

AFFIDAVIT OF SPECIAL AGENT JOSE DIEGO

I, Jose Diego, being duly sworn, depose and state as follows:

I. Introduction

1. I submit this affidavit in support of the government’s motion that defendant MARCIALITO BIOL BENITEZ, a/k/a “Mars” (“MARS”), be detained pending trial or, alternatively, in support of the government’s request for conditions of pretrial release that address the serious risk that he will flee. MARS has been charged in an indictment in the District of Massachusetts with conspiracy to commit marriage fraud and immigration document fraud in violation of 18 U.S.C. § 371. *United States v. Marcialito Benitez, et al.*, Case No. 22-cr-10077-DJC. MARS is alleged to have operated an “agency” that (i) arranged hundreds of sham marriages between foreign nationals and United States citizens—marriages entered into for the primary purpose of circumventing immigration laws—and (ii) submitted fraudulent petitions to United States Citizenship and Immigration Services (“USCIS”) seeking to adjust the immigration status of the foreign nationals based on those sham marriages.

2. I have been employed as a Special Agent with the United States Department of Homeland Security, Immigration and Customs Enforcement, Homeland Security Investigations (“HSI”) since June 2016. I am currently assigned to the HSI Office of the Deputy Special Agent in Charge, in San Ysidro, California. I am a graduate of the Federal Law Enforcement Training Center in Glynco, Georgia. I am currently assigned to the Document and Benefit Fraud Task Force (“DBFTF”), where my duties include, but are not limited to, investigating fraudulent applications for immigration benefits, marriage fraud, the manufacture and sale of fraudulent documents, and financial exploitation of immigrants. Throughout my career, I have been involved in dozens of criminal investigations of violations of federal and state laws including, but not limited to, immigration fraud, marriage fraud, alien smuggling, narcotics smuggling, officer assaults, identity

theft, document fraud, and organized criminal activity. I have participated in many aspects of criminal investigations, including reviewing evidence, conducting physical surveillance, working with informants, and the execution of arrest and search warrants.

II. Background of Investigation

3. This case involves an investigation by the Boston Division of the Federal Bureau of Investigation (“FBI”), the San Diego Field Office of HSI, and USCIS’s Western Region Office. The investigation focused on the activities of a Los Angeles-based marriage fraud “agency” operated by MARS. Investigators learned about the “agency” through reports from several foreign national “clients” for whom MARS had arranged sham marriages to U.S. citizens and submitted fraudulent petitions to USCIS for Green Cards (lawful permanent resident status) for these clients.

4. The investigation showed that MARS conducted the agency’s business under the name of a temporary staffing agency that he ran, Career Ad Management, LLC, from offices at 3325 Wilshire Boulevard in Los Angeles, California (“3325 Wilshire”). MARS operated the agency with the help of several staff who worked for MARS’s agency, including co-defendants Nino Reyes Valmeo, Harold Poquita, Engilbert Ulan, and Juanita Pacson. MARS used “brokers” (including co-defendants Devon Hammer, Tamia Duckett, Karina Santos, and Casey Loya) to recruit U.S. citizens willing to enter into sham marriages with MARS’s clients in exchange for payments. Other individuals, including co-defendants Peterson Souza and Felipe Capindo David, referred clients to MARS for sham marriages. MARS and associates staged fake wedding ceremonies at wedding chapels and other locations and assisted clients with maintaining the appearance of legitimate marriage to their spouses. MARS and associates submitted to USCIS fraudulent immigration petitions and supporting documentation on behalf of clients. MARS and associates also coached clients and spouses on how to “pass” required interviews with USCIS.

5. The investigation involved interviews by the FBI, HSI, and USCIS of former clients of MARS who were arrested and charged for other violations of federal laws and/or who were identified as participants in fraudulent marriages during interviews with USCIS. The investigation also involved the identification of fraudulent petitions submitted to USCIS by MARS and analysis of bank records for accounts controlled by MARS and associates. Investigators obtained and executed search warrants for email and iCloud accounts used by MARS.

III. Evidence of the Marriage and Document Fraud

6. Investigators reviewed information provided by former clients of MARS during interviews conducted by FBI, HSI, or USCIS. Investigators also reviewed contents of iCloud and email accounts subscribed to MARS, which were obtained pursuant to court-issued search warrants.

