

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

24 CRIM 221

UNITED STATES OF AMERICA

v.

RAFAEL ALVAREZ,
a/k/a "the Magician,"

Defendant.

SEALED INDICTMENT

24 Cr. _ ()

COUNT ONE

(Conspiracy to Defraud the United States)

The Grand Jury charges:

OVERVIEW

1. From at least in or about 2010 through at least in or about 2020, RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, was the Chief Executive Officer of ATAX New York, LLC, also doing business as ATAX New York-Marble Hill, ATAX Marble Hill, ATAX Marble Hill NY, and ATAX Corporation (together, "ATAX"). At all times relevant to this Indictment, ATAX was a high-volume tax preparation company located in the Bronx, New York, which prepared approximately 90,000 federal income tax returns for its customers, and ALVAREZ was the owner and manager of ATAX. ALVAREZ has been preparing tax returns since at least in or about 1990. ALVAREZ prepared tax returns for ATAX customers and recruited, supervised, and directed other ATAX personnel who in turn prepared tax returns for customers.

2. From at least in or about 2010 through at least in or about 2020, RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, oversaw a sweeping fraudulent scheme, whereby ALVAREZ and his employees submitted false information to the Internal Revenue Service ("IRS") in tens of thousands of ATAX customers' tax returns. This false information, which

included, among other things, bogus itemized tax deductions, made-up capital losses, phony business expenses, and fraudulent tax credits, served to fraudulently reduce the customers' tax liability and increase the customers' tax refunds from the IRS. In total, the scheme deprived the IRS of substantially more than \$100 million in tax revenue.

3. At all times relevant to this Indictment, customers interested in filing their tax returns at ATAX would meet with ATAX personnel in the Bronx, New York, and would provide ATAX employees with supporting documents in order to complete their tax returns. During the process, many customers met directly with RAFAEL ALVAREZ, a/k/a "the Magician," the defendant. In numerous instances, ALVAREZ falsified these customers' tax returns in order to greatly reduce the customers' tax liability. Many of the numbers that ALVAREZ entered were completely fictitious, and were not supported by any evidence or documentation.

4. RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, created this reduced tax liability for ATAX customers through, among other means, fraudulent: Schedule A tax deductions -itemized tax deductions involving medical expenses, charitable contributions, and job-related expenses; Schedule C business expenses; Schedule D capital gains and losses; Schedule E expenses—income from rental real properties and S Corporations (pass-through entities); Form 3903 moving expenses; Form 8917 higher education tuition and fees; head of household filing status; and residential energy credits. Examples include:

- a. including fraudulent Schedule Es for customers that never maintained a rental property;
- b. fraudulently overstating and/or making up expenses for repairs, supplies, cleaning and maintenance, and utilities, and understating income on the Schedule Es;
- c. fraudulently overstating and making up Schedule D capital losses;

d. including fraudulent claims for residential energy credits by fraudulently inventing qualifying expenses for, among other costs, solar electric, solar water, and geothermal heat pump property costs;

e. fraudulently overstating and making up moving expenses, including expenses for transportation and storage of household goods and personal effects;

f. fraudulently overstating and inventing tuition expenses; and

g. fraudulently electing the head of household filing status for married and single customers, and fraudulently including non-qualifying individuals as qualifying relatives.

5. The practice of RAFAEL ALVAREZ, a/k/a “the Magician,” the defendant, of falsifying ATAX customers’ tax returns was so prevalent that he came to be known among ATAX customers as “the Magician” due to his ability to make deductions, expenses, gains, and losses appear and/or disappear in order to reduce the customers’ tax liability.

6. By filing fraudulent tax returns on behalf of thousands of ATAX customers, ATAX generated significant profits. For example, from in or about 2016 to in or about 2019, ATAX generated at least approximately \$15 million in gross revenues. As the sole owner of ATAX during this period, RAFAEL ALVAREZ, a/k/a “the Magician,” the defendant, received a large portion of ATAX’s net revenues.

7. RAFAEL ALVAREZ, a/k/a “the Magician,” the defendant, operated this fraudulent tax scheme for years, together with certain other ATAX employees. These ATAX employees understood that ALVAREZ added false information to the tax returns and, at ALVAREZ’s direction, these ATAX employees, among other things, copied over false information from previous years’ tax returns and did not change ALVAREZ’s fraudulent entries in the tax returns when filing those returns with the IRS. In order to further his scheme and limit scrutiny,

ALVAREZ recruited employees without legal status in the United States. When certain ATAX employees questioned ALVAREZ about his fraudulent preparation of returns, ALVAREZ intimidated and threatened these employees to dissuade them from reporting his fraud scheme to authorities. When ATAX employees failed to carry out ALVAREZ's fraudulent scheme by removing schedules and other deductions that the customers did not qualify for, ALVAREZ scolded these employees and made it a policy that ATAX employees could not change ALVAREZ's fraudulent entries on the customers' tax returns.

