

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA** : **DATE FILED:** July 31, 2008

**v.** : **CRIMINAL NO.:** 08-CR-

**MARTEL T. KIRKLAND, JR.** : **VIOLATIONS:**  
**JAY W. COHEN** : **18 U.S.C. § 371 (conspiracy – 1 count)**  
**MARK J. HELLER** : **18 U.S.C. § 1341 (mail fraud – 1 count)**  
**ROBERT FOX** : **18 U.S.C. § 1029(a)(2), (b)(1) (credit card**  
: **fraud – 4 counts)**  
: **18 U.S.C. § 1028A(a)(1), (c)(4), (c)(5)**  
: **(aggravated identity theft – 5 counts)**  
: **18 U.S.C. § 1343 (wire fraud – 1 count)**  
: **18 U.S.C. § 513(a) (uttering a forged**  
: **security – 1 count)**  
: **18 U.S.C. § 2 (aiding and abetting)**

**I N D I C T M E N T**

**COUNT ONE**

**THE GRAND JURY CHARGES THAT:**

1. At all times material to this indictment, the following were organizations that operated in interstate commerce and whose activities affected interstate commerce:

- a. Chase Bank;
- b. Citi Bank;
- c. Commerce Bank;
- d. First Service Bank;
- e. HSBC Bank;
- f. MBNA Bank;
- g. Philadelphia Park; and

h. U.S. Airways.

2. From in or about November 2004 through in or about January 2006, in the Eastern District of Pennsylvania, and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.**  
**JAY W. COHEN,**  
**MARK J. HELLER, and**  
**ROBERT FOX**

conspired and agreed, together, and with others known and unknown to the grand jury, to commit the following offenses against the United States:

a. to knowingly and with intent to defraud use one or more unauthorized access devices, and by such conduct to obtain and attempt to obtain anything of value aggregating \$1,000 or more, during a one-year period, and to thereby affect interstate commerce, in violation of Title 18, United States Code, Section 1029(a)(2);

b. to knowingly and without lawful authority transfer, possess and use a means of identification of another person, during and in relation to access device and wire frauds, in violation of Title 18, United States Code, Section 1028A(a)(1);

c. to devise a scheme to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises, and in furtherance of that scheme place or caused to be placed in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, in violation of Title 18, United States Code, Section 1341;

d. to devise and intend to devise a scheme to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises,

and in furtherance of that scheme caused to be transmitted by means of wire communication in interstate commerce signals and sounds, specifically, unauthorized credit card numbers and bank account numbers, in violation of Title 18, United States Code, Section 1343; and

e. to knowingly utter forged securities of organizations that operate in, and the activities of which affect, interstate commerce, with the intent to deceive persons and organizations, in violation of Title 18, United States Code, Section 513(a).

### **MANNER AND MEANS**

It was part of the conspiracy that:

3. Defendant MARTEL T. KIRKLAND, JR., together with others known and unknown to the grand jury, stole identity information, credit card account information, and bank account information from numerous victims, in the Eastern District of Pennsylvania and elsewhere, and, together with defendants JAY W. COHEN, MARK J. HELLER, and ROBERT FOX, used the stolen information to make purchases of goods and services and pay various personal expenses owed by defendants COHEN, HELLER, and FOX, totaling in excess of \$250,000. In exchange, defendants COHEN, HELLER, and FOX paid defendant KIRKLAND cash, usually 50 percent of the amount of the payment made by defendant KIRKLAND.

4. Defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN were long-time friends, and, beginning in or about November 2004, they began to engage together in extensive identity theft and fraud activity.

5. Defendant MARTEL T. KIRKLAND stole identity information, that is, bank account information, from a day camp, which previously employed defendants JAY W.

COHEN and MARK J. HELLER, and used that information to make numerous on-line payments for personal expenses owed by defendants KIRKLAND, COHEN, and HELLER.

6. Defendant JAY W. COHEN used identity information from individuals identified here as E.T. and J.E. to apply for and obtain credit cards that were not authorized. Defendant COHEN caused the fraudulent credit cards to be mailed to his home address, rather than the homes of E.T. and J.E.

7. Defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN then used the fraudulent credit cards to purchase thousands of dollars of goods and services, including a computer and electronic equipment, and obtain thousands of dollars in cash advances on these cards.

8. Defendant MARTEL T. KIRKLAND, JR. used stolen credit card information from numerous credit card accounts to assist defendant MARK J. HELLER in purchasing 24 airline tickets from U.S. Airways for travel for defendant HELLER, his children, and their friends. Defendant JAY W. COHEN participated in the scheme by, among other things, forwarding defendant HELLER's cash payment for the fraudulently purchased tickets to defendant KIRKLAND by overnight mail.

