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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. **12-20401**

CR-LENARD

-18 U.S.C. § 1349
18 U.S.C. § 1344
18 U.S.C. § 1028A
18 U.S.C. § 1519
18 U.S.C. § 981(a)(1)(C)
18 U.S.C. § 2

MAGISTRATE JUDGE
O'SULLIVAN

UNITED STATES OF AMERICA

vs.

**IBRAHIN ELIAS,
DALBERT HERNANDEZ,
a/k/a "Tookie,"
VICTOR BATISTA,
ROGER LORES,
ANIUTA CASTRO-RUIZ,
DAYAN GALARRAGA,
YANELIS CURBERA,
DALMIS GONZALEZ,
YOLEISY LEGARDE,
HOWARD MITCHELL,
IDALMA CHASKEL KESSEL,
YOVANI GONZALEZ,
MARIBEL PEREZ, and
EDISBEL RODRIGUEZ,**

Defendants.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At times relevant to this Indictment:

1. Bank of America ("BOA") was a financial institution with deposits insured by the Federal Deposit Insurance Corporation.

2. An Internet Protocol or "IP" address was a unique series of numbers used to identify computers on the Internet.

3. Every computer connected to the Internet had to have a unique IP address, which enabled Internet sites to properly route traffic sent to and from an individual computer, and which made it possible to trace messages back to the computer where the message originated.

4. BOA maintained and operated an Internet site for online banking which allowed BOA customers, among other options, to transfer funds and order checks.

COUNT 1
CONSPIRACY TO COMMIT BANK FRAUD
(18 U.S.C. §1349)

1. Paragraphs 1 through 4 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. Beginning at least as early as in or around November, 2009 and continuing through on or about June 25, 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

IBRAHIN ELIAS,
DALBERT HERNANDEZ,
a/k/a "Tookie,"
VICTOR BATISTA,
ROGER LORES,
ANIUTA CASTRO-RUIZ,
DAYAN GALARRAGA,
YANELIS CURBERA,
DALMIS GONZALEZ,
YOLEISY LEGARDE,
HOWARD MITCHELL,

**IDALMA CHASKEL KESSEL,
YOVANI GONZALEZ,
MARIBEL PEREZ, and
EDISBEL RODRIGUEZ,**

did willfully, that is, with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate and agree with each other and others known and unknown to the Grand Jury, to knowingly and with intent to defraud, execute, and cause the execution of a scheme and artifice to defraud a financial institution, which scheme and artifice would employ a material falsehood, and to knowingly and with intent to defraud, execute, and cause the execution of a scheme and artifice to obtain moneys, funds, credits, assets, and other property owned by, and under the custody and control of a financial institution, by means of materially false and fraudulent pretenses, representations and promises relating to a material fact, in violation of Title 18, United States Code, Section 1344(1) and (2).

PURPOSE AND OBJECT OF THE CONSPIRACY

3. It was the purpose of the conspiracy for the defendants and their conspirators to unlawfully enrich themselves by defrauding BOA and its customers through the online impersonation of BOA account holders which caused the improper transfer of funds from individual customer accounts to other accounts which the defendants controlled and used for their own personal profit and gain.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendants and their conspirators sought to accomplish the object and purpose of the conspiracy included, but were not limited, to the following:

4. Defendant **IBRAHIN ELIAS** obtained personal identification information, including

names, birth dates, and social security numbers, for certain BOA account holders without the knowledge, authorization, or consent of those account holders.

5. **IBRAHIN ELIAS**, without the knowledge, authorization, or consent of the BOA account holders involved, used certain account holders' personal identification information to impersonate the account holder in order to perform online banking transactions such as changing passwords, transferring funds, and ordering checks.

6. **IBRAHIN ELIAS**, defendant **VICTOR BATISTA**, and others known and unknown to the Grand Jury, recruited and caused the recruitment of other conspirators, who either already had BOA accounts or who were willing to open BOA accounts, to temporarily receive funds taken through improper and unauthorized online transfers from unsuspecting BOA customers.

7. **IBRAHIN ELIAS**, defendant **DALBERT HERNANDEZ**, a/k/a "Tookie," and others known and unknown to the Grand Jury, recruited and caused the recruitment of other conspirators, who either already had BOA accounts or who were willing to open BOA accounts, to negotiate checks that: 1) were obtained through improper and unauthorized online orders, 2) were made payable to the recruited conspirators, and 3) contained forged and falsified signatures of the unsuspecting owner of the account on which the checks were drawn.

8. **VICTOR BATISTA**, and defendants **ROGER LORES**, **ANIUTA CASTRO-RUIZ**, **DAYAN GALARRAGA**, **YANELIS CURBERA**, and **DALMIS GONZALEZ** provided their respective bank accounts to temporarily receive online transfers of stolen BOA funds, and then withdrew the majority of the stolen funds from banks and ATM's located throughout the Southern District of Florida.