8. The schemes operated by RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, did not stop at preparing false tax returns. ALVAREZ recruited to ATAX an employee ("Employee-1") who had been working at a supermarket and lacked legal status in the United States, which ALVAREZ knew. In order to file tax returns with the IRS, a tax preparer must obtain an identification number from the IRS (called a Preparer Tax Identification Number or "PTIN"). At ALVAREZ's direction and with his knowledge, beginning in or about 2015, Employee-1 used the identity of an associate who had lawful status in the United States ("Associate-1"), and impersonated Associate-1, with Associate-1's consent, in order to obtain a PTIN. Employee-1 thereafter filed fraudulent tax returns on behalf of ATAX customers using this fraudulently obtained PTIN.

9. On or about September 26, 2017, an IRS Revenue Agent ("Revenue Agent-1") sent a letter to Associate-1, requesting an interview. Revenue Agent-1's letter was ultimately, however, received by Employee-1, who had been impersonating Associate-1. When alerted by Employee-1 that Revenue Agent-1 was requesting an interview with Associate-1, RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, insisted on joining the interview. During the interview, which occurred on or about October 24, 2017, Employee-1 and ALVAREZ pretended that Employee-1

was Associate-1. ALVAREZ also provided Revenue Agent-1 with a power-of-attorney form purportedly signed by Associate-1, stating that ALVAREZ was acting with power of attorney for Associate-1. During the interview and at ALVAREZ's direction, Employee-1 repeatedly lied and pretended that he was Associate-1 in order to conceal from Revenue Agent-1 that ALVAREZ, Employee-1, and ATAX had been submitting fraudulent tax returns using a fraudulently obtained PTIN in the name of Associate-1, even though, in truth and in fact, Associate-1 played no role in preparing these tax returns. Revenue Agent-1 did not learn the truth for years, which impacted her ongoing investigation into Employee-1.

STATUTORY ALLEGATIONS

10. The allegations contained in paragraphs 1 through 9 of this Indictment are repeated and realleged as if fully set forth herein.

11. From at least in or about 2010 through at least in or about 2020, in the Southern District of New York and elsewhere, RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, and others known and unknown, willfully and knowingly combined, conspired, confederated, and agreed together and with each other to defraud the United States and an agency thereof, to wit, the IRS.

12. It was a part and object of the conspiracy that RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, and others known and unknown, would and did willfully and knowingly defraud the United States of America and the IRS for the purpose of impeding, impairing, obstructing, and defeating the lawful governmental functions of the IRS in the ascertainment, computation, assessment, and collection of revenue, to wit, federal income taxes, in that ALVAREZ and ATAX tax preparers working for ALVAREZ met with taxpayers in order to prepare federal tax returns that ALVAREZ and his co-conspirators knew contained false

information in order to fraudulently reduce the taxpayers' tax liabilities and thereafter electronically filed those fraudulent federal tax returns with the IRS.

Overt Acts

13. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about February 3, 2018, in the Bronx, New York, RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, and an ATAX tax preparer working for ALVAREZ met with taxpayer J.C. in order to prepare a federal tax return for tax year 2017 that ALVAREZ knew contained false information, to fraudulently reduce taxpayer J.C.'s tax liability.

b. On or about February 3, 2018, in the Bronx, New York, ALVAREZ caused to be prepared and electronically filed a federal tax return for taxpayer J.C. for tax year 2017 that ALVAREZ knew contained false information, to fraudulently reduce taxpayer J.C.'s tax liability.

c. On or about February 17, 2020, in the Bronx, New York, ALVAREZ and an ATAX tax preparer working for ALVAREZ met with taxpayer P.L. in order to prepare a federal tax return for tax year 2019 that ALVAREZ knew contained false information, to fraudulently reduce taxpayer P.L.'s tax liability.

d. On or about February 17, 2020, in the Bronx, New York, ALVAREZ caused to be prepared and electronically filed a federal tax return for taxpayer P.L. for tax year 2019 that ALVAREZ knew contained false information, to fraudulently reduce taxpayer P.L.'s tax liability.

e. On or about March 17, 2020, in the Bronx, New York, ALVAREZ and an ATAX tax preparer working for ALVAREZ met with taxpayer M.L. in order to prepare a federal tax return for tax year 2019 that ALVAREZ knew contained false information, to fraudulently reduce

taxpayer M.L.'s tax liability.

f. On or about March 17, 2020, in the Bronx, New York, ALVAREZ caused to be prepared and electronically filed a federal tax return for taxpayer M.L. for tax year 2019 that ALVAREZ knew contained false information, to fraudulently reduce taxpayer M.L.'s tax liability.

g. On or about July 12, 2020, in the Bronx, New York, ALVAREZ and an ATAX tax preparer working for ALVAREZ met with taxpayer W.G. in order to prepare a federal tax return for tax year 2019 that ALVAREZ knew contained false information, to fraudulently reduce taxpayer W.G.'s tax liability.

h. On or about July 12, 2020, in the Bronx, New York, ALVAREZ caused to be prepared and electronically filed a federal tax return for taxpayer W.G. for tax year 2019 that ALVAREZ knew contained false information, to fraudulently reduce taxpayer W.G.'s tax liability.

