

**FILED**  
At Albuquerque NM

OCT 14 2010

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

**MATTHEW J. DYKMAN**  
CLERK

UNITED STATES OF AMERICA, )

Plaintiff, )

vs. )

**MICHAEL CRAIG CELENZE,** )

Defendant. )

CRIMINAL NO. 10-2844

Counts 1-3: 18 U.S.C. § 1341: Mail Fraud;

Counts 4-7: 18 U.S.C. § 1343: Wire Fraud;

Counts 8-13: 26 U.S.C. §7206(2): Aid or Assist False or Fraudulent Document and 18 U.S.C. § 2(b): Aiding and Abetting.

INDICTMENT

The Grand Jury charges:

General Allegations

1. From approximately May 2004 through approximately July 2008, in the District of New Mexico and elsewhere, the defendant, **MICHAEL CRAIG CELENZE**, knowingly and intentionally devised a scheme and artifice both to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

2. As part of the defendant's scheme and artifice, the defendant held seminars around the United States in which the defendant marketed the ownership of fractional shares in properties located in Puerto Peñasco, Mexico as tax-free investments with large returns. The defendant's seminars generally targeted older investors with established retirement funds. The defendant required a minimum \$50,000 investment from each investor.

3. During the time frame pertinent to this indictment, the defendant collected monies from investors which often consisted of an investor's life savings, retirement plan(s) or funds derived from the sale or mortgaging of an investor's home. The defendant falsely represented to investors that their investment was part of a retirement program offered by Allianz Life Insurance Inc. ("Allianz") such that, as it pertained to retirement accounts in particular, their investments would be considered a legitimate "rollover" for tax purposes. As a legitimate rollover vehicle, the investor would not have to pay taxes on the funds in their retirement accounts because the retirement funds would not be considered withdrawn for tax purposes.

4. At all times relevant to this indictment, the defendant was, in fact, affiliated with Allianz as an insurance salesman. However, as an Allianz insurance salesman, the defendant was not authorized to collect any rollover funds on behalf of Allianz.

5. As part of his scheme and artifice, the defendant caused financial institutions where investors' retirement accounts were held to transfer the funds in the investors' retirement accounts into an account that the defendant controlled. Defendant caused this transfer by providing those financial institutions with false information. Specifically, the defendant falsely represented to both the investors and the financial institutions that the investors' retirement funds were being transferred into a valid tax rollover account, such that the investors would not owe taxes on the transferred funds. To effect the transfer of the funds, the defendant altered legitimate Allianz "Authorization to Transfer Funds" forms by replacing the true Allianz address on the forms with the address of either 5850 Eubank N.E. B-49 Ste 200, Albuquerque, NM 87111 or 8400 Menaul NE #152 Albuquerque, NM 87112, both of which were

addresses that the defendant controlled.

6. The altered Allianz "Authorization to Transfer Funds" forms that the defendant created as part of his scheme and artifice and caused to be presented to various financial institutions, requested that checks comprised of the investors' retirement funds be sent to Allianz at the false addresses the defendant had added to the altered forms. Defendant used both the mails and commercial carriers as well as the wires, to transmit these false and fraudulent statements in furtherance of his scheme and artifice.

7. Once the defendant received a check from a financial institution as a result of one of the fraudulent "Authorization to Transfer Funds" forms, the defendant would deposit the check into a bank account he had opened under the name of "Allianz Asset Management International" or "AAMI." The AAMI account was in no way legitimately affiliated with Allianz Life Insurance, but was rather simply a name that the defendant had devised to further his scheme and artifice.

8. The AAMI account in which the defendant deposited the investors' retirement funds was not a valid tax rollover account.

#### Count 1

9. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above as if fully set forth herein.

10. In or about August 2005, the defendant met S.S., a person whose identity is known to the Grand Jury, in Atlanta Georgia. At that time, the defendant informed S.S. about a potential investment in properties in Puerto Peñasco, Mexico. The defendant falsely and fraudulently informed S.S. that he could transfer her 401(k)

(retirement account) into the Puerto Peñasco investment, calling it a "1035 exchange," which would be tax free.

11. On or about October 17, 2005, in the District of New Mexico, for the purposes of executing and in order to effect the scheme and artifice described above, the defendant **MICHAEL CRAIG CELENZE** knowingly sent a fraudulent Allianz "Authorization to Transfer Funds" form, with the defendant's return address of 5850 Eubank N.E. B-49 Ste 200, Albuquerque, NM 87111, to Mass Mutual in Springfield, Illinois, by Federal Express, a commercial interstate carrier, for the purpose of acquiring the proceeds of a retirement account totaling approximately \$93,880.91, which belonged to S.S.

In violation of 18 U.S.C. § 1341.