9. Defendant MARTEL T. KIRKLAND, JR. used stolen credit card information to fraudulently make payments to the City of Philadelphia for real estate taxes owed by defendant ROBERT FOX. Defendant JAY W. COHEN participated in the scheme by, among other things, making the payments to the City of Philadelphia by computer.

10. Defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN also used stolen credit card information to pay debts owed by defendant COHEN and to fund an

on-line betting account at a local thoroughbred horse racing facility.

11. Defendant MARTEL T. KIRKLAND, JR. used stolen identity information to create, possess, and pass a counterfeit check to defendant JAY W. COHEN for the purpose of obtaining cash from a bank.

### **OVERT ACTS**

In furtherance of the conspiracy, defendants MARTEL T. KIRKLAND, JR., JAY W. COHEN, MARK J. HELLER, and ROBERT FOX, together with others known and unknown to the grand jury, committed the following overt acts in the Eastern District of Pennsylvania and elsewhere:

#### **A. HSBC MASTERCARD ACCOUNT**

1. On or about April 11, 2005, defendant JAY W. COHEN fraudulently applied for and obtained a MasterCard credit card issued by HSBC Card Services (card number ending in 0759) (“HSBC MasterCard”) that listed “E.T.” as the primary account holder and defendant COHEN as an authorized user. Defendant COHEN obtained the HSBC MasterCard in E.T.’s name, without E.T.’s knowledge, consent, or authorization.

2. On or about April 11, 2005, defendant JAY W. COHEN caused HSBC Card Services to send him an HSBC MasterCard credit card on E.T.’s account to his residence in Huntingdon Valley, Pennsylvania.

3. On various occasions from in or about April 2005 through November 2005, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN used the unauthorized HSBC MasterCard credit card to make purchases and obtain cash advances.

4. On various occasions from in or about July 2005 through in or about November 2005, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN, together with others known and unknown to the grand jury, used fraudulent account information from other accounts to transfer funds to the HSBC account.

5. As a result of this fraudulent activity, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN caused HSBC to incur a loss of approximately \$16,556.

**B. BANKONE/CHASE CREDIT CARD ACCOUNT**

6. In or about November 2004, defendant JAY W. COHEN fraudulently applied for and obtained a VISA credit card issued by BankOne Bank/Chase (card number ending in 5748) (“Chase VISA”) that listed “J.E.” as the primary account holder and defendant COHEN as an authorized user. Defendant COHEN obtained the Chase VISA credit card in J.E.’s name, without J.E.’s knowledge, consent, or authorization.

7. On various occasions from in or about November 2004 through in or about November 2005, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN used the unauthorized Chase VISA credit card account to make purchases, pay bills, and obtain cash advances.

8. On various occasions from in or about June 2005 through in or about November 2005, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN, together with others known and unknown to the grand jury, used fraudulent account information from other accounts to transfer funds to the Chase VISA account.

**C. MBNA CREDIT CARD ACCOUNT**

9. On or about May 1, 2004, defendant JAY W. COHEN fraudulently applied for and obtained a “Platinum Plus” MasterCard credit card issued by MBNA America Bank (card number ending in 7070) (“MBNA MasterCard”) that listed “J.E.” as the primary account holder. Defendant COHEN obtained the MBNA MasterCard in J.E.’s name, without J.E.’s knowledge, consent, or authorization.

10. On various occasions from in or about March 2005 through in or about July 2005, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN used the unauthorized MBNA MasterCard credit card account to make purchases, pay bills, and obtain cash advances.

11. On various occasions from in or about June 2005 through in or about September 2005, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN, together with others known and unknown to the grand jury, used fraudulent account information from other accounts to transfer funds to the MBNA MasterCard account.

**D. EZ STORAGE ACCOUNT**

12. EZ Storage is a public storage unit rental business located in Huntingdon Valley, Pennsylvania.

13. On or about September 24, 2005, defendant JAY W. COHEN entered into an agreement with EZ Storage to lease a storage unit for \$100.70 per month.

14. Defendant JAY W. COHEN failed to pay rent to EZ Storage for the months of December 2005 and January 2006, as required under the lease. EZ Storage thereafter

contacted defendant COHEN regarding the delinquent payments and requested payment of the outstanding balance.

