

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

08-60262 CR-COHN

MAGISTRATE JUDGE
RELOVEZ

CASE NO.: _____
18 U.S.C. § 371

FILED by _____ D.C.
SEP 22 2008
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - FT. LAUD.

UNITED STATES OF AMERICA, :
 :
v. :
 :
XAVIER MERCADO, :
Defendant. :
_____ /

INFORMATION

The United States Attorney charges that:

From in or about August 2003, through in or about March 2005, in Broward County, in the Southern District of Florida, and elsewhere, the defendant,

XAVIER MERCADO,

did knowingly and willfully, combine, conspire, confederate and agree with others known and unknown to the United States Attorney, to knowingly and willfully devise a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises, and, for the purpose of executing such scheme and artifice, to place and cause to be placed in a post office and authorized depository for mail, a matter and thing to be sent and delivered by the Postal Service, in violation of Title 18, United States Code, Section 1341.

OBJECT OF THE CONSPIRACY

2. It was the object of the conspiracy that the defendant, XAVIER MERCADO, would unlawfully enrich himself by managing fraudulent work-at-home schemes, concocted by his coconspirators, where he received payment for his managerial services from monies received from the victims of the fraud

MANNER AND MEANS

The manner and means by which the defendant sought to accomplish the object of the conspiracy included the following:

3. Coconspirators would cause to be transmitted through the internet, emails, pop-up advertisements and other electronic transmissions, offering the recipients the opportunity to earn vast sums of money by “working-at-home” mailing packages of promotional materials. These emails and pop-up advertisements would lead the recipients to websites which detailed the alleged “work-at-home” opportunity.

4. Coconspirators would require individuals wishing to participate in the alleged “work-at-home” programs to mail in an “up- front” fee, which ranged from approximately \$43.97 to \$160.00.

5. A coconspirator would recruit individuals to create corporations, including, but not limited to, Kosta & Associates, Inc., Mail Processing Services, Inc., Stuffing for Money, Inc., SR & Associates, Inc., and Sunray Trading, Inc., through which the work-at-home schemes were operated.

6. Defendant XAVIER MERCADO would assist in opening bank accounts and mail boxes for the corporations set forth above.

7. In order to induce the recipients of the solicitations to participate and mail in their up-front fees, defendant XAVIER MERCADO and his coconspirators made and caused to be made, the following false and fraudulent representations, among others:

a. falsely promised the participants that they would receive ten dollars (\$10.00) for each circular that they mailed;

b. falsely promised the participants that they would be paid weekly;

c. falsely promised the participants that the “more letters [they] Stuff[ed] and Mail[ed], the MORE MONEY [they could] Make!”

d. falsely promised the participants that their initial postage cost was reimbursable;

e. falsely represented that the up-front fee was for an accountant to set up a payroll plan;

f. falsely represented that the up-front fee was fully refundable;

g. falsely represented that they were the “most honest and trustworthy program around for the average home worker.”

8. Defendant XAVIER MERCADO would deposit and cause to be deposited the “up-front” fees received from the victims of the fraudulent schemes into various bank accounts.

9. Defendant XAVIER MERCADO would mail and cause to be mailed packages containing flyers, mailing labels, and other miscellaneous items to some of the individuals who sent in their up-front fees.

10. Neither defendant XAVIER MERCADO nor his conspirators compensated any of the participants as promised.

11. Defendant XAVIER MERCADO was compensated for his services from monies received from the victims.

OVERT ACTS

In furtherance of the conspiracy and to effect its object, at least one of the conspirators committed and caused to be committed, in the Southern District of Florida, and elsewhere, at least one of the following overt acts, among others:

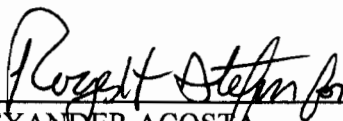
12. On or about September 19, 2003, defendant XAVIER MERCADO filled out an P.S. Form 1583, Application For Delivery of Mail Through Agent and Mailbox Service Agreement for a UPS mailbox located at 318 Indian Trace, #634, Weston, Florida, for SR & Associates, Inc.

13. On or about October 21, 2003, defendant XAVIER MERCADO filled out a check payable to the Vendare Group to pay for the mass emailing of the work-at-home solicitation.


14. On or about September 8, 2004, defendant XAVIER MERCADO filled out an P.S. Form 1583, Application For Delivery of Mail Through Agent and Mailbox Service Agreement for a mailbox at Mail Box Etc., 12717 West Sunrise Blvd., Sunrise Florida, for Mail Processing Services, Inc.

15. On or about September 9, 2004, defendant XAVIER MERCADO filled out a check payable to Boulevard Properties to pay September's rent for the warehouse they were renting in Sunrise, Florida, to run the operation.

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



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



BERTHA R. MITRANI
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

vs.

CERTIFICATE OF TRIAL ATTORNEY*

XAVIER MERCADO,

Defendant.

Superseding Case Information:

Court Division: (Select One)

____ Miami _____ Key West
X FTL _____ WPB _____ FTP

New Defendant(s) Yes _____ No _____
Number of New Defendants _____
Total number of counts _____

I do hereby certify that:

1. I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.

2. I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

3. Interpreter: (Yes or No) No
List language and/or dialect _____

4. This case will take 0 days for the parties to try.

5. Please check appropriate category and type of offense listed below:
(Check only one) (Check only one)

I	0 to 5 days	<u>X</u>	Petty	_____
II	6 to 10 days	_____	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>X</u>
V	61 days and over	_____		

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes
Judge: _____ Case No. _____
(Attach copy of dispositive order)


Has a complaint been filed in this matter? (Yes or No) No

If yes:
Magistrate Case No. _____
Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____
Rule 20 from the _____ District of _____

Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? _____ Yes X No

8. Does this case originate from a matter pending in the Narcotics Section (Miami) prior to May 18, 2003? X Yes _____ No



BERTHA B. MITRANI
ASSISTANT UNITED STATES ATTORNEY
Florida Bar No. 88171

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: XAVIER MERCADO

Case No:

Count #1: Conspiracy to Commit Mail Fraud

Title 18, United States Code, Section 371

* Max. Penalty: 5 years' imprisonment, 3 years' supervised release and \$250,000 fine

Count # :

*Max. Penalty:

Count # :

*Max. Penalty:

Count #:

*Max. Penalty:

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms or forfeitures that may be applicable.**