(Title 18, United States Code, Section 371.)

COUNTS TWO THROUGH FIVE
(Aiding and Assisting Preparation of a False and Fraudulent U.S. Individual Income Tax Return)

The Grand Jury further charges:

14. The allegations contained in paragraphs 1 through 9, and 13 of this Indictment are repeated and realleged as if fully set forth herein.

15. On or about the dates set forth below, in the Southern District of New York and elsewhere, RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, willfully and knowingly aided and assisted in, and procured, counseled, and advised the preparation and presentation under, and in connection with a matter arising under, the internal revenue laws, of a return, affidavit, claim, and other document, to wit, United States Individual Income Tax Returns (Forms 1040 and accompanying forms and schedules), for the taxpayers listed below, and for the tax years listed

below, which returns were false and fraudulent as to material matters, in that, among other things, and as set forth below, the returns variously fraudulently claimed the head of household filing status, fraudulently overstated Schedule C business expenses, fraudulently overstated Schedule D capital losses, fraudulently overstated Schedule E expenses, and fraudulently claimed residential energy credits.

Count	Taxpayer	Tax Year	Approximate Filing Date	Fabricated Items	Criminal Tax Deficiency
Two	W.G.	2019	July 12, 2020	Head of Household; Schedules C and E	\$7,935
Three	M.L.	2019	March 17, 2020	Schedules C and E	\$10,847
Four	P.L.	2019	February 17, 2020	Head of Household; Schedule E; Residential Energy Expenses	\$10,607
Five	J.C.	2017	February 3, 2018	Schedules D and E	\$3,521

(Title 26, United States Code, Section 7206(2), and Title 18, United States Code, Section 2.)

COUNT SIX

(Attempting to Interfere With Administration of Internal Revenue Laws)

The Grand Jury further charges:

16. The allegations contained in paragraphs 1 through 9, and 13 of this Indictment are repeated and realleged as if fully set forth herein.

17. From at least in or about September 2017 through at least on or about October 24, 2017, in the Southern District of New York and elsewhere, RAFAEL ALVAREZ, a/k/a “the Magician,” the defendant, corruptly endeavored to intimidate and impede an officer and employee of the United States acting in an official capacity under Title 26 of the United States Code, and in another way corruptly obstructed and impeded, and endeavored to obstruct and impede, the due administration of Title 26 of the United States Code, to wit, ALVAREZ provided false information

about the identity of Employee-1 to Revenue Agent-1 as part of a pending IRS inquiry into Employee-1's conduct.

(Title 26, United States Code, Section 7212(a), and Title 18, United States Code, Section 2.)

COUNT SEVEN
(Making False Statements)

The Grand Jury further charges:

18. The allegations contained in paragraphs 1 through 9, and 13 of this Indictment are repeated and realleged as if fully set forth herein.

19. From at least in or about August 2017 through at least on or about October 24, 2017, in the Southern District of New York and elsewhere, RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, in a matter within the jurisdiction of the executive branch of the Government of the United States, knowingly and willfully falsified, concealed, and covered up by a trick, scheme, and device a material fact, and made a materially false, fictitious, and fraudulent statement and representation, and made and used a false writing and document knowing the same to contain a materially false, fictitious, and fraudulent statement and entry, to wit, during an interview with Revenue Agent-1, ALVAREZ provided false statements and documents containing false statements regarding the true identity of Employee-1.

(Title 18, United States Code, Sections 1001 and 2.)

COUNT EIGHT
(Aggravated Identity Theft)

The Grand Jury further charges:

20. The allegations contained in paragraphs 1 through 9, and 13 of this Indictment are repeated and realleged as if fully set forth herein.

21. From at least in or about August 2017 through at least on or about October 24,

2017, in the Southern District of New York and elsewhere, RAFAEL ALVAREZ, a/k/a "the Magician," the defendant, knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), and did aid and abet the same, to wit, ALVAREZ aided, abetted, counseled, commanded, induced, and procured the possession and use of a means of identification of Associate-1 by Employee-1, including during and in relation to Employee-1's false statements to Revenue Agent-1, as charged in Count Seven of this Indictment.

(Title 18, United States Code, Sections 1028A and 2.)



A handwritten signature in cursive script, appearing to read "D Williams", written over a horizontal line.

DAMIAN WILLIAMS
United States Attorney