

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No.
v. : 18 U.S.C. §§ 371, 641, 1028A & 2
ROBERTO DIAZ :

INFORMATION

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

COUNT ONE

(Conspiracy to Commit Theft of Government Property)

BACKGROUND

1. At all times relevant to this Information:
 - a. Natural born citizens of the Commonwealth of Puerto Rico are, upon birth, automatically granted United States citizenship.
 - b. Citizens of the Commonwealth of Puerto Rico are, upon application, issued Social Security numbers by the Social Security Administration.
 - c. Citizens of the Commonwealth of Puerto Rico who reside in Puerto Rico are not required to file tax returns with the Internal Revenue Service ("IRS") as long as all of the Puerto Rico residents' income is derived from sources in Puerto Rico.

The Conspiracy

2. From at least as early as in or around January 2010 through in or around September 2012, in the District of New Jersey, and elsewhere, defendant

ROBERTO DIAZ

did knowingly and intentionally conspire and agree with Jose Torres (a/k/a “Carlos Jose-Luis”) (“Torres”), Elian Matlovsky (“Matlovsky”), Ennio Guzman (“Guzman”), and others to embezzle, steal, purloin, and knowingly convert to his own use and the use of another, money and things of value of the United States, namely, United States Treasury checks in the approximate amount of \$4,773,043, contrary to Title 18, United States Code, Section 641.

Object of the Conspiracy

3. The object of the conspiracy was for defendant DIAZ and his co-conspirators to obtain and ultimately cash income tax refund checks that were generated through the filing of materially false and fraudulent individual income tax returns with the IRS, and to use the resulting illicit cash proceeds for their personal benefit.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that members of the conspiracy obtained the personally identifiable information, including the names and social security numbers, of certain individuals, including Puerto Rican citizens.

5. It was further part of the conspiracy that members of the conspiracy filed or caused to be filed with the IRS false and fraudulent U.S. Individual Income Tax Returns, using the identity information of others, including Puerto Rican citizens, and seeking state and federal tax refunds (collectively, the "Tax Returns") to which the members of the conspiracy were not entitled. The objective in doing so was to generate false and fraudulent income tax refund checks issued by the United States Department of the Treasury (the "Tax Refund Checks").

6. It was further part of the conspiracy that, while members of the conspiracy used the personally identifiable information of certain individuals, including Puerto Rican citizens, to generate the Tax Refund Checks, they had the Tax Refund Checks issued and sent to addresses in and around the District of New Jersey and elsewhere that were controlled by members of the conspiracy. Members of the conspiracy did this so that the Tax Refund Checks would be directed to addresses where they could retrieve them.

7. It was further part of the conspiracy that, once received, the Tax Refund Checks would be negotiated by members of the conspiracy in a variety of ways, including at banks and check-cashing establishments, and that members of the conspiracy would use the proceeds for their personal benefit.

8. It was further part of the conspiracy that members of the conspiracy would deposit Tax Refund Checks into accounts maintained and

controlled by defendant DIAZ, as well as into accounts held by Matlovsky, Guzman, other co-conspirators, or companies that they controlled.

9. It was further part of the conspiracy that members of the conspiracy, including defendant DIAZ, caused proceeds of the conspiracy to be withdrawn from accounts controlled by defendant DIAZ or accounts held in the names of co-conspirators or companies that they controlled, to be used for their own personal benefit, or caused such funds to be paid to other co-conspirators or paid to third parties at the direction of the co-conspirators.

10. It was further part of the conspiracy that defendant DIAZ, together with other co-conspirators, took steps to facilitate the purchase of a check cashing business in order to facilitate the negotiation of fraudulently obtained Tax Refund Checks.

11. Based on his involvement in the conspiracy, defendant DIAZ was responsible for assisting in the theft of approximately \$4,773,043 in Tax Refund Checks.

Overt Acts

12. In furtherance of the conspiracy and to effect the unlawful object thereof, defendant DIAZ and his co-conspirators committed and caused to be committed the following overt acts in the District of New Jersey and elsewhere:

- a. On or about July 17, 2011, defendant DIAZ advised an individual identified as CS-1 that Tax Refund Checks would be mailed to

addresses along a particular mail route in Cliffside Park, New Jersey (“the Mail Route”). Defendant DIAZ provided CS-1 with specific identifying details regarding the expected Tax Refund Checks, such as the payees listed on the checks – all of whom were real people who were unaware their identities had been used in connection with the Tax Returns – and the addresses to which they would be mailed.

- b. In or about August 2011, defendant DIAZ provided approximately \$500 to CS-1 for the purpose of bribing a mail carrier responsible for the Mail Route to procure Tax Refund Checks mailed to addresses along the Mail Route and provide such Tax Refund Checks to the co-conspirators.
- c. On or about November 9, 2011, defendant DIAZ deposited, or caused the deposit in Englewood, New Jersey of, three Tax Refund Checks totaling \$26,127 into an account held in the name of a fictitious company owned by co-conspirator Matlovsky (the “Account”). One of the Tax Refund Checks deposited into the Account was issued to an individual with the initials, A.M.M., who purportedly resided in Nutley, New Jersey.
- d. Between in or around January 2010 and in or around September 2012, defendant DIAZ received over \$4.7 million in Tax Refund

Checks, which DIAZ deposited or caused to be deposited into bank accounts in New Jersey controlled by defendant DIAZ, or into accounts controlled by Matlovsky, Guzman, or other co-conspirators.

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

COUNT TWO
(Theft of Government Property)

1. The allegations set forth in paragraphs 1 and 3 through 12 of Count One of this Information are realleged and reincorporated as if set forth herein.

2. From at least as early as in or around January 2010 through in or around September 2012, in the District of New Jersey, and elsewhere, defendant

ROBERTO DIAZ

did knowingly and intentionally embezzle, steal, purloin, and convert to his own use and the use of others, money, and things of value of the United States, namely, United States Treasury Checks in the approximate amount of \$4,773,043.

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

COUNT THREE
(Aggravated Identity Theft)

1. The allegations set forth in paragraphs 1 and 3 through 12 of Count One of this Information are realleged and reincorporated as if set forth herein.

2. From at least as early as in or around January 2010 through in or around September 2012, in the District of New Jersey, and elsewhere, defendant

ROBERTO DIAZ

did knowingly transfer, possess, and use, without lawful authority, a means of identification of another person, namely, the name and social security number of an individual identified as "A.M.M.," during and in relation to a felony violation of a provision contained in Chapter 31, United States Code, namely, theft of government funds, in violation of Title 18, United States Code, Section 641, charged in Count Two of this Information.

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

FORFEITURE ALLEGATION

1. The allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. Upon conviction of the offense in violation of Title 18, United States Code, Section 641, set forth in Count Two of this Information, the defendant,

ROBERTO DIAZ,

shall forfeit to the United States the following item(s) that have previously been seized:

(a) one 2007 Mercedes Benz automobile, model S55 with Vehicle Identification Number WDDNG71X67A083725, which was seized on or about September 18, 2012.

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



PAUL J. FISHMAN
United States Attorney

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

ROBERTO DIAZ

INFORMATION FOR

18 U.S.C. §§ 341, 641, 1028A
26 U.S.C. § 7206(1); and
28 U.S.C. § 2461(c)

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