Count 2

12. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

13. In or about January 2006, K.K., an individual whose identity is known to the Grand Jury, met the defendant at a financial workshop in Tampa, Florida. In approximately April 2006, the defendant invited K.K. on a trip to Mexico to review possible investments. The defendant informed K.K. that he was an agent for Allianz and that through Allianz she could roll over her retirement account into another IRA. Shortly thereafter, K.K. agreed to invest with the defendant.

14. On or about May 8, 2006, in the District of New Mexico and elsewhere, for the purposes of executing and in order to effect the scheme and artifice described

above, the defendant **MICHAEL CRAIG CELENZE** knowingly caused to be sent through the U.S. Postal Service a fraudulent Allianz "Authorization to Transfer Funds" form, with the defendant's return address of 8400 Menaul NE #152, Albuquerque, NM, to American Funds in San Antonio, Texas, for the purpose of acquiring the proceeds of a retirement fund totaling approximately \$131,415.45, which belonged to K.K.

In violation of 18 U.S.C. § 1341.

Count 3

15. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

16. In or about 2006, R.K., an individual whose identity is known to the Grand Jury, was introduced to the defendant by a friend. R.K. later attended a seminar hosted by defendant in Albuquerque, New Mexico and subsequently agreed to invest his money with the defendant.

17. On or about June 23, 2006, in the District of New Mexico for the purposes of executing and in order to effect the scheme and artifice described above, the defendant **MICHAEL CRAIG CELENZE** knowingly sent through the U.S. Postal Service a fraudulent Allianz "Authorization to Transfer Funds" form, with the return address of 8400 Menaul NE #152, Albuquerque, NM, to Jefferson National Insurance in Louisville, Kentucky, in order to acquire the proceeds of a retirement fund totaling approximately \$39,363.51, which belonged to R.K.

In violation of 18 U.S.C. § 1341.

Count 4

18. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

19. In or about 2005, J.L., an individual whose identity is known to the Grand Jury, attended a seminar hosted by the defendant in St. Augustine, Florida. J.L. later attended another seminar hosted by the defendant in Orlando, Florida. At these seminars the defendant falsely informed J.L. that he operated an insurance company named "Allianz."

20. On or about June 13, 2006, in the District of New Mexico and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice described above, the defendant **MICHAEL CRAIG CELENZE** caused to be transmitted by means of wire communication in interstate commerce a fraudulent funds transfer form to rollover an annuity held at Prudential Financial in the amount of \$56,961.39, which belonged to J.L.

In violation of 18 U.S.C. § 1343.

Count 5

21. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

22. In or about September 2006, C.G., an individual whose identity is known to the Grand Jury, met the defendant through a mutual acquaintance. At the time, the defendant informed C.G. about potential investment opportunities in real estate in Puerto Peñasco, Mexico.

23. On or about January 4, 2007, in the District of New Mexico and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice described above, the defendant **MICHAEL CRAIG CELENZE** caused to be transmitted by means of wire communication in interstate commerce a fraudulent funds transfer form to transfer funds held at Midland National Life Insurance Company in the amount of \$87,983.26, which belonged to C.G.

In violation of 18 U.S.C. § 1343.

Count 6

24. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

25. On or about March 13, 2007, in the District of New Mexico and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice described above, the defendant **MICHAEL CRAIG CELENZE** caused to be transmitted by means of wire communication in interstate commerce a fraudulent funds transfer form to transfer funds held at ING in the amount of \$44,000, which belonged to C.G.

In violation of 18 U.S.C. § 1343.

Count 7

26. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

27. In or about August 2007, R.V., an individual whose identity is known to the Grand Jury, met the defendant and attended a seminar the defendant hosted in Albuquerque, New Mexico. Discussing investment options with R.V., the defendant

informed R.V. that the investment with the defendant would qualify for a tax-free rollover of R.V.'s retirement account.

28. On or about August 20, 2007, in the District of New Mexico, for the purpose of executing and attempting to execute the scheme and artifice described above, the defendant **MICHAEL CRAIG CELENZE** sent a fraudulent funds transfer form to transfer funds held at Amerus Life Insurance Co. in the amount of \$ 97,042.58, which belonged to R.V.

29. On or about August 29, 2007, Amerus wrote to Allianz Life Insurance Company, informing them that transfer of R.V.'s annuity as proposed in the funds transfer form, would result in R.V. incurring a substantial monetary penalty. Shortly thereafter, the defendant wrote to Amerus informing them that R.V. had changed his mind and did not want to exchange his annuity with Amerus.

30. On or about September 20, 2007, the defendant drafted a letter which he persuaded R.V. to sign. The letter complained about poor service by Amerus and demanded the immediate return of R.V.'s money.