7. While reviewing MARS's phone contacts, which were backed up to an iCloud account, investigators observed that MARS programmed the contacts in his phone using a distinct naming convention. For example, many contacts are programmed as some variation of "client-[name 1] [name 2] broker [name 3]," which I understand to include the client's name, the client's spouse's name, and/or the name of the broker who recruited the spouse. In reviewing MARS's contacts, investigators observed hundreds of contact entries that were labeled as "clients" in this manner.

8. Investigators reviewed WhatsApp and text messages (which also were backed up to an iCloud account) between MARS and individual contacts labeled as "clients." The substance of these chats revealed that MARS arranged sham marriages to U.S. citizens for the clients. For example, in many chats, MARS instructed clients to meet him and a prospective spouse at MARS's offices at 3325 Wilshire or at a wedding chapel. In many of these chats, MARS instructed clients

to bring cash to initial meetings and/or wedding ceremonies. In other chats, MARS sent clients photographs of their signed marriage licenses. Throughout these chats, MARS also fielded questions from clients about preparing for USCIS interviews with their spouses and creating additional evidence of their marriages, such as by opening joint bank accounts or taking photographs with their spouses' families.

9. Investigators also reviewed messages between MARS and co-defendants Hammer, Duckett, Santos, and Loya, as well as other individuals who acted as "brokers" for MARS. These chats reflect that MARS asked brokers to provide him with the photographs and information of potential spouses for MARS's clients. For example, messages between MARS and Hammer reflect that, on or about January 5, 2021, MARS messaged Hammer: "Devon, find me a girl[.] like matches to 53 male guy . wanna meet at 5:30pm and marriage tomorrow morning.. Need a girl age from 3-45 youif u have[.]" Following chats like this one, the brokers sent MARS photographs and ages of prospective spouses as well as photographs of the spouses' driver's licenses, birth certificates, and/or passports.

10. The messages between MARS and brokers also reflect plans to introduce the brokers' recruits to MARS's clients at 3325 Wilshire or elsewhere, as well as the timing and location of wedding ceremonies. For example, in or about November 2021, MARS directed co-defendants Souza and Hammer to bring a client and a prospective spouse to a Starbucks near 3325 Wilshire before holding a marriage ceremony at a nearby chapel. Starbucks surveillance footage captured the meeting between MARS (in blue below) and these individuals:



11. Other chats, between MARS and brokers, revealed that MARS instructed the brokers to manage the spouses they had recruited and to address issues arising between the clients and spouses regarding payments, or the spouses' cooperation with preparing for USCIS interviews.

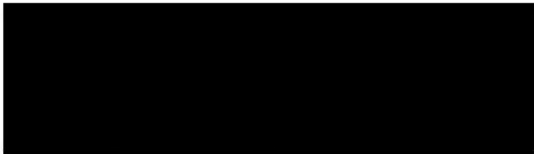
12. Based on investigators' review of MARS's emails, as well as information provided by former clients, I am aware that MARS provided clients and spouses with payment schedules. For example, MARS provided a Massachusetts-based client, identified as "Client 1" in the indictment, with the following payments schedule, which investigators located during a search of Client 1's residence in connection with Client 1's arrest as part of a separate investigation:

PACKAGE PLAN

COPY

TOTAL PRICE PACKAGE FOR PROCESSING	28,000.00		
LESS DOWNPAYMENT	(18,000.00)	CITIZEN/BROKER	05/28/2020 WEDDING DAY PACKAGE
		PAYABLE TO AGENT	
TOTAL BALANCE	<u>10,000.00</u>		
BALANCE			
MONTHLY BALANCE	<u>10,000.00</u>	ALL FOR CITIZEN BALANCE	
	350.00	1	JUNE 28, 2020 1st payment
	350.00	2	
	350.00	3	
	350.00	4	
	350.00	5	
	350.00	6	
	350.00	7	
	350.00	8	
	350.00	9	
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	350.00	21	
	350.00	22	
	350.00	23	
	350.00	24	
	350.00	25	
	350.00	26	
	350.00	27	
	350.00	28	
	<u>200.00</u>	29	
	<u>10,000.00</u>		

Signed and received money



13. The chats and photograph libraries backed up to MARS's iCloud account contained hundreds of photographs of clients and spouses at the wedding ceremonies that MARS and associates staged. For many clients, MARS and associates took photographs of clients and their spouses in front of prop wedding decorations, in the following manner:



14. Messages between Mars, on the one hand, and clients and agency staff, on the other, reflect that MARS and his staff submitted immigration petitions for clients following the sham

wedding ceremonies that MARS and his staff arranged. For example, chats reflect that, on or about May 28, 2020, MARS messaged Client 1 with an image of the marriage certificate for the client and her spouse, as well as an image of a tracking receipt, and MARS told the client, “Filed it will be in immigration office June 1 Monday that’s the tracking. U can track at usps.com.”

