

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

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| UNITED STATES OF AMERICA | : | CRIMINAL NO. <u>09-633</u> |
| v. | : | DATE FILED: <u>January 14, 2010</u> |
| YASSER E. PACHECO DIAZ, | : | VIOLATIONS: |
| a/k/a “Yaniel Perez,” | | 18 U.S.C. § 371 (conspiracy – 1 count) |
| JORGE LUIS DOMINGUEZ | : | 18 U.S.C. § 1343 (wire fraud – 3 counts) |
| GONZALEZ | : | 18 U.S.C. § 1029 (access device fraud – 4 |
| | : | counts) |
| | : | 18 U.S.C. § 1028A (aggravated identity theft – |
| | : | 3 counts) |
| | : | 18 U.S.C. § 2 (aiding and abetting) |
| | : | Notice of Forfeiture |

SUPERSEDING INDICTMENT

COUNT ONE

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.

4. From at least June 13, 2009 until on or about July 11, 2009, in the Eastern District of Pennsylvania, and elsewhere, defendants

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ,**

conspired and agreed, together and with others known and unknown to the grand jury, to commit offenses against the United States, that is, to knowingly devise and execute a scheme to defraud involving interstate wires, in violation of Title 18, United States Code, Section 1343, and to knowingly and with intent to defraud use and possess access devices, in violation of Title 18, United States Code, Sections 1029(a)(1) and (a)(3).

MANNER AND MEANS

5. It was part of the conspiracy that defendants YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” and JORGE LUIS DOMINGUEZ GONZALEZ possessed counterfeit credit cards embossed with the name “Yaniel Perez” and account numbers issued by banks located outside of the United States to real people, as well as a counterfeit South Carolina driver’s license in the name of “Yaniel Perez.”

6. It was further a part of the conspiracy that defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” presented counterfeit credit cards at branch stores of Staples and OfficeMax.

7. It was further a part of the conspiracy that defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” presented the cashiers at Staples and OfficeMax with the counterfeit South Carolina driver’s license to deceive the cashiers into believing that the counterfeit credit cards were genuine.

8. It was further a part of the conspiracy that defendant JORGE LUIS DOMINGUEZ GONZALEZ drove defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” to the stores where he presented the counterfeit credit cards and waited outside of those stores in a white Toyota Corolla, in part to serve as a possible getaway driver.

OVERT ACTS

In furtherance of the conspiracy and to accomplish its objects, defendants YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” and JORGE LUIS DOMINGUEZ GONZALEZ committed the following overt acts, among others:

1. On or about June 13, 2009, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” aided by defendant JORGE LUIS DOMINGUEZ GONZALEZ presented a counterfeit credit card to a cashier at a Staples store in York, Pennsylvania. The transaction was rejected, and a Staples employee followed defendant DIAZ out of the store and saw defendant DIAZ yell to defendant GONZALEZ who was in a parked car. When the Staples employee tried to get the license plate number on the car, defendant GONZALEZ drove his vehicle in reverse toward the Staples employee before fleeing the parking lot and picking up DIAZ.

2. On or about June 16, 2009, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” aided by defendant JORGE LUIS DOMINGUEZ GONZALEZ used a counterfeit credit card at an OfficeMax store in Wyomissing, PA, to purchase approximately \$925.14 worth of merchandise in two separate transactions.

3. On or about July 7, 2009, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” aided by defendant JORGE LUIS DOMINGUEZ GONZALEZ used a counterfeit credit card at a Rite Aid store in Annapolis, MD, to purchase a \$100 American Express gift card among other items.

4. On or about July 8, 2009, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” aided by defendant JORGE LUIS DOMINGUEZ GONZALEZ used counterfeit credit cards at a Staples Store in Villanova, PA, to purchase two \$100 American Express gift cards, among other items.