31. On or about October 11, 2007, the defendant faxed to Amerus another copy of the letter of September 20, 2007. This second copy of the letter was directed to the CEO of Amerus and included a notation of "Please Help!" The letter further noted that an earlier copy of the letter had been "sent over two weeks ago."

32. On or about October 13, 2007, R.V. received a letter from Amerus, acknowledging receipt of the letter of September 20, 2007. That letter further stated that Amerus had opened an investigation into R.V.'s complaints and requested R.V.'s patience while the investigation was resolved. On or about October 16, 2007, the



defendant drafted a handwritten note on the same letter, which the defendant persuaded R.V. to sign. The handwritten note stated: "What do you not understand? Send me my money!" This note was sent to Amerus via facsimile.

In violation of 18 U.S.C. § 1343.

Count 8

33. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

34. On or about April 15, 2005, in the District of New Mexico and elsewhere, the defendant, **MICHAEL CRAIG CELENZE**, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, either individual or joint, for J.P. and B.P., individuals whose identity is known to the Grand Jury. The return was false and fraudulent as to material matters, in that it omitted the amounts of the retirement account transferred to defendant. Defendant had represented this amount to be tax free, whereas, as the defendant then and there knew, the account receiving the retirement funds was not a valid tax rollover account.

In violation of 26 U.S.C. § 7206(2) and 18 U.S.C. § 2(b).

Count 9

35. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

36. On or about April 15, 2007, in the District of New Mexico and elsewhere, the defendant, **MICHAEL CRAIG CELENZE**, did willfully aid and assist in, and procure,

counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, either individual or joint, for S.S. and D.S., individuals whose identity is known to the Grand Jury. The return was false and fraudulent as to material matters, in that it omitted the amounts of the retirement account transferred to defendant. Defendant had represented this amount to be tax free, whereas, as the defendant then and there knew, the account receiving the retirement funds was not a valid tax rollover account.

In violation of 26 U.S.C. § 7206(2) and 18 U.S.C. § 2(b).

Count 10

37. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

38. On or about September 28, 2007, in the District of New Mexico and elsewhere, the defendant, **MICHAEL CRAIG CELENZE**, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, either individual or joint, for K.K. and D.K., individuals whose identity is known to the Grand Jury. The return was false and fraudulent as to material matters, in that it omitted the amounts of the retirement account transferred to defendant. Defendant had represented this amount to be tax free, whereas, as the defendant then and there knew, the account receiving the retirement funds was not a valid tax rollover account.

In violation of 26 U.S.C. § 7206(2) and 18 U.S.C. § 2(b).

Count 11

39. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

40. On or about February 23, 2008, in the District of New Mexico and elsewhere, the defendant, **MICHAEL CRAIG CELENZE**, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, either individual or joint, for C.G., an individual whose identity is known to the Grand Jury. The return was false and fraudulent as to material matters, in that it omitted the amounts of the retirement account transferred to defendant. Defendant had represented this amount to be tax free, whereas, as the defendant then and there knew, the account receiving the retirement funds was not a valid tax rollover account.

In violation of 26 U.S.C. § 7206(2) and 18 U.S.C. § 2(b).

Count 12

41. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.

42. On or about April 15, 2008, in the District of New Mexico and elsewhere, the defendant, **MICHAEL CRAIG CELENZE**, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, either individual or joint, for M.R. and D.R., individuals whose identities are known to the Grand Jury. The return was false and fraudulent as to material matters, in that it omitted the amounts of the retirement account transferred to defendant. Defendant had represented this amount

to be tax free, whereas, as the defendant then and there knew, the account receiving the retirement funds was not a valid tax rollover account.

In violation of 26 U.S.C. § 7206(2) and 18 U.S.C. § 2(b).

Count 13

43. The Grand Jury hereby re-incorporates and re-alleges the allegations contained in paragraphs 1-8 above.


44. On or about March 20, 2008, in the District of New Mexico and elsewhere, the defendant, **MICHAEL CRAIG CELENZE**, did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service, of a U.S. Individual Income Tax Return, Form 1040, either individual or joint, for R.V. and A.V., individuals whose identities are known to the Grand Jury. The return was false and fraudulent as to material matters, in that it omitted the amounts of the retirement account transferred to defendant. Defendant had represented this amount to be tax free, whereas, as the defendant then and there knew, the account receiving the retirement funds was not a valid tax rollover account.

In violation of 26 U.S.C. § 7206(2) and 18 U.S.C. § 2(b).

A TRUE BILL:

  
\_\_\_\_\_  
Assistant United States Attorney

/s/  
\_\_\_\_\_  
FOREPERSON OF THE GRAND JURY

  
October 13, 2010 (1:59pm)