

CAUSE NO. 2018-06745

FREE AND SOVEREIGN STATE OF
VERACRUZ DE IGNACIO DE LA LLAVE

Plaintiff,

vs.

18 SHALLOWFORD PL., LLC
JAVIER DUARTE DE OCHOA, JOSE A.
BANDIN, and MONICA BABAYAN

Defendants.

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IN THE DISTRICT COURT OF

334th JUDICIAL DISTRICT

HARRIS COUNTY, TEXAS

JURY TRIAL DEMANDED

PLAINTIFF'S FIRST AMENDED PETITION

TO THIS HONORABLE COURT:

Plaintiff, the Free and Sovereign State of Veracruz De Ignacio De La Llave ("Veracruz"), files this Original Petition against Defendants Javier Duarte, Jose A. Bandin, Monica Babayan, and 18 Shallowford Pl., LLC, and respectfully shows this Honorable Court the following:

Summary of this Case

Javier Duarte De Ochoa was the governor of the Mexican state of Veracruz from 2010 until 2016. Duarte's time as governor was marked by multiple controversies and reports of rampant corruption. The corruption in ex-Governor Duarte's administration reached dizzying heights. Duarte orchestrated a scheme in which hundreds of millions of dollars earmarked for social programs were diverted to an elaborate network of phantom companies – among other misdeeds. Indeed, he is alleged to have absconded with nearly \$3 billion of his state's money. This stolen money was used to make investments and purchase luxury homes and cars all over the United States. As the allegations against him grew, Duarte eventually fled Veracruz, and then Mexico. Duarte was later indicted, and then arrested in Guatemala as a fugitive. He was ultimately extradited to Mexico, where he is currently jailed.

The money stolen by Duarte rightfully belong to the people of the State of Veracruz. The State of Veracruz files this and other actions in an effort to recoup those funds stolen by Duarte and those acting in concert with him. Veracruz also seeks to recover assets purchased with such stolen funds.

Each of the Defendants named conspired with Javier Duarte to steal government funds from the State of Veracruz. Defendant Jose A. Bandin, who is married to Defendant Monica Babayan, has very close ties to Javier Duarte. The properties listed *in rem* are just a few of the hundreds purchased with stolen funds all across the United States and the world.

Specifically, Defendants Bandin and Babayan conspired with Duarte to steal money. Defendants Bandin and Babayan identified, located, and reached agreements with a number of local business people in the State of Veracruz. These business people agreed to fraudulently invoice various agencies of the State of Veracruz for a myriad of activities – from road construction to medicine for sick children. What each of these invoices had in common was that they were fraudulent, and were made fraudulent at the request of Defendants Bandin and Babayan. The invoices were for materials and medicine that was never purchased and for road construction that never occurred. Once the invoices were received, Defendants Bandin and Babayan made sure that the now ex-Governor Duarte had the invoices paid. Once the local business people received these funds, each kept a small commission and the provided the rest to Mexican entities controlled by Javier Duarte, Bandin and Babayan. Two of the frequently used entities were Terra Inmobiliaria and Grupo Brades – both in Mexico. Once these shell companies received the funds, the money was split between the Defendants. The Defendants, specifically Bandin and Babayan, sent the money north to the greater Houston area where it was invested in real estate and deposited in banks.

I.
Discovery Control Plan

Plaintiff intends to conduct discovery under Level 2.

II.
Parties

Plaintiff Veracruz is a foreign state entity of Mexico.

Defendant 18 Shallowford PL., LLC, is a domestic limited liability company residing in Texas. This company can be served via personal service via its registered agent, Twoofficesuites, LLC, at 8350 Ashlane Way, Ste. 104-23, The Woodlands, Texas 77382. The registered agent of Twoofficesuites, LLC is Jose A. Bandin, who may also be served at 8350 Ashlane Way, Ste. 104-23, The Woodlands, Texas 77382.

Defendant Javier Duarte is a foreign individual that will be served via the Hague Convention. He is currently jailed in Veracruz.

Defendant Jose A. Bandin is an individual residing in Texas. He may be served with personal service at 8350 Ashlane Way, Ste. 104-23, The Woodlands, Texas 77382, or wherever he may be found. Jose A. Bandin is married to Defendant Monica Babayan.

Defendant Monica Babayan is an individual residing in Texas. She can be served at 8350 Ashlane Way, Ste. 104-23, The Woodlands, Texas 77382, or wherever she may be found. She is the wife of Defendant Jose A. Bandin.

In Rem Parties

Plaintiff makes claims against the following properties *in rem*.

8350 Ashlane Way, Suite 8 is an office suite in The Woodlands, Texas; its record owner is Defendant Shallowford PL, LLC. The funds used to purchase this property were stolen from Veracruz.

