

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

08 - 20045 CR-UNGARO

CASE NO.

ASSISTANT JUDGE
SULLIVAN

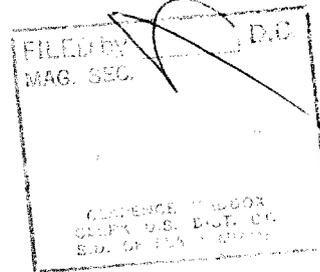
18 U.S.C. § 371
31 U.S.C. § 5313(a)
31 U.S.C. §§ 5324(a)(2) and (d)(2)
31 C.F.R. §§ 103.22 and 103.28
18 U.S.C. § 2

UNITED STATES OF AMERICA

v.

NELSON C. FLORES,
MARIA DEL CARMEN MARTINEZ,
and
HORACIO DUARTE,

Defendants.



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

Background

1. The Internal Revenue Service (“IRS”) is an agency of the United States Department of Treasury (“Treasury Department”).
2. Under federal law, specifically, the Bank Secrecy Act, codified at Title 31, United States Code, Sections 5313-5326, and its related federal regulations, financial institutions are required to file with the Treasury Department a “currency transaction report” (“CTR”), FINCEN Form 104, for each financial transaction that involves United States currency in excess of \$10,000.

Covered financial transactions include deposits, withdrawals, check cashing, or other transactions involving the physical transfer of currency from one person to another.

3. Before concluding any financial transaction with respect to which a CTR is required, a financial institution is required to verify and accurately record the name and address of the individual presenting a financial transaction, as well as accurately record the identity, social security or taxpayer identification number of any person or entity on whose behalf such financial transaction is to be effected.

4. Cash Flow Financing, Inc., (“Cash Flow”), incorporated in the State of Florida on or about May 22, 2000, has as its principal place of business 5394 W. 16th Avenue, Hialeah, Florida, 33012. Cash Flow, a check cashing store, is licensed and registered in the State of Florida as a money service business. As a money service business, Cash Flow is a “financial institution” as that term is defined in Title 31, United States Code, Section 5312(a)(2)(k) and under Title 31, Code of Federal Regulations, Sections 103.11 (n)(3) and (uu)(2), subject to the CTR filing requirements of the Bank Secrecy Act and attendant regulations.

5. Maytemar Corporation, d/b/a “La Bamba Check Cashing” (“La Bamba”), incorporated in the State of Florida on or about May 4, 1993, has a principal place of business located at 7378 S.W. 42nd Street, Miami, Florida, with storefront locations in the South Florida area. La Bamba, a check cashing store, is licensed and registered in the State of Florida as a money service business. As a money service business, La Bamba is a “financial institution” as that term is defined in Title 31, United States Code, Section 5312(a)(2)(k) and under Title 31, Code of Federal Regulations, Sections 103.11(n)(3) and (uu)(2), subject to the CTR filing requirements of the Bank Secrecy Act and attendant regulations.

6. On or about April 6, 2007, the operator and de facto owner of Cash Flow became a cooperating witness (“CW”), assisting the IRS in an undercover operation to investigate possible illegal activities within the local money service industry. Using Cash Flow as the venue, the CW presented himself as someone willing to cash checks of substantial amounts and to assist in the filing of false CTRs, which would disguise the true source of the funds being cashed.

Defendants and Other Relevant Entities

7. San Construction Group, Inc. (“San Construction”) was a Florida corporation established on or about October 18, 2006. San Construction, a purported construction company, was a shell company with no true operations. From in or around January 2007, to in or around August 2007, La Bamba filed CTRs reflecting financial transactions by San Construction totaling more than \$2,459,000.

8. Lachos Construction Services, Inc. (“Lachos Construction”) was a Florida corporation established on or about September 27, 2007. Lachos Construction, a purported construction company, was a shell company with no true operations.

9. Defendant **NELSON C. FLORES** worked closely with Cash Flow, recruiting companies and individuals to become customers of the check cashing store, for which **FLORES** would receive an agreed upon fee and commission. **FLORES** established or helped to establish shell companies, including San Construction and Lachos Construction, both of which were ultimately used by Cash Flow customers (as more fully explained in paragraphs 4-10 of the Manner and Means Section in Count 1) to cash checks in anonymity. **FLORES** was the owner of San Construction, and was listed in corporate records filed with the State of Florida as the company’s president, registered agent, and incorporator.

