

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA
:
-v.-
:
HIRAM MONSERRATE,
:
Defendant.
:
----- x

SEALED INDICTMENT

10 Cr.

10 CRIM 965

COUNT ONE

(Mail Fraud Conspiracy)

The Grand Jury charges:

The Defendant

1. From in or about 2002 through in or about 2008, HIRAM MONSERRATE, the defendant, was a member of the New York City Council (the "Council"), representing the 21st Council District, which includes various neighborhoods in Queens, New York. As a member of the Council, MONSERRATE's official duties included voting on legislation, representing and advocating for the interests of his constituents, and allocating New York City (the "City") funds to non-profit organizations.

2. At all times relevant to this Indictment, the New York City Charter (the "Charter") provided that: "No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or

indirect, for the public servant or any person or firm associated with the public servant."

3. In or about 2005, HIRAM MONSERRATE, the defendant, was reelected to the Council in an uncontested general election following a victory over two challengers in the primary election (the "2005 Council Campaign").

4. In or about 2006, while he was a member of the Council, HIRAM MONSERRATE, the defendant, mounted an unsuccessful primary election campaign for the Democratic Party's nomination to run for a New York Senate (the "Senate") seat against an incumbent (the "2006 Senate Campaign"). In or about 2008, MONSERRATE was elected to the Senate.

Council Discretionary Funding

5. At all times relevant to this Indictment, the Council allocated millions of dollars annually to non-profit organizations. These funds, which are commonly known as "discretionary funds," were typically allocated by the Council as a whole in connection with specific Council initiatives. Additionally, each Council member was assigned a certain amount of discretionary funds, annually, to be distributed to community-based non-profit organizations for so-called local initiatives; the Council member identified non-profit organizations to which he or she desired to direct funds, as well as the amount of the funds he or she wanted each non-profit to receive; assuming the

Council, including the Finance Division of the Council, did not object to providing funds to a particular non-profit organization identified by a Council member, the non-profit organization entered into a contract with an intermediary, typically a New York City agency, which was responsible both for the actual disbursement of the discretionary funds as well as oversight of the way in which the non-profit organization spent the funds. The intermediary/City agency typically did not disburse the entirety of the discretionary funds at the beginning of the contract, but rather disbursed the allocated funds over the course of a fiscal year after receiving expense reports from the non-profit organization. If the non-profit organization failed to abide by the terms of its contract, failed to provide adequate services, or otherwise failed to account properly for its expenditures, the intermediary/City agency could decline to disburse funds to the non-profit organization and could even terminate the contract.

6. At all times relevant to this Indictment, the New York City Procurement Policy Board Rules (the "Procurement Rules") applied to procurements funded with Council discretionary funds. The Procurement Rules provided that: "Public employees responsible for the expenditure of taxpayer dollars have a responsibility to ensure that their conduct will not violate the public trust placed in them. They must make certain that their

conduct does not raise suspicion or give the appearance that they are in violation of their public trust." The Procurement Rules further provided that: "[P]ublic employees and elected officials having responsibility for contracting at all levels shall . . . report corruption and unethical practices, wherever and whenever discovered, to the appropriate official, and/or take such other action as is warranted by the situation."

The Latino Initiative for Better Resources and Empowerment, Inc.

7. At all times relevant to this Indictment, the Latino Initiative for Better Resources and Empowerment, Inc. ("LIBRE") was a tax-exempt non-profit organization incorporated in or about July 2003. LIBRE has described its mission to include, among other things, working with "churches, civil rights organizations, community organizations in order to develop a unified workable program to secure those rights guaranteed by the Federal and State constitutions, to counsel and assist individuals to secure their legal rights under existing laws, [and] to establish a clearing house of information on community economic development." At all times relevant to this Indictment, HIRAM MONSERRATE, the defendant, played an important role in selecting LIBRE's staff and the members of its board of directors. MONSERRATE recruited the person who served as the chair of LIBRE's board of directors from in or about 2005 through in or about 2007. MONSERRATE also referred to LIBRE the person

who served as LIBRE's interim executive director in or about 2005 and the person who served as LIBRE's executive director from in or about late 2005 through in or about early 2007.

Overview of the Fraudulent Scheme

8. For fiscal years 2006 and 2007, the Council, at the request of HIRAM MONSERRATE, the defendant, allocated approximately \$300,000 of discretionary funds to LIBRE. MONSERRATE was the sole member of the Council who requested that these discretionary funds be allocated to LIBRE, and the vast majority of LIBRE's funding consisted of these discretionary funds. The Council allocated these discretionary funds to LIBRE at MONSERRATE's request purportedly for programs that would benefit the community. In truth and in fact, after the Council had allocated these discretionary funds to LIBRE, MONSERRATE directed LIBRE to provide services in support of the 2006 Senate Campaign, and LIBRE spent over \$100,000 in support of this campaign. As MONSERRATE well knew, in requesting the Council to allocate discretionary funds to LIBRE, he had claimed that LIBRE would use these funds to provide services to benefit the community, and LIBRE's contracts with a City agency did not provide that LIBRE's funds would be used for partisan political activities. Moreover, as MONSERRATE well knew, these partisan political activities were inconsistent with LIBRE's status as a tax-exempt non-profit organization.