9. Defendants **YOLEISY LEGARDE**, **HOWARD MITCHELL**, **IDALMA KESSEL**,

YOVANNI GONZALEZ, MARIBEL PEREZ, and EDISBEL RODRIGUEZ, used their respective bank accounts to negotiate forged checks that were obtained through improper and unauthorized online orders.

10. Defendant **DALBERT HERNANDEZ, a/k/a "Tookie,"** instructed various conspirators to make materially false, fraudulent and untrue statements to BOA personnel and law enforcement authorities concerning the origin of the forged and stolen checks, including the falsified cover story that the checks had been provided to pay for the purchase of jewelry.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-17
BANK FRAUD
(18 U.S.C. § 1344)

1. Paragraphs 1 through 4 of the General Allegations section of this Indictment are re-alleged and incorporated by reference as though fully set forth herein.

2. Beginning at least as early as in or around November, 2009 and continuing through on or about June 25, 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

**IBRAHIN ELIAS,
VICTOR BATISTA,
ROGER LORES,
ANIUTA CASTRO-RUIZ,
DAYAN GALARRAGA,
YANELIS CURBERA,
DALMIS GONZALEZ,
YOLEISY LEGARDE,
HOWARD MITCHELL,
IDALMA CHASKEL KESSEL,
YOVANI GONZALEZ,
MARIBEL PEREZ, and
EDISBEL RODRIGUEZ,**

did knowingly and with intent to defraud, execute, and cause the execution of a scheme and artifice to defraud a financial institution, that is, BOA, which scheme and artifice would employ a material falsehood, and to knowingly and with intent to defraud, execute, and cause the execution of a scheme and artifice to obtain moneys, funds, credits, assets, and other property owned by, and under the custody and control of said financial institution, by means of materially false and fraudulent pretenses, representations and promises relating to a material fact, in violation of Title 18, United States Code, Section 1344(1) and (2).

PURPOSE OF THE SCHEME AND ARTIFICE

3. It was the purpose of the scheme and artifice for the defendants and their accomplices to unlawfully enrich themselves by defrauding BOA and its customers through the online impersonation of BOA account holders which caused the improper transfer of funds from individual customer accounts to other accounts which the defendants controlled and used for their own personal profit and gain

THE SCHEME AND ARTIFICE

4. Paragraphs 4 through 10 of the Manner and Means section of Count 1 of this Indictment are re-alleged and incorporated by reference as though fully set forth herein as a description of the scheme and artifice.

EXECUTION OF THE SCHEME AND ARTIFICE

5. On or about the dates listed as to each count below, the defendants listed below, did knowingly and with intent to defraud, execute, and cause the execution of a scheme and artifice to defraud a financial institution, which scheme and artifice would employ a material falsehood, and

did knowingly and with intent to defraud, execute, and cause the execution of a scheme and artifice to obtain moneys, funds, credits, assets, and other property owned by, and under the custody and control of a financial institution, by means of materially false and fraudulent pretenses, representations and promises relating to a material fact, as specified below:

| COUNT | DEFENDANT(S) | APPROX. DATE | TRANSFER METHOD | ACCOUNT TAKEN FROM | AMOUNT TAKEN |
|--------------|---|---------------------|------------------------|---|---------------------|
| 2 | IBRAHIN ELIAS, VICTOR BATISTA | 11/12/2009 | online transfer | BOA checking account in the name of T.G. | \$7,000 |
| 3 | IBRAHIN ELIAS, VICTOR BATISTA | 11/13/2009 | online transfer | BOA checking account in the name of T.G. | \$8,000 |
| 4 | IBRAHIN ELIAS, VICTOR BATISTA | 11/16/2009 | online transfer | BOA checking account in the name of T.G. | \$7,000 and \$1,000 |
| 5 | IBRAHIN ELIAS, VICTOR BATISTA | 11/18/2009 | online transfer | BOA joint savings account in the names of M.M. and J.P. | \$7,000 |
| 6 | IBRAHIN ELIAS, VICTOR BATISTA, ROGER LORES | 11/18/2009 | online transfer | BOA savings account in the name of G.M. | \$8,000 |

| | | | | | |
|----|--|------------|-----------------|--|---------------------|
| 7 | IBRAHIN ELIAS, ANIUTA CASTRO-RUIZ | 11/19/2009 | online transfer | BOA savings account in the name of G.M. | \$8,500 |
| 8 | IBRAHIN ELIAS, DAYAN GALARRAGA | 12/16/2009 | online transfer | BOA savings account in the name of H.V. | \$9,500 |
| 9 | IBRAHIN ELIAS, YANELIS CURBERA | 11/16/2009 | online transfer | BOA joint savings account in the names of M.M. and J.P. | \$1,000 and \$7,000 |
| 10 | IBRAHIN ELIAS, YANELIS CURBERA | 11/17/2009 | online transfer | BOA joint savings account in the names of M.M. and J.P. | \$1,500 and \$500 |
| 11 | IBRAHIN ELIAS, DALMIS GONZALEZ | 12/28/2009 | online transfer | BOA checking account in the name of H.M. | \$7,000 |
| 12 | IBRAHIN ELIAS, YOLEISY LEGARDE | 3/30/2010 | stolen check | BOA checking account in the name of I.W. | \$5,600 |
| 13 | IBRAHIN ELIAS, HOWARD MITCHELL | 3/30/2010 | stolen check | BOA joint checking account in the names of H.N.F. and D.J.F. | \$5,400 |