10. Defendant **HORACIO DUARTE** was the nominee owner of Lachos Construction, listed in corporate records filed with the State of Florida as the company's president, registered agent, and incorporator.

11. Defendant **MARIA DEL CARMEN MARTINEZ**, who identified herself as the wife of **NELSON C. FLORES**, assisted **FLORES** in his work with Cash Flow, helping to establish shell companies and to collect their fees and commissions.

COUNT 1
CONSPIRACY
(18 U.S.C. § 371)

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2007, and continuing through present, in Miami-Dade County, in the Southern District of Florida, the defendants,

NELSON C. FLORES,
MARIA DEL CARMEN MARTINEZ, and
HORACIO DUARTE,

did willfully, that is with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate and agree among themselves and with others, both known and unknown to the Grand Jury, to commit certain offenses against the United States, that is: to knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a), and regulations prescribed thereunder, cause a domestic financial institution to file a report under Title 31, United States Code, Section 5313(a), and regulations prescribed thereunder, that is, a Currency Transaction Report on Treasury Department, FINCEN Form 104, that contained a material omission and misstatement of fact concerning, among other things, the true identity of the parties involved

in the financial transactions and the source of the funds involved, as part of a pattern of illegal activity involving more than \$100,000 in a 12-month period, in violation of Title 31, United States Code, Sections 5324(a)(2) and (d)(2), and Title 31, Code of Federal Regulations, Sections 103.22 and 103.28.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by earning substantial commissions and fees for the service of cashing checks on behalf of numerous companies and individuals, and thereafter causing the filing with the Treasury Department of CTRs which contained materially false statements and omissions of material fact, concerning, among other things, the true identity of the parties involved in the financial transactions and the source of the funds cashed.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendants and their co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

4. **NELSON C. FLORES, MARIA DEL CARMEN MARTINEZ, and HORACIO DUARTE**, and co-conspirators known and unknown to the Grand Jury, used various shell corporations established in the State of Florida. These shell corporations, purportedly construction companies, included, among others, San Construction and Lachos Construction. In truth, none of these shell corporations were legitimate companies engaged in the construction business.

5. **NELSON C. FLORES** acted as the owner of San Construction. **FLORES** thereafter recruited **HORACIO DUARTE** to be the nominee owner of Lachos Construction.

6. In or around January 2007, **NELSON C. FLORES** reached an agreement with the CW, who was the operator of Cash Flow and then a co-conspirator, whereby **FLORES** would bring

customers to Cash Flow, and Cash Flow would cash checks payable to the shell companies and pay **FLORES** a fee for each check. Per their agreement, the typical fee for cashing a check payable to San Construction and Lachos Construction varied from 4 % to 5 ½ %, with Cash Flow keeping between 2% to 2 ½ % and **FLORES** keeping the rest. A portion of the fee was also paid to **HORACIO DUARTE** as the nominee owner of Lachos Construction, once Lachos Construction was created.

7. Thereafter, **NELSON C. FLORES** would identify and recruit customers, typically local construction companies, interested in using the shell companies as a manner in which to cash checks in anonymity. That is, **FLORES**' customers could write checks payable to the shell companies, and then, for a fee, cash the same checks at Cash Flow, as agreed to by the operator of Cash Flow, despite the fact that the checks were not payable to the customers.

8. **NELSON C. FLORES, MARIA DEL CARMEN MARTINEZ, and HORACIO DUARTE** visited Cash Flow on a regular basis to collect their fees and commissions for checks cashed at Cash Flow which had been made payable to San Construction and Lachos Construction. These fees were paid in cash.

9. **NELSON C. FLORES, MARIA DEL CARMEN MARTINEZ, and HORACIO DUARTE** would provide the CW with identifying information for the shell companies and owners, including **FLORES** and **DUARTE**, thereby causing CTRs filed with the Treasury Department to falsely state that the parties involved in the check cashing transactions were the shell companies and their owners, thus misrepresenting the true source of money and the identities of the individuals conducting the check cashing transactions.

