

SEALED

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

V.

(1) FURVIO FLETE-GARCIA,
a/k/a "FUBIO"
a/k/a "ISRAEL PAGAN TORRES,

(2) JUAN SANTIAGO,

Defendants.

Criminal No. 15cr10381

Violations:

18 U.S.C. § 371

Conspiracy

18 U.S.C. § 641

Conversion of Government Property

18 U.S.C. § 1029

Access Device Fraud

18 U.S.C. § 1028A

Aggravated Identity Theft

18 U.S.C. §§ 981(a)(1)(C), 982(a)(2)(B),

28 U.S.C. § 2461

Criminal Forfeiture

INDICTMENT

Count One:

(18 U.S.C. § 371 - Conspiracy to Defraud the United States Government)

The Grand Jury charges:

INTRODUCTION

At all times relevant to this indictment:

1. The Internal Revenue Service ("IRS") was an agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States.
2. The tax laws of the United States required every citizen and resident of the United States who received gross income in excess of the minimum filing amount established by law for a particular tax year, to annually file with the IRS a United States Individual Income Tax Return,

Forms 1040, 1040A, or 1040EZ, for that tax year, reporting his or her annual income, deductions and any tax credit he or she may be entitled to receive.

3. Individual taxpayers could file their annual United States Individual Income Tax Returns electronically using one of many commercial Electronic Return Originator (“ERO”) companies. Once an individual’s federal income tax return was electronically uploaded to an ERO, the ERO transmitted the tax return to the IRS through a secure electronic channel.
4. The IRS only processed United States Individual Income Tax Returns, Forms 1040, that include the names and matching Social Security Numbers (“SSNs”) of actual United States taxpayers.
5. Upon receipt of a filed tax return showing that a refund was due to a particular taxpayer, the IRS issued a tax refund to that taxpayer either with a paper United States Treasury Check or electronically, as directed by the particular taxpayer. Paper Treasury tax refund checks were mailed to the address the taxpayer listed on the tax return filed with the IRS. Electronic refunds were typically directed to the electronic routing number indicated on the tax return in question.
6. Personal Identifying Information (“PII”) includes individuals’ names, addresses, SSNs, dates of birth, places of work, duration of work, state driver’s license numbers, mothers’ maiden names, bank account numbers, bank routing numbers, e-mail account names, and other account passwords.
7. Natural born residents of the Commonwealth of Puerto Rico are, upon birth, automatically granted United States citizenship.
8. Residents of the Commonwealth of Puerto Rico are, upon application, issued SSNs by the Social Security Administration.

9. Residents of the Commonwealth of Puerto Rico who reside in Puerto Rico are not required to file United States income tax returns with the IRS as long as all of their income is derived from sources in Puerto Rico.
10. United States SSNs issued to residents of Puerto Rico by the Social Security Administration are recognized by the IRS as “valid” when included on an electronically filed United States Individual Income Tax Return.
11. The IRS will presume that a United States Individual Income Tax Return, if filed electronically with a “valid” SSN is “accurate” unless the tax return contains an indication of fraud or has been otherwise identified as fraudulent.
12. Once a United States Individual Income Tax Return is filed with the IRS using a valid SSN, the IRS will reject a second return filed during that same calendar year using that same SSN.
13. Certain individuals have engaged in the practice of gathering lists of “valid” SSNs and names of Puerto Rican residents for the purpose of using those names and numbers to file large numbers of fraudulent United States Individual Income Tax Returns requesting fraudulent income tax refunds.

THE CONSPIRACY

14. From on or about January 1, 2011, through in or about June 2015, in the District of Massachusetts and elsewhere,

**FURVIO FLETE-GARCIA and
JUAN SANTIGO**

Defendants herein, together with others both known and unknown to the Grand Jury, conspired to defraud the United States by impeding, impairing, obstructing and defeating the lawful government functions of the U.S. Treasury Department and the IRS, an agency of the United

States, in the ascertainment, computation, assessment and collection of revenue: to wit, federal income taxes.

OBJECT OF THE CONSPIRACY

15. The object of the conspiracy was for Defendants FLETE-GARCIA and SANTIAGO to obtain and ultimately cash income tax refund checks that were generated through the filing of materially false and fraudulent United States Individual Income Tax Returns with the IRS using the stolen PII of Puerto Rican residents, and to use the resulting illicit cash proceeds for their personal benefit.

MANNER AND MEANS OF THE CONSPIRACY

16. It was part of the conspiracy that beginning in or about January 1, 2011, members of the conspiracy obtained PII, including the names and SSNs, of residents of Puerto Rico, for the purpose of preparing and electronically filing, and causing to be prepared and filed, fraudulent United States Individual Income Tax Returns with the IRS in an attempt to obtain income tax refunds, and in order to sell this PII to third parties for the same purpose.
17. It was further part of the conspiracy that Defendants would obtain United States Treasury Income tax refund checks, issued by the IRS as a result of fraudulently filed income tax returns using stolen PII, and sell those checks on a secondary market to third parties for 50 to 60% of their face value.