9. Between in or about 2005 and in or about 2007, HIRAM MONSERRATE, the defendant, and others made specific material misrepresentations and material omissions to the City and to the Council so that LIBRE would receive funding for services it provided in support of the 2006 Senate Campaign. Among other things, MONSERRATE requested the Council to increase LIBRE's discretionary award in or about June 2006 under a contract LIBRE had already used to support the 2006 Senate Campaign, and MONSERRATE failed to disclose the fact that LIBRE was using Council discretionary funds for partisan political activities, even though the Procurement Rules required him to report any such corruption at LIBRE. Additionally, two individuals who served (at different times) as LIBRE's executive director submitted expense reports to a City agency in which they failed to disclose that LIBRE had spent tens of thousands of dollars in Council discretionary funds to support MONSERRATE's political campaign.

LIBRE's Canvassing for the 2005 Council Campaign

10. In 2005, when HIRAM MONSERRATE, the defendant, ran for reelection to the Council, the primary ballot was certified on or about August 8, 2005, for the primary election that took place on or about September 13, 2005, in which MONSERRATE defeated two challengers. Between on or about August 6, 2005, and on or about September 13, 2005, LIBRE, at MONSERRATE's

direction, paid workers thousands of dollars to canvass residents of the 21st Council District in Queens, New York and do other work on behalf of MONSERRATE's reelection campaign. At the time, LIBRE did not have Council discretionary funds available to it. LIBRE paid these campaign workers with private contributions. MONSERRATE had raised, at least in part, for LIBRE. LIBRE spent approximately \$5,000 on these canvassing efforts.

LIBRE's Voter-Registration Efforts

11. In order to vote in the 2006 primary election in which HIRAM MONSERRATE, the defendant, sought the Democratic Party's nomination to run for a Senate seat, individuals were required to register to vote in person or submit a voter-registration application by mail by on or about August 18, 2006.

12. In or about 2006, LIBRE conducted a voter-registration drive using Council discretionary funds allocated to it by HIRAM MONSERRATE, the defendant. LIBRE used these funds to pay workers to go door-to-door and register voters, focusing, at MONSERRATE's direction, on the electoral district in which MONSERRATE ran for Senate in 2006. These LIBRE workers kept the completed voter-registration applications, and told the individuals that LIBRE itself would submit the applications to the New York City Board of Elections. MONSERRATE used LIBRE's voter-registration activities to his personal political advantage in the 2006 Senate Campaign. Specifically, MONSERRATE directed

LIBRE to create a database containing the names and contact information for the individuals who had completed voter-registration applications and to provide this database to workers affiliated with the 2006 Senate Campaign. In the summer of 2006, LIBRE sent databases containing the names and contact information for over 1,000 Queens residents gathered through its voter-registration drive to members of MONSERRATE's campaign team. MONSERRATE further directed LIBRE to wait to submit the voter-registration applications to the New York City Board of Elections until in or about August 2006, shortly before the August 18, 2006 deadline for voting in the primary election. MONSERRATE thus gained an advantage by being the only candidate aware that these particular people would be eligible to vote in the 2006 primary election and that they should be targeted with campaign messages. LIBRE spent approximately \$31,000 on these voter-registration efforts.

LIBRE's Petitioning and Canvassing for the 2006 Senate Campaign

13. According to New York Election Law Sections 6-118 and 6-136, in order to be included on the ballot for a political party's primary election, a prospective candidate for the Senate must obtain signatures of at least 1,000 of the political party's enrolled voters in the electoral district in which the prospective candidate is seeking office on so-called "designating petitions." Each designating petition was required to be signed

by a witness who affirmed that each of the signatories on the petition signed the petition in the witness's presence.

14. From in or about June 2006 through in or about July 2006, at the direction of HIRAM MONSERRATE, the defendant, LIBRE used discretionary funds the Council had allocated to it at MONSERRATE's request to pay workers to gather signatures of registered voters on petitions designating MONSERRATE as a candidate of the Democratic Party to run for Senate from the 13th Senate District and to sign those designating petitions as witnesses. Thereafter, from in or about July 2006 through on or about September 12, 2006, LIBRE used discretionary funds the Council had allocated to it at MONSERRATE's request to pay workers to canvass residents of the 13th Senate District on MONSERRATE's behalf. LIBRE spent approximately \$30,000 on these petitioning and canvassing efforts.

Payments to LIBRE Employees

15. From in or about June 2006 through in or about September 2006, while HIRAM MONSERRATE, the defendant, was seeking the nomination of the Democratic Party to run for Senate from the 13th Senate District, LIBRE employees were paid thousands of dollars by LIBRE from discretionary funds the Council had allocated to it at MONSERRATE's request to perform work on behalf of MONSERRATE's political campaign, and performed no substantial independent work for LIBRE during this period of

time. LIBRE paid these employees approximately \$48,000 for work performed during the 2006 Senate Campaign.

Statutory Allegation

16. From in or about 2005 through in or about 2007, in the Southern District of New York and elsewhere, HIRAM MONSERRATE, the defendant, together with others known and unknown, unlawfully, wilfully and knowingly would and did combine, conspire, confederate and agree together and with each other to violate Title 18, United States Code, Section 1341.

17. It was a part and an object of the conspiracy that HIRAM MONSERRATE, the defendant, and his co-conspirators, unlawfully, wilfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter a matter and thing to be sent and delivered by the Postal Service, and took and received therefrom such matter and thing, and knowingly caused to be delivered by mail according to the direction thereon, and at the place at which it was directed to be delivered by the person to whom it was addressed, such matter and thing, to wit, in violation of Title 18, United States Code, Section 1341.

Overt Acts

18. In furtherance of the conspiracy and to effect the illegal object thereof, HIRAM MONSERRATE, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about May 2006, MONSERRATE sent an email from a personal email account to a member of his Council staff in which he asked for a database of newly registered voters registered by LIBRE.

b. On or about May 30, 2006, MONSERRATE and a political consultant working on the 2006 Senate Campaign received an email from a LIBRE employee in which the LIBRE employee listed the names of 14 people (most of whom were subsequently paid by LIBRE for witnessing petitions designating MONSERRATE as a nominee for the Senate primary election) and asked the political consultant to verify that these people were registered to vote.

c. In or about June and July 2006, MONSERRATE stamped numerous LIBRE checks that were thereafter issued to individuals who had participated in LIBRE's voter-registration and petition-gathering activities with a signature stamp of the person who was then the chair of LIBRE's board of directors.

d. In or about October 2006, a co-conspirator not named herein ("CC-1") submitted to a City agency in New York, New York an expense report for the month of June 2006 indicating

that LIBRE had paid numerous individuals for "stipend" work, when these individuals had actually participated in LIBRE's voter-registration, petition-gathering, and canvassing activities.

(Title 18, United States Code, Sections 1341 and 1349.)

COUNT TWO

(Mail Fraud)

The Grand Jury further charges:

19. The allegations contained in paragraphs one through 15 of this Indictment are repeated and realleged as though set forth fully herein.

20. From in or about 2005 through in or about 2007, in the Southern District of New York and elsewhere, HIRAM MONSERRATE, the defendant, unlawfully, wilfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, did place in a post office and authorized depository for mail matter a matter and thing to be sent and delivered by the Postal Service, and took and received therefrom such matter and thing, and knowingly caused to be delivered by mail according to the direction thereon, and at the place at which it was directed to be delivered by the person to whom it was addressed, such

matter and thing, to wit, MONSERRATE and CC-1 caused checks to be sent by United States mail after MONSERRATE had requested the Council to allocate discretionary funds to LIBRE for civic education, cultural awareness, and other non-partisan programs, but instead used the funds in connection with the 2006 Senate Campaign.

(Title 18, United States Code, Sections 1341 and 2.)

FORFEITURE ALLEGATION

21. As the result of committing the offenses charged in Counts One and Two of this Indictment, in violation of Title 18, United States Code, Sections 1341 and 1349, HIRAM MONSERRATE, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses alleged in Counts One and Two.

Substitute Asset Provision

22. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

(1) cannot be located upon the exercise of due diligence;

(2) has been transferred or sold to, or deposited with, a third person;

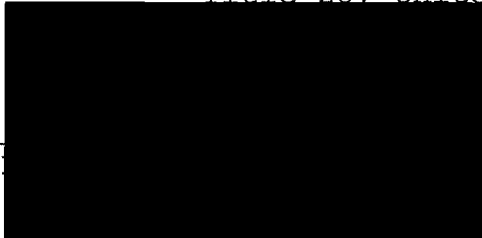
(3) has been placed beyond the jurisdiction of the Court;

(4) has been substantially diminished in value; or

(5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981(a)(1)(C),
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461.)



Preet Bharara

PREET BHARARA
United States Attorney

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(18 U.S.C. §§ 1341, 1349, & 2)

PREET BHARARA

United States Attorney



A large black rectangular redaction covers the signature area. Below the redaction, there are some faint handwritten marks.