10. From in or around January 2007, to in or around August 2007, **NELSON C. FLORES**, with the assistance of **MARIA DEL CARMEN MARTINEZ**, ultimately caused La

Bamba to file materially false CTRs reflecting financial transactions by San Construction totaling more than \$2,459,000. Since December 2007, **FLORES**, with the assistance of **MARTINEZ** and **HORACIO DUARTE**, has caused the cashing of numerous checks payable to Lachos Construction, totaling \$132,557, including several transactions which would require the filing of a CTR.

OVERT ACTS

In furtherance of the conspiracy and to achieve the object and purpose thereof, at least one of the following overt acts, among others, was committed by at least one of the defendants and their co-conspirators, in the Southern District of Florida and elsewhere:

1. In or around January 2007, **NELSON C. FLORES** met with the CW, then the operator of Cash Flow and a co-conspirator, to discuss cashing checks payable to a shell company named San Construction in exchange for an agreed upon fee.

2. On or about January 16, 2007, **NELSON C. FLORES** caused a CTR to be filed with the Treasury Department, which falsely represented that San Construction had transacted business at La Bamba in the amount of \$28,995.

3. On or about February 23, 2007, **NELSON C. FLORES** caused a CTR to be filed with the Treasury Department, which falsely represented that San Construction had transacted business at La Bamba in the amount of \$33,241.

4. On or about March 17, 2007, **NELSON C. FLORES** caused a CTR to be filed with the Treasury Department, which falsely represented that San Construction had transacted business at La Bamba in the amount of \$23,755.

5. On or about April 27, 2007, **NELSON C. FLORES** caused a CTR to be filed with the Treasury Department, which falsely represented that San Construction had transacted business at La Bamba in the amount of \$107,651.

6. On or about May 26, 2007, **NELSON C. FLORES** collected a commission from the CW based upon a \$27,363 check payable to San Construction cashed at Cash Flow the previous day.

7. On or about June 16, 2007, **NELSON C. FLORES** visited Cash Flow and collected a commission for those checks payable to San Construction, which had been recently cashed.

8. On or about June 23, 2007, **NELSON C. FLORES** visited Cash Flow and collected a commission for those checks payable to San Construction, which had been recently cashed.

9. On or about June 29, 2007, **NELSON C. FLORES** accompanied one of his customers to Cash Flow and facilitated the cashing of three checks totaling \$29,811.36 made payable to San Construction, for which **FLORES** received a preliminary, partial commission.

10. On or about June 30, 2007, **MARIA DEL CARMEN MARTINEZ** visited Cash Flow and collected a commission for those checks payable to San Construction which had been recently cashed.

11. On or about July 6, 2007, **NELSON C. FLORES** accompanied one of his customers to Cash Flow and facilitated the cashing of a \$21,000 check made payable to San Construction, for which **FLORES** received a commission.

12. On or about July 14, 2007, **MARIA DEL CARMEN MARTINEZ** visited Cash Flow and collected a commission for those checks made payable to San Construction, which had been recently cashed.

13. On or about August 29, 2007, **NELSON C. FLORES** assured the CW that one of **FLORES'** customers would be bringing to Cash Flow a check payable to San Construction soon.

14. On or about October 2, 2007, **NELSON C. FLORES**, while visiting Cash Flow to collect his commission on recently cashed San Construction checks, discussed the whereabouts of a customer and explained that the customer understood that CTRs filed on financial transactions

involving checks made payable to San Construction checks did not reflect the true identity of the parties involved, but rather listed San Construction and **FLORES** as the parties conducting the transaction.

15. On or about November 1, 2007, **NELSON C. FLORES** told the CW that he had established a new shell company, Lachos Construction, to replace San Construction, and that the company would be in the name of his "cousin," with whom **FLORES** would split the fee 50/50.

16. On or about December 6, 2007, **MARIA DEL CARMEN MARTINEZ** brought **HORACIO DUARTE** to Cash Flow and introduced **DUARTE** to the CW as the nominee owner of Lachos Construction who would endorse Lachos Construction checks and pick up their related commissions.