15. In investigators’ review of MARS’s email accounts, investigators observed emails to clients to which MARS attached lists of practice questions for immigration interviews with USCIS, including a list containing the following excerpts:

For the interview, the main objective is to prove that the marriage is genuinely true. These are the keynotes that should be given an utmost care and consideration especially during the interview for possible approval:

- 1.) Couples/spouses should be able to give **THE SAME** answers to all the questions correctly and confidently.
- 2.) Couples/spouses must provide supporting documents that they have their names **TOGETHER**.
(Documents that need to be provided are listed from the letter sent by USCIS)
- 3.) Couples/spouses should show **GOOD CHEMISTRY** during the interview.

GUIDE QUESTIONS

CATEGORIES:

A.) Basic Information

- 1.) What is your spouse's name?
- 2.) When is your spouse's birthdate?
- 3.) What is your complete address?
- 4.) What are the names of your spouse's parents/in laws?
- 5.) How many siblings does your spouse has? How many brothers and sisters? Have you met them? If possible, give their COMPLETE names and addresses
- 6.) Does your spouse have children? Names, ages, schools, address, etc?
- 7.) What is your spouse status when he/she arrives here? Is it Student? Visitor? Business?
What is the place of entry? who pick him up in the airport?
- 8.) Where does your spouse lived before you met or before you lived together? City and Country?
- 9.) Name of your spouse best friend? When was the last time you were together?
- 10.) What is her shoe size? Shirt size? Pants size? Underwear size and brands?
- 11.) What is the cologne or perfume of your spouse?
- 12.) What is the favorite color of your spouse?
- 13.) Favorite food of your spouse? Restaurant?
- 14.) What are the foods he/she doesn't like to eat?
- 15.) What is your spouse talent? Hobbies?
- 16.) What is the degree of your spouse? What school?
- 17.) What do you like and dislikes about your spouse?
- 18.) What are the alcoholic beverages your spouse likes and doesn't like?
- 19.) Who pays the rent? Utilities? Parking? Car? Life Insurance? Internet? Water? Explain me briefly the amount of your monthly expenses and your sharing?
- 20.) Do you have social media? Facebook? Instagram?
- 21.) What are the documents you have together?
- 22.) Who prepares your documents? How did you do it?
- 23.) Do you have life insurance? Name of the company? How much do you pay monthly? How much is the coverage? Who is the agent?
- 24.) Do you drive in the states? Do you have driver's license? How many cars do you have? Who is the owner? Do you still pay amortization in the car? How much?
- 25.) Do you have car insurance? How much?

B.) Relationship

- 1.) How did you approach your spouse on the first time you met? Tell me the story what happened. (Story during 1st meeting should be accurate).
- 2.) When was your first date? Where did you go? What did you do?
- 3.) When was your 2nd date? Where did you go? What did you do?
- 4.) How about the 3rd date?
- 5.) When was the first kiss happened?
- 6.) When was the first sex?
- 7.) When was the relationship started as Boyfriend and Girlfriend?
- 8.) When was the first time he said the word "I love you"?
- 9.) When did you start living together? Who moved in?
- 10.) What is your spouse religion?
- 11.) Does your spouse have a tattoo? What is the meaning and where is the tattoo located? If possible, describe each of it?
- 12.) When is your plan to have a baby? Do you use contraceptives or birth control?
- 13.) What is the schedule of wife monthly period/menstruation? How often do you have sex in a week? What is your spouse favorite sex position?
- 14.) When was the last time you argue? What are the reasons?

C.) Wedding Day

1. When was the proposal happened? Can you please tell me the story what happened on the proposal day? Where was it? Did you have guest? (names and relation) Who are the witnesses? And what's the reaction of your wife?
2. Did you receive an engagement ring? Is your engagement ring the same or different from you wedding ring? What is the ring size of your spouse?
3. When was your wedding? Where's the location? What is the name of the chapel? Who attended your wedding?
4. What did you do after the wedding? where did you go for a reception? What restaurant? What did you order? Who pays the bill?
5. Did you celebrate honeymoon? Where?
6. Who paid/spent most of the expenses during the wedding? How much?