18 Shallowford Place is a property in Tomball, Texas; its record owner is Defendant Defendant Shallowford PL, LLC. The funds used to purchase this property were stolen from Veracruz.

III.
Venue and Jurisdiction

Plaintiff seeks damages in excess of \$75,000.00, exclusive of interest and costs; however, federal courts lack subject matter over this action, as there is no federal question and there is incomplete diversity of citizenship due to the presence of a defendant who is a resident and citizen of Texas. Removal would thus be improper. No party is asserting any claims arising under the Constitution, treaties, or laws of the United States. Venue is proper in this County as at least one Defendant maintains a principal office here and most of the properties involved are here.

IV.
Causes of Action

Conversion – All Defendants

Plaintiff incorporates the preceding paragraphs of this Petition as if set forth fully below.

Plaintiff owned, possessed, and had the right to the funds that were stolen by Javier Duarte and his network to invest into the above referenced assets. These funds were the property of State of Veracruz. Defendants are currently wrongfully exercising control over this property.

Plaintiff has suffered injury because of these actions.

Theft Liability Act – All Defendants

Plaintiff incorporates the preceding paragraphs of this Petition as if set forth fully below.

Defendant Duarte unlawfully appropriated property with the intent to deprive the owner of this property. In this case, the property belonged to the State of Veracruz. Currently, this property is owned or controlled by Defendants.

Constructive Trust – All Defendants

Plaintiff incorporates the preceding paragraphs of this Petition as if set forth fully below. Plaintiff seeks a constructive trust over Mr. Duarte and his associates' interest in the subject properties. Mr. Duarte and his associates conspired together and looted government coffers and engaged in other graft that stole money from the State of Veracruz. Mr. Duarte and his associates took those funds and invested into the above referenced assets, among other things. Mr. Duarte had a fiduciary relationship with the State of Veracruz. More importantly, Mr. Duarte and his associates committed both actual and constructive fraud in obtaining these funds. These funds were then used to invest in properties in Texas.

Civil Conspiracy – All Defendants

Plaintiff shows that Duarte, together with Jose Bandin and Monica Babayan, conspired with Duarte and his associates to steal and embezzle, and to commit fraud on Plaintiff. The purpose of the conspiracy was move as much money as possible from the State of Veracruz to the United States for the benefit of Mr. Duarte and his family. Duarte, Bandin and Babayan had a meeting of the minds on this objective and, as shown in detail above, together, made one or more unlawful and overt acts towards this objective. As a result, Plaintiff suffered damages. Plaintiff also seeks punitive damages.

Joint and Several Liability – All Defendants

Duarte and the other defendants are joint and severally liable for all acts of Duarte and his associates, the conspirators as referenced above. Duarte and the other defendants planned and assisted in this conspiracy, and, as such, they are jointly and severally liable for all acts done by any member of the conspiracy in furtherance of such.

Texas Penal Code 31.03(e)(7) – All Defendants

The previous paragraphs are incorporated herein. Defendants unlawfully appropriated property with intent to deprive the owner, the State of Veracruz, of its property. Defendants did not have the effective consent of the State of Veracruz. Additionally, the property at issue is stolen and the various actors appropriated the property knowing it was stolen by another.

**V.
Damages**

As a direct and proximate result of the foregoing events, Veracruz suffered damages in the form of stolen funds, all for which Plaintiff seeks recovery herein.

**VI.
Exemplary Damages**

Plaintiff seeks to recover exemplary damages against all Defendants based on their criminal conduct and resulting injuries and damages made the basis of this suit. Any caps or limits on punitive damages should not be applied because Defendants' conduct and violations of the Penal Code, including 31.03, disqualifies them from the benefit of any caps.

**VII.
Demand for Jury**

Plaintiff demands a jury trial and has tendered the appropriate fee.

VIII.
Requests for Disclosure

Pursuant to Tex. R. Civ. P. 194, Plaintiff requests that each Defendant disclose within fifty (50) days of service of this Request for Disclosure, the information and/or material described in Rule 194.2.

IX.
Prayer

For these reasons, Plaintiff asks that Defendants be cited to appear and answer, and that they have judgment against Defendants for the following:

- a. Actual damages within the jurisdictional limits of this Court, but no less than \$25,000,000;
- b. Exemplary damages;
- c. Court costs;
- d. Pre and post judgment interest; and
- e. All other relief to which the Plaintiff is justly entitled.

Respectfully submitted,

THE BUZBEE LAW FIRM

By: /s/ Anthony G. Buzbee

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been duly served on all known counsel of record and pro se parties in accordance with the Texas Rules of Civil Procedure on August 10, 2018.

Via E-filing

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Counsel for the Bandin Defendants

/s/ Christopher J. Leavitt

Christopher J. Leavitt

Unofficial Copy Office of Chris Daniel District Clerk