17. On or about December 6, 2007, **MARIA DEL CARMEN MARTINEZ**, with **HORACIO DUARTE**, provided the CW documents related to the incorporation of Lachos Construction and its nominee owner, **DUARTE**, in order to facilitate the filing of false CTRs with the Treasury Department when checks payable to Lachos Construction were cashed.

18. On or about December 14, 2007, **HORACIO DUARTE** visited Cash Flow and collected a commission for those checks made payable to Lachos Construction which had been recently cashed.

19. On or about December 21, 2007, **HORACIO DUARTE** visited Cash Flow and collected a commission for those checks made payable to San Construction and Lachos Construction which had been recently cashed.

20. On or about January 9, 2007, **HORACIO DUARTE** visited Cash Flow and collected a commission for those checks made payable to San Construction and Lachos Construction which had been recently cashed.

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

COUNTS 2-14
CAUSE AND ATTEMPT TO
CAUSE THE FILING OF
FALSE CURRENCY TRANSACTION REPORTS
(31 U.S.C. §§ 5313(a), 5324(a)(2) and (d)(2);
31 C.F.R. §§ 103.22 and 103.28; and 18 U.S.C. § 2)

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about the dates set forth below, in Miami Dade County, in the Southern District of Florida, and elsewhere, the defendant,

NELSON FLORES,

did knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a), and the regulations prescribed thereunder, cause and attempt to cause a domestic financial institution to file a report required by Title 31, United States Code, Section 5313(a), specifically, a Currency Transaction Report on Treasury Department, FINCEN Form 104, that contained a material omission and misstatement of fact concerning, among other things, the true identity of the parties involved in the financial transactions and the source of the funds involved, as part of a pattern of illegal activity involving more than \$100,000 in a 12-month period.

COUNT	APPROX. DATE OF TRANSACTION	CLAIMED FINANCIAL TRANSACTION	CTR NO.
2	1/16/07	Checks payable to San Construction totaling \$28,995 cashed at La Bamba by NELSON C. FLORES	20071086126430
3	2/23/07	Checks payable to San Construction totaling \$33,241 cashed at La Bamba by NELSON C. FLORES	20071236544930

COUNT	APPROX. DATE OF TRANSACTION	CLAIMED FINANCIAL TRANSACTION	CTR NO.
4	3/17/07	Checks payable to San Construction totaling \$23,755 cashed at La Bamba by NELSON C. FLORES	20071236544730
5	4/27/07	Checks payable to San Construction totaling \$107,651 cashed at La Bamba by NELSON C. FLORES	20071866444630
6	5/25/07	Checks payable to San Construction totaling \$90,610 cashed at La Bamba by NELSON C. FLORES	20071866442330
7	6/16/07	Checks payable to San Construction totaling \$93,585 cashed at La Bamba by NELSON C. FLORES	20072086639830
8	6/23/07	Checks payable to San Construction totaling \$75,510 cashed at La Bamba by NELSON C. FLORES	20072086640030
9	7/31/07	Checks payable to San Construction totaling \$40,810 cashed at La Bamba by NELSON C. FLORES	20072366989130
10	8/1/07	Check payable to San Construction totaling \$20,113 cashed at La Bamba by NELSON C. FLORES	20072366988930
11	8/3/07	Checks payable to San Construction totaling \$81,611 cashed at La Bamba by NELSON C. FLORES	20072436573030
12	8/11/07	Checks payable to San Construction totaling \$148,680 cashed at La Bamba by NELSON C. FLORES	20072436573330

COUNT	APPROX. DATE OF TRANSACTION	CLAIMED FINANCIAL TRANSACTION	CTR NO.
13	8/31/07	Checks payable to San Construction totaling \$86,927 cashed at La Bamba by NELSON C. FLORES	20072576143330
14	9/28/07	Checks payable to San Construction totaling \$101,710 cashed at La Bamba by NELSON C. FLORES	20072966415430

In violation of Title 31, United States Code, Sections 5313(a), 5324(a)(2) and (d)(2); Title 31, Code of Federal Regulations, Sections 103.22 and 103.28; and Title 18, United States Code, Section 2.

A TRUE BILL

FOREPERSON



 R. ALEXANDER ACOSTA
 UNITED STATES ATTORNEY



 WILFREDO FERNANDEZ
 ASSISTANT UNITED STATES ATTORNEY