D.) House Arrangement

- 1 Describe me the apartment building and apartment complex.
- 2 Describe me your apartment unit.
- 3 What is the size of your bed?
- 4 Which side of the bed your spouse sleeps? Does your spouse snore?
- 5 What is the color of your bedsheets and pillows? How many pillows do you have?
- 6 Do you have carpet? What is the Color?
- 7 Do you have closet? Is it Walk in or built in?

16. USCIS identified over 400 petitions that MARS submitted to USCIS based on sham marriages that MARS arranged since as early as October 2016. Investigators identified these applications using various methods, including by cross-referencing information from chats backed up to MARS's iCloud account with USCIS databases, as well as by identifying applications that list telephone numbers that call records indicate communicated with MARS's or associates' telephone numbers. Additionally, USCIS identified applications that listed street addresses associated with MARS or associates; and by using law enforcement databases to locate current and former roommates of applicants associated with MARS, who also submitted applications to USCIS.

17. Investigators observed that applications associated with MARS frequently relied on marriages between U.S. citizen spouses with ties to Los Angeles County and non-citizens with no apparent ties to Los Angeles County. Investigators also identified certain commonalities across applications associated with MARS, such as handwriting on the envelopes in which applications were submitted and the chapels at which applicants were married.

18. Using wage information from California's Employment Development Department, HSI confirmed that forms and tax documents submitted to USCIS in support of these applications overstated the wages of the U.S. citizen spouses of the applicants.¹ Based on my experience and my knowledge of the investigation to date, I believe that MARS and associates prepared these

¹ Most family-based LPR applicants must submit a USCIS Form I-864 Affidavit of Support from the citizen family member that demonstrates that the applicant has adequate means of financial support and is not likely to rely on the U.S. government for financial support. Along with the Form I-864, the applicant typically submits supporting tax documentation, such as Internal Revenue Service (IRS) Form W-2 (Wage and Tax Statements) and IRS Form 1040 (U.S. Individual Income Tax Returns).

forms and tax documents and misrepresented information about U.S. citizen spouses in support of the applications for LPR status.

19. Chats from MARS's iCloud account revealed that MARS prepared fraudulent supporting documentation in connection with the petitions that he submitted to USCIS. Investigators observed in the chats that MARS falsified IRS Forms W-2 for spouses and other tax documentation to submit with immigration petitions.

20. Based on investigators' review of chats and emails, I am also aware that, for some clients, MARS submitted immigration petitions predicated on false claims of abuse of clients by their spouses, under the Violence Against Women Act ("VAWA"). MARS sent emails to clients with attachments labeled "Proof of VAWA Requirements," which detailed the documentation that clients needed to submit to USCIS to support an application under VAWA. MARS prepared applications for temporary restraining orders ("TRO"), which public records indicate that clients subsequently filed in court against their allegedly abusive spouses. MARS then submitted the TRO documentation to USCIS as proof of the claimed abuse.

21. Chats and emails also revealed that MARS prepared affidavits attesting to the legitimacy of the marriages he arranged and, in some cases, attesting to the abuse claimed by a client. MARS had individuals who did not know his clients sign these affidavits, and MARS had Ulan, Pacson, or others notarize the affidavits. MARS then submitted these affidavits to USCIS in support of immigration petitions.

22. MARS continued to operate the agency from 3325 Wilshire through at least March 2022. In or around March 2022, an undercover Los Angeles-based FBI agent visited MARS's offices at 3325 Wilshire under the pretense that she was delivering food that had been delivered to the office and captured the following image, in which MARS is meeting with two individuals who

appear to be a client and spouse or prospective spouse, in what I understand to be either an introductory meeting or a practice interview session with MARS:



IV. MARS'S Access to Cash

23. Based on the investigation to date, I am aware that the agency generates large sums of cash income to MARS, the brokers, and the spouses who marry MARS's clients. Based on chats and interviews, I am aware that MARS typically charged clients between \$20,000 and \$30,000 for the agency's services. Chats reflect that MARS instructed clients to bring cash to initial meetings and wedding ceremonies. For example, on or around January 6, 2021, MARS messaged a client, "just withdraw cash is better [,] no trace of money[.]"