| | | | | | |
|----|---|-----------|--------------|--|---------|
| 14 | IBRAHIN ELIAS, IDALMA CHASKEL KESSEL | 3/23/2010 | stolen check | BOA joint checking account in the names of S.E.M. and R.M.M. | \$4,950 |
| 15 | IBRAHIN ELIAS, YOVANI GONZALEZ | 3/30/2010 | stolen check | BOA checking account in the name of I.W. | \$4,900 |
| 16 | IBRAHIN ELIAS, MARIBEL PEREZ | 4/16/2010 | stolen check | BOA checking account in the name of A.P. | \$4,900 |
| 17 | IBRAHIN ELIAS, EDISBEL RODRIGUEZ | 3/4/2010 | stolen check | BOA checking account in the name of S.F. | \$4,750 |

In violation of Title 18, United States Code, Sections 1344 and 2.

COUNT 18
AGGRAVATED IDENTITY THEFT
(18 U.S.C. § 1028A)

On or about November 12, 2009, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

IBRAHIN ELIAS,

during and in relation to felony violations of Title 18, United States Code, Sections 1349 and 1344, as alleged in Counts 1-4 of this Indictment, did knowingly transfer, possess and use, without lawful authority, the means of identification of another person, that is, the name, birth date, and social

security number of an individual with the initials "T.G.," in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

COUNT 19
AGGRAVATED IDENTITY THEFT
(18 U.S.C. § 1028A)

On or about November 16, 2009, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

IBRAHIN ELIAS,

during and in relation to felony violations of Title 18, United States Code, Sections 1349 and 1344, as alleged in Counts 1, 5 and 9-10 of this Indictment, did knowingly transfer, possess and use, without lawful authority, the means of identification of another person, that is, the name, birth date, and social security number of an individual with the initials "M.M.," in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

COUNT 20
AGGRAVATED IDENTITY THEFT
(18 U.S.C. § 1028A)

On or about November 18, 2009, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

IBRAHIN ELIAS,

during and in relation to felony violations of Title 18, United States Code, Sections 1349 and 1344, as alleged in Counts 1, 6 and 7 of this Indictment, did knowingly transfer, possess and use, without lawful authority, the means of identification of another person, that is, the name, birth date, and social security number of an individual with the initials "G.M.," in violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

COUNT 21
DESTRUCTION AND ALTERATION OF RECORDS IN FEDERAL INVESTIGATIONS
(18 U.S.C. § 1519)

On or about June 25, 2010, in Miami-Dade County, in the Southern District of Florida, the defendant,

IBRAHIN ELIAS,

did knowingly alter, destroy, and mutilate any record, document, and tangible object, namely, a laptop computer and removable storage media, with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of the Federal Bureau of Investigation ("FBI"), an agency of the United States, and in relation to and contemplation of any such matter or case, that is, the allegations set forth in Counts 1-20 above, in violation of Title 18, United States Code, Section 1519.

FORFEITURE
(18 U.S.C. § 981(a)(1)(C))

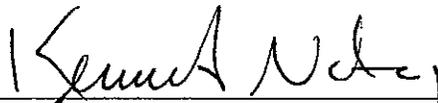
1. The General Allegations of this Indictment and the allegations of Counts 1 through 17 of this Indictment are realleged and by this reference are fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which each of the defendants, **IBRAHIN ELIAS, DALBERT HERNANDEZ, VICTOR BATISTA, ROGER LORES, ANIUTA CASTRO-RUIZ, DAYAN GALARRAGA, YANELIS CURBERA, DALMIS GONZALEZ, YOLEISY LEGARDE, HOWARD MITCHELL, IDALMA CHASKEL KESSEL, YOVANI GONZALEZ, MARIBEL PEREZ, and EDISBEL RODRIGUEZ**, has an interest. All pursuant to Title 18, United States Code, Section 981(a)(1)(C),

as made applicable by Title 28, United States Code, Section 2461(c), and the procedures set forth in Title 21, United States Code, Section 853.

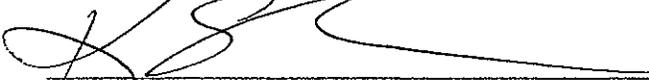
2. Upon conviction of any of the offenses charged in Counts 1 through 17 of this Indictment, each defendant shall forfeit all of his or her right, title and interest to the United States in any property, real or personal, which constitutes or is derived from proceeds traceable to such violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), as made applicable by Title 28, United States Code, Section 2461(c), and the procedures set forth in Title 21, United States Code, Section 853.

A TRUE BILL



WIFREDO A. FERRER
UNITED STATES ATTORNEY



KAREN E. ROCHLIN
ASSISTANT UNITED STATES ATTORNEY