15. On or about January 26, 2006, defendant MARTEL T. KIRKLAND, JR. contacted the manager of EZ Storage by telephone on behalf of defendant JAY W. COHEN to resolve defendant COHEN's outstanding account. During the telephone call to EZ Storage, defendant KIRKLAND falsely represented that his name was "Daniel Cohen" and he was the uncle of defendant COHEN.

16. On or about January 26, 2006, defendant MARTEL T. KIRKLAND, JR. provided the EZ Storage manager with an unauthorized credit card number, that is, a CitiBank credit card (card number ending in 4013) issued to "C.O.," as payment for defendant JAY W. COHEN's account.

**E. DAY CAMP ACCOUNTS**

17. On various occasions from in or about August 2005 through in or about October 2005, defendants MARTEL T. KIRKLAND, JR., JAY W. COHEN, and MARK J. HELLER, without authorization, used the bank account of the day camp where defendants COHEN and HELLER worked, that is, the account number for its checking accounts (accounts ending in numbers 2890 and 3019) at First Service Bank, to pay their various personal expenses, totaling in excess of \$34,000.

**F. MONTEGO BAY, JAMAICA TRIP**

18. On or about November 15, 2005, defendant MARK J. HELLER organized a group trip for 24 individuals, including himself, his three children, and their friends, for travel from Philadelphia, Pennsylvania, to Montego Bay, Jamaica. Defendant HELLER made

reservations and purchased airline tickets for the group through defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN.

19. The cost of round-trip airfare was approximately \$796 per person. However, defendant JAY W. COHEN represented to defendant MARK J. HELLER that defendant MARTEL T. KIRKLAND, JR. could purchase the same ticket at a reduced rate.

20. On various occasions from in or about November 2005 through in or about December 2005, defendant MARK J. HELLER paid defendant MARTEL T. KIRKLAND, JR. a total of \$8,000 cash to purchase the airline tickets for the group. Defendant HELLER paid defendant JAY W. COHEN, who then forwarded the cash to defendant KIRKLAND in Michigan, as instructed by defendant KIRKLAND.

21. On various occasions from in or about November 2005 through in or about December 2005, defendant MARTEL T. KIRKLAND, JR., together with others known and unknown to the grand jury, contacted the U.S. Airways group reservations department to purchase approximately 24 round-trip tickets for travel to and from Philadelphia, Pennsylvania and Montego Bay, Jamaica.

22. On various occasions from in or about November 2005 through in or about December 2005, defendants MARTEL T. KIRKLAND, JR., JAY W. COHEN, and MARK J. HELLER, together with others known and unknown to the grand jury, caused false and fictitious names and unauthorized credit card numbers to be transmitted to U.S. Airways as payment for the airline tickets purchased by defendant MARK J. HELLER and his group.

23. On various occasions from in or about November 2005 through in or about December 2005, defendants MARTEL T. KIRKLAND, JR., JAY W. COHEN, and MARK J.

HELLER, together with others known and unknown to the grand jury, used credit card numbers issued to other people to purchase in excess of \$10,348 in airline tickets from U.S. Airways for defendant HELLER and his group.

**G. CITY OF PHILADELPHIA REAL ESTATE TAX PAYMENTS**

24. Defendant ROBERT FOX became the sole owner of BLW Properties, Inc. prior to January 2005. BLW Properties, Inc. is a Pennsylvania corporation formed on September 23, 1999.

25. On various occasions from in or about January 1, 2005 through in or about December 31, 2005, BLW Properties, Inc. was the record owner of properties located at 363 East Cliveden Street and 5038 North Hutchinson Street, Philadelphia, Pennsylvania.

26. BLW Properties, Inc. owed delinquent real estate taxes to the City of Philadelphia for the 2005 tax year for the 363 East Cliveden Street and 5038 North Hutchinson Street properties.

27. Defendant ROBERT FOX contacted defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN to arrange payment of the outstanding real estate taxes owed for his properties. Defendant FOX paid defendant KIRKLAND a cash fee of approximately 50 percent of the amount of the real estate taxes paid by defendants KIRKLAND and COHEN.

28. Defendant ROBERT FOX was aware at that time that defendant MARTEL T. KIRKLAND, JR. used unauthorized credit card numbers to pay bills and expenses of defendant JAY W. COHEN and others.

29. From in or about August 8, 2005 to October 25, 2005, defendants MARTEL T. KIRKLAND, JR., JAY W. COHEN, and ROBERT FOX, together with others known and unknown to the grand jury, used credit card numbers issued to people to pay to the City of Philadelphia the delinquent real estate taxes owed for the properties owned by BLW Properties, Inc.