24. Investigators have reviewed bank records for six business bank accounts and one personal account controlled by MARS. As of November 30, 2021 (the last date for which

investigators have bank statements), MARS maintained balances totaling approximately \$254,000 in these accounts, including a balance of approximately \$134,000 in his personal account.

25. The bank records reflect that, between January 2019 and June 2021, approximately \$204,000 in cash was deposited into MARS's personal account, and approximately \$559,000 in cash was deposited into accounts for various businesses affiliated with MARS.

26. Many of the cash deposits were made in a manner that suggests that they were structured to avoid the \$10,000 currency transaction reporting threshold. Account statements show 99 cash deposits to MARS's personal account with an average amount of approximately \$2,084. No single deposit exceeded \$8,000, and on numerous occasions, multiple deposits were made on the same day or within a few days of each other.

27. MARS also received at least \$400,000 in checks during this period from an associate who is listed in public filings as the CEO of Intelligent Health and Doctors on the Go. Bank of America records for accounts held by the associate reflect that the associate deposited at least \$448,250 in cash into the associate's accounts during this period. At least 60 of these deposits were made at a Bank of America location approximately two blocks away from 3325 Wilshire. Immediately after making most of these cash deposits, the associate wrote checks to MARS's personal and business accounts. In total, MARS deposited from associate approximately \$220,000 into his personal account and \$191,250 into the various business accounts.

28. From investigators' review of chats and emails, I also am aware of several large cash expenditures that MARS made during the relevant period. For example, on or about September 29, 2021, MARS messaged Pacson that MARS had paid a hotel \$97,773 for a birthday party that he hosted for himself. A corresponding invoice from the Hilton Los Angeles, located in MARS's email account, indicates that MARS paid approximately \$51,000 to the hotel in cash on

or about September 14 and September 29, 2021. Similarly, in an email from MARS to a mortgage company on or about October 12, 2021, MARS informed the mortgage company, “[I] spent about 380k interior renovations all paid in (cash)[.]”

V. MARS’S Ties to the United States and the Philippines

29. USCIS databases and MARS’s alien file reflect that MARS is a citizen of the Philippines.

30. MARS entered the United States on a B2 visitor visa on April 20, 2007. He filed a petition for a non-immigrant worker visa (I-129) on October 26, 2007; this application was denied on September 26, 2008. MARS married a United States citizen on October 23, 2008, in Las Vegas, Nevada. He and his spouse filed I-485 and I-130 marriage-based petitions for lawful permanent resident status for MARS on November 23, 2008. These petitions were approved, and MARS became a conditional resident, on April 13, 2009. Since April 20, 2011, MARS has been a lawful permanent resident. Databases indicate that MARS’s U.S. citizen spouse has resided in Woodland Hills, California, at an address separate from known addresses for MARS in Los Angeles.

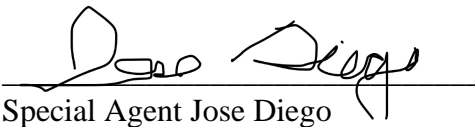
31. Based on the investigation to date, I am not aware of any children or other immediate relatives of MARS that live in the United States.

32. Investigators reviewed travel logs maintained by U.S. Customs and Border Protection (“CBP”). These records reflect that MARS has traveled to the Philippines regularly since becoming a U.S. lawful permanent resident, including three times in 2013, once in 2014, 2015, 2016, and 2018, twice in 2019, and most recently between February 17 and March 6, 2022.

33. In reviewing MARS’s email accounts, investigators observed emails between MARS’s real estate agent in California and individuals at Robinsons Land Corporation (“RLC”), a real estate company in the Philippines. On February 12, 2021, MARS wrote to his California

realtor, who forwarded the email to RLC: “I have two (2) units with you the Sapphire Block East tower and Galleria Residences, Is there a possibility that all my payment from Sapphire Block East tower (04jJ) will be transferred to Galleria Residences Tower 1 unit 14G1. Due to the Pandemic some of my jobs were closed and i have less work right now and i am having hard time to catch up these two units, thus i would like to save the Galleria Residences.” Public information indicates that these two residences are in Ortigas Center and Cebu, both in the Philippines. Based on these emails, I believe that MARS presently maintains at least one residential unit in the Philippines.

Signed under the pains and penalties of perjury this 7th day of April 2022.


Special Agent Jose Diego
Homeland Security Investigations