OVERT ACTS

In furtherance of the conspiracy and to effect the unlawful objects thereof, Defendants

FLETE-GARCIA and SANTIAGO committed the following overt acts in the District of Massachusetts and elsewhere:

18. On or about April 26, 2013, Defendant SANTIAGO sold a list of 100 PII of United States citizens, including their names and valid SSNs, and tax return preparation software, to a confidential witness ("CW") for the government for \$900.
19. On or about July 12, 2013, Defendant SANTIAGO sold three United States Treasury income tax refund checks totaling \$16,005 to a CW for \$9,600, approximately 60% of face value.
20. On or about July 19, 2013, Defendant SANTIAGO sold four United States Treasury income tax refund checks totaling \$16,963 to a CW for \$10,189, approximately 60% of face value.
21. On or about July 26, 2013, Defendant SANTIAGO sold four United States Treasury income tax refund checks totaling \$21,020 to a CW for \$12,612, approximately 60% of face value.
22. On or about August 8, 2013, Defendant SANTIAGO sold three United States Treasury income tax refund checks totaling \$16,283 to a CW for \$9,767, approximately 60% of face value.
23. On or about December 9, 2013, Defendant FLETE-GARCIA sold two United States Treasury checks totaling \$10,405 to a CW for \$5,300, and a promise to pay an additional \$400 in the future, approximately 55% of face value.
24. In or about January 2014, Defendant FLETE-GARCIA made arrangements with a CW to meet on February 10, 2014, for the purpose of selling the CW an additional \$20,248 in United States Treasury income tax refund checks for \$10,124.
25. On or about February 10, 2014, Defendant SANTIAGO met with a CW at the pre-arranged time and place, and delivered to a CW a sealed envelope which it was later determined contained a 33-page list of stolen PII of approximately 699 Puerto Rican residents which had

been used, and was being used, to file fraudulent United States income tax returns.

All in violation of Title 18, United States Code, Section 371.

Counts Two to Fifteen:
(18 U.S.C. §§ 641, 2 - Conversion of Government Property)

26. The allegations set forth in paragraphs 1-13 and 15-25 of the Indictment are re-alleged and incorporated as if set forth fully herein.
27. On or about the dates indicated below, in the District of Massachusetts and elsewhere,

FURVIO FLETE-GARCIA and
JUAN SANTIAGO

Defendants herein, did willfully and knowingly receive with the intent to convert to their own use and gain property of the United States government, and any department and agency thereof, to wit: the United States Treasury checks listed in Counts Two through Fifteen below, knowing said property had been embezzled, stolen, purloined and converted. Specifically, Defendants knowingly and willfully received the specific Treasury checks which represented the fraudulent refund of United States income tax and were issued pursuant to the filing of materially false U.S. Individual Income Tax Returns, Forms 1040, with the United States Internal Revenue Service.

COUNT	DATE	TREASURY CHECK	AMOUNT
Count 2:	7/12/2013	3158-69632420	\$5,476.00
Count 3:	7/12/2013	3158-69632426	\$5,377.00
Count 4:	7/12/2013	3158-69632390	\$5,152.00
Count 5:	7/19/2013	3158-69632427	\$5,265.00
Count 6:	7/19/2013	3158-69632434	\$5,200.00
Count 7:	7/19/2013	3158-69632423	\$5,246.00

COUNT	DATE	TREASURY CHECK	AMOUNT
Count 8:	7/19/2013	3158-70477697	\$1,272.00
Count 9:	7/26/2013	3158-69632436	\$5,275.00
Count 10:	7/26/2013	3158-71463148	\$5,422.00
Count 11:	7/26/2013	3158-69632433	\$5,101.00
Count 12:	7/26/2013	3158-69632429	\$5,222.00
Count 13:	8/8/2013	3158-69632406	\$5,519.00
Count 14:	8/8/2013	3158-70855257	\$5,388.00
Count 15:	8/8/2013	3158-69632421	\$5,376.00

All in violation of Title 18, United States Code, Sections 641 and 2.

Count Sixteen:

(18 U.S.C. § 1029 - Access Device Fraud)

28. The allegations set forth in paragraphs 1-13 and 15-25 of the Indictment are re-alleged and incorporated as if set forth fully herein.
29. On or about April 26, 2013, in the District of Massachusetts and elsewhere,

**FURVIO FLETE-GARCIA and
JUAN SANTIGO**

Defendants herein, did knowingly and with the intent to defraud, possess at least fifteen unauthorized access devices, as defined in 18 U.S.C. § 1029(e)(3), the possession of which affected interstate and foreign commerce, to wit: approximately 97 valid United States Social Security Numbers belonging to residents of Puerto Rico, for the purpose of filing, and causing to be filed, fraudulent United States Individual Income Tax Returns.