5. On or about July 10, 2009, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” aided by defendant JORGE LUIS DOMINGUEZ GONZALEZ used a counterfeit credit card at an Staples Store in Villanova, PA, to purchase approximately \$425.80 worth of merchandise, including an American Express gift card.

6. On or about July 10, 2009, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” aided by defendant JORGE LUIS DOMINGUEZ GONZALEZ used a counterfeit credit card at a Staples store in Norristown, PA, to purchase approximately \$529.86 worth of merchandise in two separate transactions.

7. On or about July 11, 2009, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” aided by defendant JORGE LUIS DOMINGUEZ GONZALEZ used a

counterfeit credit card at a Staples store in King of Prussia, PA, to purchase approximately \$644.66 worth of merchandise in two separate transactions.

8. On or about July 11, 2009, defendants YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” and JORGE LUIS DOMINGUEZ GONZALEZ possessed approximately 47 counterfeit credit cards.

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

COUNTS TWO THROUGH FOUR

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 3 of Count One is re-alleged here.

THE SCHEME

2. From on or about May 17, 2009, until on or about July 11, 2009, defendant

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ**

devised and intended to devise a scheme to defraud Staples, OfficeMax, and Rite Aid 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:

3. Defendant JORGE LUIS DOMINGUEZ GONZALEZ drove defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” to different branches of Staples, OfficeMax, Rite Aid, and other chain stores, where DIAZ attempted to purchase and did purchase merchandise at many different branches of Staples, OfficeMax, Rite Aid, and other chain stores.

4. The stores visited by defendants YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” and JORGE LUIS DOMINGUEZ GONZALEZ, were located in Pennsylvania, Virginia, and Maryland.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. Defendant JORGE LUIS DOMINGUEZ GONZALEZ waited outside the stores at the wheel of a getaway car.

11. By this scheme, defendant YASSER E. PACHECO DIAZ, a/k/a “Yaniel Perez,” sometimes aided by defendant JORGE LUIS DOMINGUEZ GONZALEZ obtained more than \$18,000 in goods from various retailers.

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

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ**

for the purpose of executing, and aiding and abetting the execution of, 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 |
|-------|---------------|--|
| 2 | June 16, 2009 | Transmittal of credit card account number ending in 4070 from an Office Max store in Wyomissing, PA to Itasca, IL. |
| 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. |
| 4 | 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 and 2.

COUNTS FIVE THROUGH SEVEN

THE GRAND JURY FURTHER CHARGES THAT:

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

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ**

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

| COUNT | DATE | LAST FOUR DIGITS OF ACCOUNT |
|--------------|---------------|------------------------------------|
| 5 | June 16, 2009 | 4070 |
| 6 | July 11, 2009 | 9852 |
| 7 | July 11, 2009 | 9852 |

In violation of Title 18, United States Code, Sections 1029(a)(1) 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, defendants

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ**

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 NINE

On or about July 8, 2009, in Villanova, in the Eastern District of Pennsylvania,
defendants

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ**

knowingly and without lawful authority possessed and used, and aided and abetted the possession and use of, a means of identification of another person, that is, the account number of G.R. and K.R., during and in relation to a wire fraud.

In violation of Title 18, United States Code, Section 1028A(a)(1), (c)(5), and 2.

COUNT TEN

On or about July 10, 2009, in Villanova, in the Eastern District of Pennsylvania,
defendants

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ**

knowingly and without lawful authority possessed and used, and aided and abetted the possession
and use of, a means of identification of another person, that is, the account number of M.P.B.,
during and in relation to a wire fraud.

In violation of Title 18, United States Code, Section 1028A(a)(1), (c)(5), and 2.

COUNT ELEVEN

THE GRAND JURY FURTHER CHARGES THAT:

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

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ**

knowingly and without lawful authority possessed and used, and aided and abetted the possession and use of, 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), and 2.

NOTICE OF FORFEITURE

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

**YASSER E. PACHECO DIAZ,
a/k/a “Yaniel Perez,”
and
JORGE LUIS DOMINGUEZ GONZALEZ**

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