

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : INFORMATION
-v.- : 14 Cr. _____
LUIS GUSTAVO TAVAREZ, :
Defendant. :

- - - - - x

COUNT ONE

(Conspiracy to Commit Access Device Fraud)

The United States Attorney charges:

1. From at least in or about April 2013 through at least in or about April 2014, in the Southern District of New York and elsewhere, LUIS GUSTAVO TAVAREZ, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to violate Title 18, United States Code, Sections 1029(a)(2), 1029(a)(3), 1029(a)(4) and 1029(a)(5).

2. It was a part and an object of the conspiracy that LUIS GUSTAVO TAVAREZ, the defendant, and others known and unknown, knowingly and with intent to defraud, in an offense affecting interstate and foreign commerce, would and did traffic in and use one and more unauthorized access devices during a one-year period, and by such conduct would and did obtain items of value aggregating more than \$1,000 during that period, in

violation of Title 18, United States Code, Section 1029(a)(2).

3. It was further a part and an object of the conspiracy that LUIS GUSTAVO TAVAREZ, the defendant, and others known and unknown, knowingly and with intent to defraud, in an offense affecting interstate and foreign commerce, would and did possess fifteen and more devices which were counterfeit and unauthorized access devices, in violation of Title 18, United States Code, Section 1029(a)(3).

4. It was further a part and an object of the conspiracy that LUIS GUSTAVO TAVAREZ, the defendant, and others known and unknown, knowingly and with intent to defraud, in an offense affecting interstate and foreign commerce, would and did produce, traffic in, control, and possess device-making equipment, in violation of Title 18, United States Code, Section 1029(a)(4).

5. It was further a part and an object of the conspiracy that LUIS GUSTAVO TAVAREZ, the defendant, and others known and unknown, knowingly and with intent to defraud, in an offense affecting interstate and foreign commerce, would and did effect transactions, with one and more access devices issued to another person or persons, to receive payment and another thing of value during a one-year period the aggregate value of which was equal to and greater than \$1,000, in violation of Title 18, United States Code, Section 1029(a)(5).

OVERT ACTS

6. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about June 3, 2013, a co-conspirator not charged as a defendant herein ("CC-1") used a counterfeit credit card encoded with a credit card number belonging to another individual to purchase merchandise at a retail store in Yonkers, New York.

b. On or about June 20, 2013, LUIS GUSTAVO TAVAREZ, the defendant, and another co-conspirator not charged as a defendant herein ("CC-2") used a counterfeit credit card encoded with a credit card number belonging to another individual to purchase merchandise at a retail store in Southington, Connecticut.

c. On or about July 27, 2013, another co-conspirator not charged as a defendant herein ("CC-3") used a counterfeit credit card encoded with a credit card number belonging to another individual to purchase merchandise at a retail store in Brookline, Massachusetts.

d. On or about November 29, 2013, LUIS GUSTAVO TAVAREZ, the defendant, and another co-conspirator not charged as a defendant herein ("CC-4") used counterfeit credit cards

encoded with a credit card number belonging to a business to purchase merchandise at a retail store in New York, New York.

e. On or about December 19, 2013, LUIS GUSTAVO TAVAREZ, the defendant, used a counterfeit credit card encoded with a credit card number belonging to a business to purchase merchandise at a retail store in New York, New York.

f. On or about April 4, 2014, CC-4 used a counterfeit credit card encoded with a credit card number belonging to another individual to purchase merchandise at a retail store in Amherst, New York.

(Title 18, United States Code, Section 1029(b)(2).)

FORFEITURE ALLEGATION

7. As a result of committing the conspiracy to commit access device fraud offense alleged in Count One of this Information, LUIS GUSTAVO TAVAREZ, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(2), any property constituting, or derived from, proceeds obtained directly or indirectly as a result of such violation.

8. As a result of committing the conspiracy to commit access device fraud offense alleged in Count One of this Information, LUIS GUSTAVO TAVAREZ, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 1029(c)(1)(C), any personal property used or intended to be used to commit the offense.

Substitute Assets Provision

9. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

a. cannot be located upon the exercise of due diligence;

b. has been transferred or sold to, or deposited with, a third person;

c. has been placed beyond the jurisdiction of the Court;

d. has been substantially diminished in value;

or

e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property

of said defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 982 and 1029
Title 21, United States Code, Section 853(p).)

Preet Bharara
PREET BHARARA *NF*
United States Attorney

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INFORMATION

14 Cr.

(18 U.S.C. § 1029(b)(2))

PREET BHARARA
United States Attorney.