All in violation of Title 18, United States Code, Sections 1029(a)(3) and 2.

Count Seventeen:
(18 U.S.C. § 1029 - Access Device Fraud)

30. The allegations set forth in paragraphs 1-13 and 15-25 of the Indictment are re-alleged and incorporated as if set forth fully herein.
31. On or about February 10, 2013, in the District of Massachusetts and elsewhere,

FURVIO FLETE-GARCIA and
JUAN SANTIGO

Defendants herein, did knowingly and with the intent to defraud possess at least fifteen unauthorized access devices, as defined in 18 U.S.C. § 1029(e)(3), the possession of which affected interstate and foreign commerce, to wit: approximately 699 valid United States Social Security Numbers belonging to residents of Puerto Rico, for the purpose of filing, and causing to be filed, fraudulent United States Individual Income Tax Returns.

All in violation of Title 18, United States Code, Sections 1029(a)(3) and 2.

Counts Eighteen to Thirty-One:
(18 U.S.C. § 1028A Aggravated Identity Theft)

32. The allegations set forth in paragraphs 1-13 and 15-25 of the Indictment are re-alleged and incorporated as if set forth fully herein.
33. On or about the dates listed below in the District of Massachusetts and elsewhere,

FURVIO FLETE-GARCIA and
JUAN SANTIGO

Defendants herein, did knowingly possess and use, without lawful authority, a means of identification of another person, that is, the name and social security number of fourteen individuals for the purpose of obtaining United States Treasury tax refund checks, as more particularly described below, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), namely, 18 U.S.C. Section 641 as charged in Counts Two through Fifteen of this Indictment, knowing that the means of identification belonged to an actual person.

COUNT	NAME (REDACTED)	DATE	TREASURY CHECK NO.
Count 18:	TP1	7/12/2013	3158-69632420
Count 19:	TP2	7/12/2013	3158-69632426
Count 20:	TP3	7/12/2013	3158-69632390
Count 21:	TP4	7/19/2013	3158-69632427
Count 22:	TP5	7/19/2013	3158-69632434
Count 23:	TP6	7/19/2013	3158-69632423
Count 24:	TP7	7/19/2013	3158-70477697
Count 25:	TP8	7/26/2013	3158-69632436
Count 26:	TP9	7/26/2013	3158-71463148
Count 27:	TP10	7/26/2013	3158-69632433
Count 28:	TP11	7/26/2013	3158-69632429
Count 29:	TP12	8/8/2013	3158-69632406

COUNT	NAME (REDACTED)	DATE	TREASURY CHECK NO.
Count 30:	TP13	8/8/2013	3158-70855257
Count 31:	TP14	8/8/2013	3158-69632421

All in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

Criminal Forfeiture Allegation:
(18 U.S.C. §§ 981(a)(1)(C), 982(a)(2)(B) and 28 U.S.C. § 2461(c))

34. Upon conviction of one or more of the offenses in violation of 18 U.S.C. § 641, charged in Counts Two through Fifteen of this Indictment, the defendants,

**FURVIO FLETE-GARCIA and
JUAN SANTIGO**

shall forfeit to the United States, jointly and severally, pursuant to 18 U.S.C.

§ 981(a)(1)(C) and 28 U.S.C. § 2461(c), any property, real or personal, which constitutes, or is derived from proceeds traceable to the commission of the offenses. Such property includes, without limitation, approximately \$70,000 in United States currency.

35. Upon conviction of one or more of the offenses in violation of 18 U.S.C. § 1029, charged in Counts Sixteen and Seventeen of this Indictment, the defendants,

**FURVIO FLETE-GARCIA and
JUAN SANTIGO**

shall forfeit to the United States, jointly and severally, pursuant to 18 U.S.C.

§ 982(a)(2)(B), any property constituting, or derived from, proceeds obtained directly or indirectly, as a result of the offense. Such property includes, without limitation, approximately \$70,000 in United States currency.

36. If any of the property described in paragraphs 34 and 35 above, as a result of any act or omission of the defendants --

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

it is the intention of the United States, pursuant to 18 U.S.C. § 982(b) and 28 U.S.C. § 2461(c), incorporating 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendants up to the value of the property described in paragraphs 32 and 33 above.

All pursuant to Title 18, United States Code, Sections 981(a)(1)(C), 982(a)(2)(B), and Title 28, United States Code, Section 2461(c).

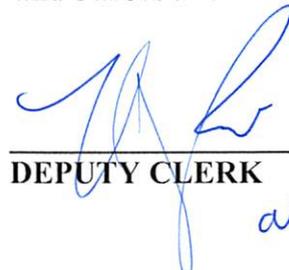
A TRUE BILL


FOREPERSON OF THE GRAND JURY


COREY J. SMITH
Senior Litigation Attorney
Department of Justice
Tax Division

DISTRICT OF MASSACHUSETTS: 12.3.15
Dated

Returned into the District Court by the Grand Jurors and filed.


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