**H. PHILADELPHIA PARK PHONE BET ACCOUNT**

30. Philadelphia Park is a licensed thoroughbred horse racing facility and casino located at 3201 Street Road, Bensalem, Pennsylvania.

31. During 2005, Philadelphia Park operated a telephonic/on-line wagering system, known as "PhoneBET," that allowed bettors to place wagers on horse races without coming to the track. By establishing a PhoneBET account funded by a credit card, bettors were able to place wagers by telephone or computer on races held at several racetracks and watch the races on cable television.

32. On or about August 12, 2005, defendant JAY W. COHEN opened a PhoneBET Account at Philadelphia Park (account number ending in 0327). On or about August 20, 2005, defendant MARTEL T. KIRKLAND, JR. submitted an application in defendant COHEN's name to Philadelphia Park for direct credit card service for defendant COHEN's PhoneBET account that contained stolen credit card numbers.

33. From on or about August 20, 2005 through on or about August 22, 2005, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN, together with others known and unknown to the grand jury, fraudulently used stolen credit card numbers to fund defendant JAY W. COHEN's PhoneBET account, totaling in excess of \$7,200.

**I. COMMERCE BANK CHECK**

34. On or about June 22, 2005, defendant MARTEL T. KIRKLAND, JR., together with others known and unknown to the grand jury, made and possessed a counterfeit check, purportedly issued by Vintage Wines, Detroit Michigan, in the amount of \$30,000, drawn on a fictitious account at Oakland Commerce Bank, Farmington Hills, Michigan.

35. On or about June 26, 2005, defendant JAY W. COHEN attempted to cash the counterfeit check at a Sovereign Bank branch in Philadelphia, Pennsylvania. Sovereign Bank, however, refused to honor the check.

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

**COUNT TWO**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraphs 1-5 of Count One are realleged here.

**THE SCHEME**

2. From in or about April 2005 to in or about November 2005, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN**

devised and intended to devise a scheme, and aided and abetted a scheme, to defraud HSBC Card Services, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

**MANNER AND MEANS**

It was part of the scheme that:

3. On or about April 11, 2005, defendant JAY W. COHEN fraudulently applied for and obtained a MasterCard credit card issued by HSBC Card Services (card number ending in 0759) ("HSBC MasterCard") that listed "E.T." as the primary account holder and defendant COHEN as an authorized user.

4. Defendant COHEN obtained the HSBC MasterCard in E.T.'s name, without E.T.'s knowledge, consent, or authorization.

5. From in or about April 2005 to in or about November 2005, defendants MARTEL T. KIRKLAND, JR. and JAY W. COHEN used the unauthorized HSBC MasterCard credit card to make purchases and obtain cash advances, thereby causing a loss of \$16,556.

6. On or about April 11, 2005, in the Eastern District of Pennsylvania, and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.**  
**and JAY W. COHEN,**

for the purpose of executing the scheme described above and attempting to do so, and aiding and abetting its execution, knowingly caused to be delivered by United States mail to Huntingdon Valley, Pennsylvania, according to the directions thereon, a fraudulently obtained HSBC MasterCard credit card in the name of E.T.

All in violation of Title 18, United States Code, Sections 1341 and 2.

**COUNT THREE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraphs 1-5 of Count One are realleged here.

2. From on or about the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN**

knowingly and without lawful authority transferred, possessed, used, and aided and abetted and willfully caused the transfer, possession, and use of, a means of identification of another person, that is, the name of E.T., during and in relation to a mail fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(5), and 2.

**COUNT FOUR**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act Paragraphs 6-8 of Count One are realleged here.

2. From in or about November 2004 through in or about November 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN**

knowingly and with the intent to defraud used, and aided and abetted and willfully caused the use of an unauthorized access device, that is, a BankOne/Chase credit card issued on the account of J.E., to obtain things of value aggregating \$1,000 or more during a one-year period, that is, in excess of \$10,000, thereby affecting interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 1029(a)(2) and(b)(1) and 2.

**COUNT FIVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraphs 6-8 of Count One are realleged here.

2. From in or about November 2004 through in or about November 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN**

knowingly and without lawful authority transferred, possessed, used, and aided and abetted and willfully caused the transfer, possession, and use of, a means of identification of another person, that is, the name of J.E., during and in relation to access device fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(4), and 2.

**COUNT SIX**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraphs 9-11 of Count One are realleged here.

2. From in or about March 2005 through in or about July 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN**

knowingly and with the intent to defraud used, and aided and abetted and willfully caused the use of an unauthorized access device, that is, an MBNA credit card issued on the account of J.E., to obtain things of value aggregating \$1,000 or more during a one-year period, that is, in excess of \$10,000, thereby affecting interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 1029(a)(2) and(b)(1) and 2.

