution.

7. The SEVIS program is a comprehensive computerized system designed to track the entry, stay, and exit of foreign students in the United States. Pursuant to the controlling regulations, 8 CFR § 214.3, the SEVIS program requires institutions of higher education and sponsors of exchange visitor programs to report to DHS information on their foreign student populations. The regulations set forth procedures for schools to petition the government to participate in the SEVIS program and impose reporting requirements for participating schools. Once a foreign student is registered in SEVIS, school officials are required to update the records of the student and report on the events required by SEVIS, including but not limited to the student's periods of enrollment, records of course work and academic status. DHS relies upon the SEVIS system to ensure that foreign students in the United States are in compliance with the terms and conditions of their F-1 status.

Investigation Into Evelyn Mack Academy

8. During and in furtherance of the conspiracy between MACK and other persons to conceal, harbor or shield from detection an alien who unlawfully entered or remained in the United States (the "Conspiracy"), MACK, while serving as the PDSO for EMA, knowingly and intentionally entered false and misleading information in the SEVIS system on numerous occasions with respect to approximately seventy-five foreign nationals. MACK entered false and misleading information regarding whether these foreign nationals were in compliance with the terms of their F-1 student visas. Specifically, she indicated that the foreign nationals were properly enrolled and maintaining a full course of study at EMA when, as she then knew, this information was false. Because of MACK's entering false and misleading information in the SEVIS system, these entries shielded these foreign nationals from detection by DHS when the foreign nationals were in fact not in compliance with the terms of their respective student visas.

9. During and in furtherance of the Conspiracy, because of MACK's status as a PDSO, many persons contacted her about foreign nationals, many of whom were minors, that these persons wanted to enter into the United States unlawfully and without complying with the terms of the student visa program. For financial benefits and other considerations, MACK used her status as a PDSO to allow and assist these persons, many of who were basketball coaches and recruiters for various organizations in the United States and other countries, to knowingly and intentionally circumvent compliance with the student visa program.

10. During and in furtherance of the Conspiracy, MACK, uncharged co-conspirator #1 ("UCC #1) and other persons unlawfully combined, conspired, confederated, and agreed to conceal, harbor and shield from detection foreign nationals, some of whom were minors, that they knew had come into, entered and remained in the United States in violation of law. UCC #1 and other persons paid MACK to use her status as the PDSO for EMA to facilitate the issuance of F-1 visas to foreign nationals that UCC #1 and other persons wanted to bring to the United States.

11. On or about December 16, 2014, at the request of UCC #1 and for financial benefits, MACK used her status as a PDSO to complete documentation and utilize the SEVIS system to facilitate the coming into, entry and remaining in the United States of C--- K--- J---, a foreign national who was a minor when he/she entered the United States.

12. After entering the United States, C--- K--- J--- never attended EMA and he/she eventually enrolled in a non-SEVP approved school. However, MACK did not fulfill her duties and responsibilities as the PDSO by failing to update student records in SEVIS to reflect this foreign national's non-enrollment at EMA. C--- K--- ~~O---~~ was terminated from SEVIS on or about December 1, 2015.

dck


13. On or about December 29, 2014, at the request of UCC #1 and for financial benefits, MACK used her position as a PDSO to complete documentation and utilize the SEVIS system to facilitate the coming into, entry and remaining in the United States of B--- O---, a foreign national who was a minor when he/she entered the United States.

14. After entering the United States, B--- O--- never attended EMA and he/she eventually enrolled in another SEVP approved school. However, he/she did not enroll in the other school until August 2015 and did not properly enroll in accordance with SEVP

regulations. MACK did not fulfill her duties and responsibilities as the PDSO by failing to update student records in SEVIS to reflect this foreign national's non-enrollment at EMA. B--- O--- was terminated from SEVIS on or about December 1, 2015. Additionally, during the time B---O--- was not enrolled in school, he/she resided with UCC#1 and other persons.

Conclusion

Based on the facts set forth above, I respectfully assert that sufficient facts exist to support a probable cause finding that MACK violated 8 U.S.C. § 1324(a)(1)(A)(iii) and (v)(I) (conspiracy to conceal, harbor or shield from detection an alien who unlawfully entered or remained in the United States) and the issuance of a criminal complaint because of such violation.



Russell H. Vensk Jr.
Special Agent
Homeland Security Investigations

Subscribed and sworn to before me this
the 28th day of February, 2018


David C. Keebler
United States Magistrate Judge