

State of Minnesota
County of Hennepin

District Court
4th Judicial District

Prosecutor File No. 16A14134
Court File No. 27-CR-17-4514

State of Minnesota,

Plaintiff,

vs.

ERIC BENJAMIN VARGAS DOB: 09/05/1968

15522 BLUEBIRD ST NW
ANDOVER, MN 55304

Defendant.

COMPLAINT

Summons

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: Theft-By Swindle

Minnesota Statute: 609.52.2(a)(4), with reference to: 609.05.1, 609.05.2, 609.52.3(5), 609.52.3(1)

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

Offense Level: Felony

Offense Date (on or about): 02/10/2016

Control #(ICR#): 16006628

Charge Description: That on or between 2/10/16 and 7/11/2016, in Hamel in Hennepin County, Minnesota, ERIC BENJAMIN VARGAS, acting alone or intentionally aiding, advising, hiring, counseling or conspiring with EDWARD LEUTHNER or otherwise procures the other to commit the crime, obtained property or services from the Hamel Athletic Club by swindling them using artifice, trick, device or other means, and the property or services had an aggregate value in excess of Thirty-Five Thousand Dollars (\$35,000.00).

STATEMENT OF PROBABLE CAUSE

Complainant has investigated the facts and circumstances of this offense and believes the following establishes probable cause:

On September 29, 2016, the current and former treasurer of the Hamel Athletic Club (HAC) reported to the Medina Police that they had investigated missing funds from the club and believed they had been embezzled. The reporting parties indicated that the HAC accounts had a balance of \$49,134.53 as of May 12, 2016, when the president of the HAC, EDWARD ROY LEUTHNER, defendant LEUTHNER herein, was added to the banking accounts. The reporting parties provided the police with their findings and copies of all financial documents.

Through the investigation, officers determined that most of the suspect transactions involved one specific sports apparel company run by ERIC BENJAMIN VARGAS, Defendant VARGAS herein. Officers interviewed Defendant VARGAS with his attorney present and admitted that Defendant LEUTHNER had come to him and orchestrated a plan where Defendant VARGAS provided inflated, false invoices to Defendant LEUTHNER who then paid them with HAC funds and Defendant VARGAS refunded cash to Defendant LEUTHNER.

Officers reviewed the questionable checks:

- 2/10/16 check #2933 for \$5,400 and 4/12/16 check #2958 for \$5,400. Defendant VARGAS' invoice was for \$10,800 for 240 jerseys; actual invoice was \$2,308.50 for 123 jerseys – a \$8,491.50 difference.
- 3/1/16 check #2939 for \$9,082. Defendant VARGAS invoice was \$9,082 for 478 hats; actual invoice was \$1,440 for 144 hats – a \$7,642 difference.
- 3/10/16 check #2943 for \$5,616. Defendant VARGAS' invoice was \$5,616 for 144 baseballs. No actual invoice because Defendant VARGAS confirmed that he did not sell baseballs.
- 3/30/16 check #2954 for \$12,584.25. Defendant VARGAS' invoice was \$12,584.25 for 315 t-shirts and hats; actual invoice was \$6,480 for 288 t-shirts and hats – a \$6,104.25 difference.
- 4/12/16 check #2956 for \$600. Defendant VARGAS' invoice was \$600 for online setup fee; actual price as reported by Defendant VARGAS is \$300 – a \$300 difference.
- 4/12/16 check #2957 for \$4,221. Defendant VARGAS' invoice was \$4221 for 469 t-shirts; actual invoice was \$1,764 for 504 t-shirts – a \$2,457 difference.
- 5/24/16 check #2975 for \$12,480. No invoice from Defendant VARGAS; actual invoice was \$934.50 for 135 t-shirts – a \$11,545.50 difference.
- 6/3/16 check #2976 for \$4,536. There was no invoice from Defendant VARGAS or actual invoice although the check memo line says t-shirts –
- 6/8/16 check #3018 for \$5,580. There was no invoice but Defendant LEUTHNER spoke with the treasurer and stated he needed the check because they had not met the online sales requirements and his personal credit card had been charged. Defendant VARGAS confirmed that there is not an online sales minimum and there was no \$5,580 penalty.
- 7/1/16 check #2979 for \$1,800 (memo line ½ backpack), 7/8/16 check #3032 for \$2,399.52, and 7/11/16 check #2983 for \$2,400 (memo line is “All-star gear”). Defendant VARGAS admitted creating an invoice for \$2,399.52 and providing it to defendant LEUTHNER but actual invoice for “all-star apparel and bags” was \$5,005 – a \$1,594.52 difference.

Further investigation revealed a 10/9/15 check #2922 for \$5,800 made payable to Defendant LEUTHNER for reimbursement for the purchase of a Bobcat UTV, supposedly from Defendant LEUTHNER's mother. Officers contacted Defendant LEUTHNER's mother who confirmed that she did not own a Bobcat UTV and had never sold one to her son and never received \$5,800 from Defendant LEUTHNER.

Officers also spoke with BAP who received HAC check #2989 for \$500 on 8/9/16. BAP reported that the check, which he at first didn't realize was from a HAC account, was provided by Defendant LEUTHNER, to reimburse him for supplements he provided Defendant LEUTHNER.

Officers also were able to locate a Visa gift card in the amount of \$504 taken out on the account of HAC by Defendant LEUTHNER on 5/17/16.

The current HAC treasurer (ASM) who was a reporting party relayed to officers that on July 26, 2016, she contacted Xtreme Custom Apparel and retrieved copies of the true invoices. ASM reported that the invoices she received she had never seen before and as a result, called Defendant LEUTHNER to question him about these issues. ASM reported that Defendant LEUTHNER became agitated when she began questioning him about the invoices, telling her that she "had no business calling and that he handled everything through Eric Vargas" and that she "could get them both in trouble." Losses to the Hamel Athletic Club are over \$50,000.

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

David Hall
Patrol Officer
600 Clydesdale Trail
Medina, MN 55340
Badge: 106

Electronically Signed:
02/21/2017 09:37 AM
Hennepin County, Minnesota

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

Prosecuting Attorney

Hans Larson
300 S 6th St
Minneapolis, MN 55487
(612) 348-5550

Electronically Signed:
02/21/2017 09:24 AM

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: \$35,000.00

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: February 21, 2017.

Judicial Officer

Kathryn Quaintance
District Court Judge

Electronically Signed: 02/21/2017 10:50 AM

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

**COUNTY OF HENNEPIN
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

ERIC BENJAMIN VARGAS

Defendant

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

Signature of Authorized Service Agent: