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FILED
Sep 21, 2023
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

6 Attorneys for Plaintiff
7 United States of America

8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 MIGUEL MARTINEZ, AND
VICTOR CRUZ,
15 Defendants.

CASE NO. **1:23-cr-00183-ADA-BAM**

18 U.S.C. § 286 – Conspiracy to Submit False Claims
(One Count); 18 U.S.C. § 287 – Submission of False
Claims (Nine Counts); 18 U.S.C. § 1028(a)(7) –
Identity Theft (One Count); 18 U.S.C. §§
982(a)(2)(B) and 1028(b) – Criminal Forfeiture

17
18 INDICTMENT

19 COUNT ONE: [18 U.S.C. § 286 – Conspiracy to Submit False Claims]

20 The Grand Jury charges:

21 MIGUEL MARTINEZ and VICTOR CRUZ,

22 defendants herein, as follows:

23 I. INTRODUCTION

24 At all relevant times:

25 1. Defendants MARTINEZ and CRUZ resided in Kern County, State and Eastern District of
26 California.

27 2. Defendant MARTINEZ owned and operated businesses in Kern County, State and
28 Eastern District of California.

1 in those individuals' identities from the IRS without the individuals' authorization. They then filed, and
2 caused to be filed, applications for EINs for fabricated businesses in those individuals' identities and
3 received the EINs from the IRS.

4 17. Defendant MARTINEZ, and others known and unknown to the grand jury, procured
5 identification documents for foreign nationals and others who were unable to obtain SSNs, for the
6 purpose of obtaining ITINs for those individuals from the IRS. They then filed, and caused to be filed,
7 Forms W-7 for those individuals and received their ITINs from the IRS.

8 18. Defendants MARTINEZ and CRUZ, and others known and unknown to the grand jury,
9 subsequently used the EINs for the fabricated businesses, and the ITINs for the foreign nationals and
10 others, to file false, fictitious, and fraudulent tax forms and individual federal income tax returns,
11 including Forms W-2, W-3, Form 940, 941, and 1040s, with the IRS that falsely reported wages the
12 fabricated businesses paid to, and federal taxes the fabricated businesses withheld from, the foreign
13 nationals and others. This resulted in fraudulent tax refunds being paid out by the IRS, Treasury, and
14 United States through Treasury checks and advanced refund checks.

15 19. Defendants MARTINEZ and CRUZ kept track of the false, fictitious, and fraudulent tax
16 forms and individual federal income tax returns that they filed, and the fraudulent tax refunds that were
17 paid out, through various means, including by use of specific spreadsheets and folders on computers.

18 20. Defendant MARTINEZ, and others known and unknown to the grand jury, caused the
19 Treasury checks to be mailed to addresses over which they had access and control in Kern County and
20 Fresno County, State and Eastern District of California, and elsewhere.

21 21. Defendants MARTINEZ and CRUZ, and others known and unknown to the grand jury,
22 caused the advanced refund checks to be delivered to defendant MARTINEZ and others who were under
23 defendant MARTINEZ's control, in Kern County, State and Eastern District of California, including
24 INDIVIDUAL ONE.

25 22. Defendant MARTINEZ, and others known and unknown to the grand jury, caused the
26 Treasury checks and advanced refund checks to be cashed at businesses in Kern County, State and
27 Eastern District of California, and elsewhere, including LIQUOR STORE ONE.

1 23. Defendant MARTINEZ, and others known and unknown to the grand jury, solicited and
2 received advice from IRS EMPLOYEE ONE regarding how to avoid the IRS' fraud detection systems.
3 IRS EMPLOYEE ONE's advice included information about the IRS' monetary thresholds so that the tax
4 returns defendant MARTINEZ and others filed would not be deemed suspicious and be flagged by the
5 IRS for suspected fraud.

6 24. In or around June 2023, defendant MARTINEZ was found by authorities with over
7 \$750,000 in Treasury checks made out to other individuals, and the means of identification for more
8 than 200 individuals, in his possession, custody, and control.

9 25. As a result of the conspiracy, defendants MARTINEZ and CRUZ, and others known and
10 unknown to the grand jury, caused the submission of thousands of false claims for individual income tax
11 refunds, totaling over \$25,000,000, to be presented to the IRS, Treasury, and United States, and caused
12 the IRS, Treasury, and United States to incur more than \$2,300,000 in actual losses.

13 26. In carrying out the conspiracy, defendants MARTINEZ and CRUZ, and others known
14 and unknown to the grand jury, acted willfully and with the intent to defraud.

15 All in violation of Title 18, United States Code, Section 286.

16 COUNTS TWO THROUGH TEN: [18 U.S.C. § 287 – Submission of False Claims]

17 The Grand Jury further charges:

18 MIGUEL MARTINEZ and VICTOR CRUZ,

19 defendants herein, as follows:

20 27. Paragraphs 1 through 13 and 15 through 26 are incorporated by reference as though fully
21 set forth herein.

22 28. On or about the dates set forth below, in the State and Eastern District of California,
23 defendants MARTINEZ and CRUZ made and presented, and caused to be made and presented, to a
24 department and agency of the United States, a claim upon and against the United States, and a
25 department and agency thereof, knowing such claim to be false, fictitious, and fraudulent, through the
26 submission of false, fictitious, and fraudulent claims for individual income tax refunds to the IRS,
27 Treasury, and United States as follows:
28

Count	Defendant	IRS Form	Tax Year	Date Filed
TWO	MARTINEZ	Form 1040 for G.G. and B.A.	2020	12/18/21
THREE	MARTINEZ and CRUZ	Form 1040 for G.G. and B.A.	2021	2/18/22
FOUR	MARTINEZ	Form 1040 for L.D.	2020	5/9/22
FIVE	MARTINEZ and CRUZ	Form 1040 for L.D.	2021	4/11/22
SIX	MARTINEZ	Form 1040 for J.C. and M.V.	2017	8/10/21
SEVEN	MARTINEZ	Form 1040 for J.C. and M.V.	2018	3/28/22
EIGHT	MARTINEZ	Form 1040 for J.C. and M.V.	2019	3/28/22
NINE	MARTINEZ	Form 1040 for J.C. and M.V.	2020	3/28/22
TEN	MARTINEZ and CRUZ	Form 1040 for J.C. and M.V.	2021	4/11/22

All in violation of Title 18, United States Code, Section 287.

COUNT ELEVEN: [18 U.S.C. § 1028(a)(7) – Identity Theft]

The Grand Jury further charges:

MIGUEL MARTINEZ,

defendant herein, as follows:

29. Paragraphs 1 through 13 and 15 through 28 are incorporated by reference as though fully set forth herein.

30. On or about January 26, 2023, in Kern County, State and Eastern District of California, defendant MARTINEZ did knowingly possess and use, in and affecting interstate and foreign commerce, without lawful authority, a means of identification of another person, to wit: a photograph of L.D.'s Mexican identification card with L.D.'s name and date of birth, knowing that the means of identification belonged to another actual person, with the intent to commit, and to aid and abet, and in connection with, any unlawful activity that constitutes a violation of federal law, to wit: violations of Title 18, United States Code, Sections 286 and 287.

1 FORFEITURE ALLEGATION: [18 U.S.C. §§ 982(a)(2)(B) and 1028(b) – Criminal Forfeiture]

2 1. Upon conviction of the offense alleged in Count Eleven of this Indictment, defendant
3 MIGUEL MARTINEZ shall forfeit to the United States, pursuant to Title 18, United States Code,
4 Section 982(a)(2)(B), any property constituting or derived from proceeds obtained directly or indirectly,
5 as a result of such violations; and pursuant to Title 18, United States Code, Section 1028(b), any
6 personal property used or intended to be used to commit the offense, including but not limited to:

7 a. A sum of money equal to the total amount of proceeds obtained as the result of the
8 offenses, for which defendant is convicted.

9 2. If any property subject to forfeiture, as a result of the offense alleged in Count Eleven of
10 this Indictment, for which defendant is convicted:

- 11 a. cannot be located upon the exercise of due diligence;
12 b. has been transferred or sold to, or deposited with, a third party;
13 c. has been placed beyond the jurisdiction of the court;
14 d. has been substantially diminished in value; or
15 e. has been commingled with other property which cannot be divided without difficulty,

16 it is the intent of the United States, pursuant to 18 U.S.C. §§ 982(b)(1) and 1028(g), incorporating 21
17 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant, up to the value of the
18 property subject to forfeiture.

19 A TRUE BILL.

20 **/s/ Signature on file w/AUSA**

21 _____
22 FOREPERSON

23 PHILLIP A. TALBERT
24 United States Attorney

24 **KIRK E. SHERRIFF**

25 _____
25 KIRK E. SHERRIFF
26 Chief, Fresno Office
26 Assistant United States Attorney

No. 1:23-cr-00183-ADA-BAM

FILED
Sep 21, 2023
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT

Eastern District of California

Criminal Division

THE UNITED STATES OF AMERICA

vs.

MIGUEL MARTINEZ AND VICTOR CRUZ

INDICTMENT

VIOLATION(S): 18 U.S.C. § 286 – Conspiracy to Submit False Claims (One Count); 18 U.S.C. § 287 – Submission of False Claims (Nine Counts); 18 U.S.C. § 1028(a)(7) – Identity Theft (One Count); 18 U.S.C. §§ 982(a)(2)(B) and 1028(b) – Criminal Forfeiture

A true bill,

151

Foreman.

Filed in open court this _____ *day*

of _____ *, A.D. 20* _____

Clerk.

Bail, \$ _____ AS PREVIOUSLY SET FOR DEFENDANT MARTINEZ; PLEASE ISSUE NO BAIL WARRANT FOR REMAINING DEFENDANT _____

Sheila K. Oberly

AO 257

(Rev. 9/92) YES: SAB conflict in USAO (before 01/01/13) YES: SKO conflict in USAO (Before 4/12/10) PER 18 U.S.C. 3170

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION -- IN U.S. DISTRICT COURT

BY COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING: Case No.

Name of District Court, and/or Judge/Magistrate Judge Location (City)
EDCA

Fresno, CA

OFFENSE CHARGED

PLEASE SEE INDICTMENT

- Petty
- Minor
- Misdemeanor
- Felony

Place of offense
KERN COUNTY

U.S.C. Citation
Please see Indictment

DEFENDANT -- U.S. vs.

MIGUEL MARTINEZ

Address {

Birth Date

- Male Alien
- Female (if applicable)

(Optional unless a juvenile)

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

SA LOGAN MELTON, IRS-CI

- person is awaiting trial in another Federal or State Court, give name of court
- this person/proceeding is transferred from another district per FRCrP 20 21 40. Show District
- this is a re prosecution of charges previously dismissed which were dismissed on motion of:
 - U.S. Att'y Defense
- this prosecution relates to a pending case involving this same defendant
- prior proceedings or appearance(s) before U.S. Magistrate Judge regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE JUDGE CASE NO. 5:23-mj-00021-CDB

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome of this proceeding
If not detained, give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction
- 6) Awaiting trial on other charges } Fed'l State
If answer to (6) is "Yes," show name of institution

Has detainer been filed? Yes No

If "Yes," give date filed

Mo. Day Year

DATE OF ARREST

Or ... if Arresting Agency & Warrant were not Federal

DATE TRANSFERRED TO U.S. CUSTODY

Mo. Day Year

Name and Office of Person Furnishing Information on THIS FORM

MELINA ORTIZ

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned)