**COUNT SEVEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraphs 9-11 of Count One are realleged here.

2. From in or about March 2005 through in or about July 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN**

knowingly and without lawful authority transferred, possessed, used, and aided and abetted and willfully caused the transfer, possession, and use of, a means of identification of another person, that is, the name of J.E., during and in relation to access device fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(4), and 2.

**COUNT EIGHT**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraph 17 of Count One are realleged here.

2. From in or about August 2005 through in or about October 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.,  
JAY W. COHEN,  
and MARK J. HELLER**

devised and intended to devise a scheme to defraud multiple businesses and merchants and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

It was part of the scheme that:

3. Defendants MARTEL T. KIRKLAND, JR., JAY W. COHEN, and MARK J. HELLER, without authorization, used the bank account of the day camp where defendants COHEN and HELLER worked, that is, the account numbers for its bank accounts (ending in numbers 2890 and 3019) at First Service Bank, Boyertown, Pennsylvania, to pay their various personal expenses, totaling in excess of \$34,000.

4. During wire communications with businesses and merchants, defendant MARTEL T. KIRKLAND, JR. provided false and fictitious information, that is, the bank account numbers belonging to the day camp where defendants COHEN and HELLER worked.

5. From in or about September 2005 through in or about October 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.,  
JAY W. COHEN,  
and MARK J. HELLER,**

for the purpose of executing the scheme described above, and attempting to execute the scheme, caused to be transmitted by means of wire communication in interstate commerce from Detroit, Michigan to Boyertown, Pennsylvania, signals and sounds, specifically debits from the Pennsylvania day camp bank account, and account information relating to the payment of a debt owed by defendant MARK J. HELLER to Countrywide Mortgage in the amount of \$26,732.79.

In violation of Title 18, United States Code, Section 1343.

**COUNT NINE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraphs 24-29 of Count One are realleged here.

2. From in or about August 2005 through in or about October 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.,  
JAY W. COHEN, and  
ROBERT FOX**

knowingly and with the intent to defraud used, and aided and abetted and willfully caused the use of an unauthorized access device, that is, a Juniper Bank credit card issued on the account of E.J.C., to obtain things of value aggregating \$1,000 or more during a one-year period, that is, in excess of \$2,100, thereby affecting interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 1029(a)(2) and (b)(1) and 2.

**COUNT TEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraphs 24-29 of Count One are realleged here.

2. From in or about August 2005 through in or about October 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.,  
JAY W. COHEN, and  
ROBERT FOX**

knowingly and without lawful authority transferred, possessed, used, and aided and abetted and willfully caused the transfer, possession, and use of, a means of identification of another person, that is, the name of E.J.C., during and in relation to access device fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(4), and 2.

**COUNT ELEVEN**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Over Act paragraphs 30-34 of Count One are realleged here.
2. On August 21, 2005 in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN**

knowingly and with the intent to defraud used, and aided and abetted and willfully caused the use of an unauthorized access device, that is, a credit card issued on the account of E.L. to obtain things of value aggregating \$1,000 or more during a one-year period, that is, approximately \$5,600, thereby affecting interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 1029(a)(2) and(b)(1) and 2.

**COUNT TWELVE**

**THE GRAND JURY FURTHER CHARGES THAT:**

1. Paragraph 1 and Overt Act paragraphs 30-34 of Count One are realleged here.
2. On or about August 21, 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN**

knowingly and without lawful authority transferred, possessed, used, and aided and abetted and willfully caused the transfer, possession, and use of, a means of identification of another person, that is, the name of E.L., during and in relation to access device fraud.

In violation of Title 18, United States Code, Sections 1028A(a)(1), (c)(4), and 2.

**COUNT THIRTEEN**

**THE GRAND JURY FURTHER CHARGES:**

1. Paragraph 1 and Overt Act paragraphs 34-35 are realleged here.
2. On or about June 22, 2005, in the Eastern District of Pennsylvania and elsewhere, defendants

**MARTEL T. KIRKLAND, JR.  
and JAY W. COHEN,**

with intent to deceive, possessed, and aided and abetted and willfully caused the possession of, a counterfeit security of an organization operating in and affecting interstate commerce, that is, a counterfeit Commerce Bank check.

In violation of Title 18, United States Code, Sections 513(a) and 2.

**A TRUE BILL:**

---

**GRAND JURY FOREPERSON**

---

**LAURIE MAGID**  
**Acting United States Attorney**