

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. 09- _____
v.	:	DATE FILED: <u>September 24, 2009</u>
YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez”	:	VIOLATIONS: 18 U.S.C. § 1343 (wire fraud – 3 counts) 18 U.S.C. § 1029 (access device fraud – 4 counts) 18 U.S.C. § 1028A (aggravated identity theft – 1 count) 18 U.S.C. § 2 (aiding and abetting) Notice of Forfeiture

INDICTMENT

COUNTS ONE THROUGH THREE

THE GRAND JURY CHARGES THAT:

At all times material to this indictment:

1. The following were retailers doing business in interstate commerce:

Staples, Inc. (“Staples”), OfficeMax Incorporated (“OfficeMax”), and Rite Aid Corporation (“Rite Aid”).
2. The retailers listed in Paragraph 1 accept credit card payments for certain merchandise, including gift cards offered by American Express, MasterCard, Visa, and other companies, which can then be used to make direct purchases at stores that do business in interstate commerce.
3. Generally, when a customer presents a credit card for payment, a cashier can slide the card through a machine, which reads electronic information embedded in a magnetic strip on the card’s reverse side, to determine whether the credit card is valid and a

payment by the company that issued the credit card is authorized. When the magnetic strips are damaged or otherwise unreadable, the cashiers at some of the branches of the retailers listed in Paragraph 1 can manually enter the 16-digit number on the face of the card, transmit the information over an interstate computer network, and if the account information is validated, consummate the sale.

THE SCHEME

4. From at least May 17, 2009, until on or about July 11, 2009, defendant

YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”

devised and intended to devise a scheme to defraud the retailers referenced in Paragraph 1 and to obtain money and property by means of false and fraudulent pretenses, representations, and promises.

MANNER AND MEANS

It was part of the scheme that:

5. Defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” attempted to purchase and did purchase merchandise at many different branches of Staples, OfficeMax, Rite Aid, and other chain stores.

6. The stores visited by defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” were located in Pennsylvania, Virginia, and Maryland.

7. On multiple occasions, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” presented the retailers with counterfeit credit cards to purchase gift cards and other merchandise. All of these credit cards were embossed on the front with the name “Yaniel

Perez,” as well as a 16-digit account number, where the number had been assigned by a foreign bank to a genuine credit card account for a real person.

8. Defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” sometimes presented the cashier with a false South Carolina driver’s license in the name of “Yaniel Perez” to attempt to show that he was the account holder on the credit cards he presented.

9. None of the credit cards that defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” presented to the retailers had functioning magnetic strips on their reverse sides.

10. Accordingly, when defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” presented the counterfeit credit cards to the cashiers, they entered the account numbers manually and transmitted the information over an interstate computer network.

11. When the stolen credit card account numbers were verified, the stores gave defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” the merchandise he wanted to purchase, and he left the stores with that merchandise.

12. By this scheme, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” obtained more than \$18,000 in goods from various retailers.

13. On or about each of the dates set forth below, in the Eastern District of Pennsylvania, and elsewhere, defendant

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”**

for the purpose of executing the scheme described above, and attempting to do so, caused to be transmitted by means of wire communication in interstate commerce the signals and sounds described below for each count, each transmission constituting a separate count.

COUNT	DATE	DESCRIPTION
1	June 16, 2009	Transmittal of credit card account number ending in 4070 from an Office Max store in Wyomissing, PA to Itasca, IL.
2	July 11, 2009	Transmittal of credit card account number ending in 9852 from a Staples store in King of Prussia, PA, to Marlboro, MA.
3	July 11, 2009	Transmittal of credit card account number ending in 9852 from a Staples store in King of Prussia, PA, to Marlboro, MA.

All in violation of Title 18, United States Code, Sections 1343 and 1349.

COUNTS FOUR THROUGH SIX

THE GRAND JURY FURTHER CHARGES THAT:

On or about each of the dates set forth below, in the Eastern District of Pennsylvania, and elsewhere, defendant

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”**

knowingly and with the intent to defraud used counterfeit access devices, that is, counterfeit credit cards, thereby affecting interstate and foreign commerce.

COUNT	DATE	LAST FOUR DIGITS OF ACCOUNT
4	June 16, 2009	4070
5	July 11, 2009	9852
6	July 11, 2009	9852

In violation of Title 18, United States Code, Section 1029(a)(1).

COUNT SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

On or about July 11, 2009, in King of Prussia, in the Eastern District of Pennsylvania, defendant

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”**

knowingly and with the intent to defraud possessed, and aided and abetted the possession of, at least fifteen counterfeit access devices, that is, counterfeit credit cards, thereby affecting interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 1029(a)(3) and 2.

COUNT EIGHT

THE GRAND JURY FURTHER CHARGES THAT:

On or about July 11, 2009, in King of Prussia, in the Eastern District of
Pennsylvania, defendant

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”**

knowingly and without lawful authority possessed and used a means of identification of another
person, that is, the account number of J.H., during and in relation to a wire fraud.

In violation of Title 18, United States Code, Section 1028A(a)(1), (c)(5).

NOTICE OF FORFEITURE

1. As a result of the violations of Title 18, United States Code, Section 1343, described in Counts One through Three of this indictment, defendant

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”**

shall forfeit to the United States of America, any property, real or personal, which constitutes or is derived from proceeds traceable to any offense constituting “specified unlawful activity,” that is, wire fraud, including, but not limited to the following:

- (a) The sum of \$18,062 in United States currency (forfeiture money judgment).

2. If any of the property subject to forfeiture, 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 party;
- (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 divided without difficulty;

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982(a).

A TRUE BILL:

GRAND JURY FOREPERSON

MICHAEL L. LEVY
United States Attorney