JOSEPH D. BARTON

FORFEITURE ALLEGATION

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PRELIMINARY HEARING SET FOR 9/22/23

United States v. Miguel Martinez
Penalties for Indictment

COUNT ONE:

VIOLATION: 18 U.S.C. § 286 – Conspiracy to Submit False Claims

PENALTIES: Up to ten years imprisonment
Up to \$250,000 fine
Up to three years supervised release
\$100 special assessment

COUNTS TWO THROUGH TEN:

VIOLATION: 18 U.S.C. § 287 – Submission of false claims

PENALTIES: Up to five years imprisonment
Up to \$250,000 fine
Up to three years supervised release
\$100 special assessment

COUNTS ELEVEN:

VIOLATION: 18 U.S.C. § 1028(a)(7) – Identity theft

PENALTIES: Up to five years imprisonment
Up to \$250,000 fine
Up to three years supervised release
\$100 special assessment

FORFEITURE ALLEGATION:

As stated in the charging document.

AO 257 (Rev. 9/92) YES: SAB conflict in USAO (before 01/01/13) YES: SKO conflict in USAO (Before 4/12/10) PER 18 U.S.C. 3170

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION -- IN U.S. DISTRICT COURT

BY COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING: Case No.

Name of District Court, and/or Judge/Magistrate Judge Location (City)
EDCA
Fresno, CA

OFFENSE CHARGED

PLEASE SEE INDICTMENT

 Petty
 Minor
 Misdemeanor
 Felony

Place of offense **KERN COUNTY**
U.S.C. Citation
Please see Indictment

DEFENDANT -- U.S. vs.
VICTOR CRUZ
Address {
Birth Date { Male Alien
 Female (if applicable)
(Optional unless a juvenile)

PROCEEDING
Name of Complainant Agency, or Person (& Title, if any)
SA LOGAN MELTON, IRS-CI

 person is awaiting trial in another Federal or State Court, give name of court
 this person/proceeding is transferred from another district per FRCrP 20 21 40. Show District
 this is a re prosecution of charges previously dismissed which were dismissed on motion of:
 U.S. Att'y Defense } SHOW DOCKET NO.
 this prosecution relates to a pending case involving this same defendant
 prior proceedings or appearance(s) before U.S. Magistrate Judge regarding this defendant were recorded under } **MAGISTRATE JUDGE CASE NO.**

DEFENDANT
IS NOT IN CUSTODY
1) Has not been arrested, pending outcome of this proceeding
If not detained, give date any prior summons was served on above charges {
2) Is a Fugitive
3) Is on Bail or Release from (show District)
IS IN CUSTODY
4) On this charge
5) On another conviction
6) Awaiting trial on other charges } Fed'l State
If answer to (6) is "Yes," show name of institution

Has detainer been filed? Yes No } If "Yes," give date filed
Mo. Day Year
DATE OF ARREST {
Or... if Arresting Agency & Warrant were not Federal
Mo. Day Year
DATE TRANSFERRED TO U.S. CUSTODY {

Name and Office of Person Furnishing Information on THIS FORM **MELINA ORTIZ**
 U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned) **JOSEPH D. BARTON**
 FORFEITURE ALLEGATION

ADDITIONAL INFORMATION OR COMMENTS

PLEASE ISSUE NO BAIL WARRANT.

United States v. Victor Cruz
Penalties for Indictment

COUNT ONE:

VIOLATION: 18 U.S.C. § 286 – Conspiracy to Submit False Claims

PENALTIES: Up to ten years imprisonment
Up to \$250,000 fine
Up to three years supervised release
\$100 special assessment

COUNTS THREE, FIVE, AND TEN:

VIOLATION: 18 U.S.C. § 287– Submission of false claims

PENALTIES: Up to five years imprisonment
Up to \$250,000 fine
Up to three years supervised release
\$100 special assessment

FORFEITURE ALLEGATION:

As stated in the charging document.