



U.S. Department of Justice
United States Attorney's Office
FLORIDA, Southern District - Fort Lauderdale
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7th Floor
Fort Lauderdale, FL 33394
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Distributed via Internet

November 12, 2008

RE: *United States v. Xavier Mercado*
Case No. 08-60262-Cr-Cohn

Dear Investor/Victim:

This letter is to inform you that a federal felony prosecution is pending in this district against the above-named person. The defendant has been charged with conspiring 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 schemes 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, all in violation of Title 18 U.S.C. Section 371. The fraud companies include SR & Associates, Inc., SunRay Trading, Inc., Kosta & Associates Inc., and Mail Processing Services, Inc.

The defendant, Xavier Mercado has been arrested, pleaded guilty and is awaiting sentencing. Sentencing is scheduled for Friday, January 23, 2009 @ 11:00AM before the Honorable James I. Cohn.

You may be called as a witness in this case. Those persons subpoenaed by the government to testify at trial will be contacted by Juanita Waters, United States Postal Inspector, phone #610-668-4502. The government may ask to have a voluntary pre-trial conference with you. Witnesses will be notified as early as possible, and every effort will be made to handle witnesses' preparation and appearance in a timely and convenient manner, but this office does not control the court's schedule.

You are entitled to understand what is happening in any case in which you are involved. Persons who are victims of a federal crime have certain rights and are entitled to certain services. Enclosed is a copy of Congress's statement of crime victims' rights, enacted as part of the Victims' Rights and Restitution Act of 1990. This office's Victim-Witness Unit can provide you with more information about the Act, and about services to victims of crime, if you wish such information.

Please be aware that any statements you make, whether oral or written, including in filling out forms, may be subject to disclosure to the defense.

If you are a victim of a federal crime:

YOU HAVE THE RIGHT TO BE FREE FROM ANY THREATS ARISING FROM YOUR ROLE IN THIS CASE. If anyone threatens you, or you feel that you're being harassed because of the case, you should immediately notify Juanita Waters, United States Postal Inspector at 610-668-4502.

YOU HAVE THE RIGHT TO THE PROMPT RETURN OF YOUR PROPERTY IF IT IS HELD AS EVIDENCE. It is sometimes necessary for the United States Government to retain personal property to be used as evidence in the case. Unfortunately, your property may necessarily be held for a long time. However, every effort will be made to return your property to you as soon as possible after the trial and/or appeal.

YOU WILL RECEIVE NOTICE OF ANY SENTENCE IMPOSED IN THIS CASE.

According to the Mandatory Victims Restitution Act of 1996 you are entitled to receive notice of the defendant's conviction and his sentencing date. These matters will be published on the website listed below. As a result of his crime, you are entitled to be compensated and an explanation of the types of losses for which the statute provides restitution is attached. You may have already provided the Receiver/Court Appointed Trustee, Louis B. Friedman with a victim loss statement. If you have not been contacted by the Receiver and submitted a claim and wish to do so, please fill-out the Declaration of Victim Losses found on the website. In this affidavit, you are given the opportunity to itemize your losses and amounts of those losses.

If you have already filed this affidavit, Declaration of Victim Losses, in the US v. Mercado matter, it is not necessary to do so again.

We will from time to time, update the internet site as time and information permit. We will continue to post case developments on our office's web page at the Department of Justice website, which can be found at www.usdoj.gov/usao/fls/. Please go to the page dedicated to victim/witness services and you will find internet access to information about this case at the bottom of that page.

We have added the most recent charging document to the website, press release, indictment and declaration of victim loss statement.

Thank you for your cooperation.

Very truly yours,

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By: BERTHA R. MITRANI
ASSISTANT UNITED STATES ATTORNEY

(All Victims Including Corporate Victims)

CHANGE OF ADDRESS FORM

MAIL TO: United States Attorney's Office
Victim-Witness Unit
99 N.E. 4th Street
Miami, Florida 33132

RE: UNITED STATES v. Xavier Mercado
CASE NO. 08-60262-Cr-Dimitrouleas

NAME: _____

ADDRESS: _____
(Street)

(City) (State) (Zip)

TELEPHONE: Home: _____
(Area Code) (Phone No.)

Work: _____
(Area Code) (Phone No.)

Signature: _____

Date: _____

Enclosure for Letter at Time of Indictment.
(All Victims Including Corporate Victims)

(a) **BEST EFFORTS TO ACCORD RIGHTS.**

Officers and employees to the Department of Justice . . . engaged in the . . . prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) **RIGHTS OF CRIME VICTIMS.**

A crime victim has the following rights:

- (1) The right to be treated with fairness and with respect for the victim's dignity and privacy.
- (2) The right to be reasonably protected from the accused offender.
- (3) The right to be notified of court proceedings.
- (4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- (5) The right to confer with attorney for the Government in the case.
- (6) The right to restitution.
- (7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

See CRIME CONTROL ACT OF 1990, Pub.L. No. 101-647, (November 29, 1990) §502; 42 U.S.C. §10606

Explanation of Losses Subject to Restitution

The Mandatory Restitution Act of 1996 provides that you may be entitled to an order of restitution for certain losses suffered as a direct or proximate result of the commission of the offense for which the defendant was convicted. The types of losses for which the statute provides restitution are explained below. You have the right to explain these losses in detail in the attached affidavit form. **If you have already filed this affidavit in the US v. Demetrius, it is not necessary to do so again.**

In the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense, the court may order: the return of the property to the owner of the property or someone designated by the owner; or if return of the property is impossible, impractical, or inadequate, the court may order payment in an amount equal to the greater of—the value of the property on the date of the damage, loss, or destruction, or the value of the property on the date of sentencing, less the value (as of the date the property is returned) of any part of the property that is returned.

In the case of an offense resulting in bodily injury to a victim, the court may order: payment of an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment; payment of an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and reimbursement to the victim for income lost by such victim as a result of such offense.

In the case of an offense resulting in bodily injury that also results in the death of a victim, the court may order payment of an amount equal to the cost of necessary funeral and related services.

In any case, the court may order reimbursement to the victim for lost income and necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

In any case, if the victim (or if the victim is deceased, the victim's estate) consents, the court may order the defendant to make restitution in services in lieu of money, or to make restitution to a person or organization designated by the victim or the estate. (18 U.S. C. Sec. 3663)

In addition, the victim may at any time assign the victim's interest in restitution payments to the Crime Victims Fund in the Treasury without in any way impairing the obligation of the defendant to make such payments. (18 U.S. C. Sec. 3664)

If a victim has received compensation from insurance or any other source with respect to a loss, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.
(18 U.S.C. Sec.3664)