

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHANA TORRES-FIGUEROA,

Defendant.

INDICTMENT

CRIMINAL NO.

19-476 (DRD)

CRIMINAL VIOLATION:

18 USC § 1001

18 USC § 1040

18 USC § 1028A(a)(1)

THREE COUNTS

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The Grand Jury charges that:

GENERAL ALLEGATIONS

At times material to this Indictment:

I. FEMA

1. The Federal Emergency Management Agency ("FEMA") was an agency within the Department of Homeland Security ("DHS"), a department of the executive branch of the Government of the United States.

2. On September 20, 2017, Hurricane María struck Puerto Rico. In response, on the same date, President Donald Trump issued a major disaster declaration under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Title 42, United States Code, Section 5121 *et seq.* (the "Stafford Act"), for Puerto Rico (FEMA-4339-DR). As a result of this declaration, FEMA was authorized to provide Individual and Direct Assistance and any other form of assistance under the Stafford Act deemed appropriate including but not limited to the following:

a. Critical Needs Assistance, which was financial assistance to individuals and households who, as a result of the disaster, have immediate or critical needs because they are displaced from their primary dwelling;

b. Rental Assistance, which was financial assistance to pre-disaster homeowners or renters to rent temporary housing when an applicant was displaced from their primary residence as a result

of a Presidentially-declared disaster. As pertinent here, FEMA included all members of a pre-disaster household in a single registration and provided assistance for one temporary housing residence, unless the Regional Administrator or his/her designee determined that the size and nature of the household required assistance for more than one residence. FEMA awarded eligible applicants an initial Rental Assistance payment based in part on the number of bedrooms the household requires.

c. Home Repair Assistance, which was financial assistance to a homeowner to repair a primary residence damaged as a result of a Presidentially-declared disaster. This type of assistance was intended to make the damaged home safe, sanitary, or functional, including assistance for the repair of real property components such as foundation, exterior walls, roof, windows, doors, walls, ceilings, and cabinetry.

d. Personal Property Assistance, which was financial assistance to repair or replace personal property, such as furnishings and appliances, damaged or destroyed due to the disaster.

3. The United States Department of Treasury provided disaster assistance payments either by sending checks through the U.S. mail to the applicant or by electronic funds transfer (“EFT”) to a bank account specified by the applicant.

COUNT ONE
Fraud in Connection with Major Disaster or Emergency Benefits
(Title 18 United States Code § 1040)

SCHEME AND ARTIFICE TO DEFRAUD

1. Paragraphs one through three of the General Allegations are re-alleged and incorporated herein by reference, as if fully set forth herein.

2. Beginning on or about October 11, 2017, and continuing through on or about January 2, 2018, in the District of Puerto Rico, the defendant,

JOHANA TORRES-FIGUEROA,

did knowingly falsify, conceal and cover up by any trick, scheme or device one or more material facts in connection with benefits authorized, transported, transmitted, transferred, disbursed or paid in connection with a major disaster declaration under section 401 of the Stafford Act, to wit: **JOHANA TORRES-FIGUEROA** falsely and fraudulently applied for FEMA benefits on behalf and for the benefit of elderly victim with initials M.G.O.

MANNER AND MEANS OF THE SCHEME AND ARTIFICE TO DEFRAUD

The manner and means used by the defendant to accomplish the trick, scheme or device included, among other things, the following:

3. It was a part of the manner and means of the unlawful scheme that on October 11, 2017, the defendant, **JOHANA TORRES-FIGUEROA**, applied for FEMA assistance by falsely representing that she was submitting the application on behalf and for the benefit of an elderly victim with initials M.G.O., although the defendant there and then well knew that this was false.

4. It was further part of the manner and means of the unlawful scheme that the defendant, **JOHANA TORRES-FIGUEROA**, in the application for FEMA assistance, used means of identification of M.G.O. namely his name, social security number and date of birth.

5. It was further part of the manner and means of the unlawful scheme that the defendant, **JOHANA TORRES-FIGUEROA**, represented to FEMA that M.G.O. needed medications, food, clothing and shelter as a result of the damage caused by Hurricane María to M.G.O.'s residence located in La Luna Ward, Guánica, Puerto Rico.

6. It was further part of the manner and means of the unlawful scheme that on December 20, 2017, **JOHANA TORRES-FIGUEROA**, as part of the application for emergency benefits, fraudulently signed a Declaration and Authorization Form, on behalf and for the benefit of M.G.O.

7. It was further part of the manner and means of the unlawful scheme that **JOHANA TORRES-FIGUEROA** represented to FEMA that she was taking care of M.G.O. and was

therefore, authorized to apply for emergency benefits on his behalf.

8. As a result of this scheme, FEMA approved M.G.O. benefits, as described in Title 18, United States Code, Section 1040. Specifically, FEMA approved M.G.O. \$500.00 for Critical Needs Assistance; \$869.65 for Home Repair Assistance; \$3,807.66 for Personal Property Assistance; and \$748.00 for Rental Assistance, for a total of \$5,925.31, all of which was authorized, transported, transmitted, transferred, disbursed or paid in two different checks sent by mail to M.G.O.

9. It was further part of the manner and means of the unlawful scheme that on or about November 1, 2017, **JOHANA TORRES-FIGUEROA** cashed for her own benefit the first check issued by FEMA to M.G.O. in the amount of \$500.00.

10. It was further part of the manner and means of the unlawful scheme that on or about December 29, 2017, **JOHANA TORRES-FIGUEROA** deposited into M.G.O.'s personal bank account with Banco Popular de Puerto Rico, the second check sent by FEMA in the amount of \$5,425.31.

11. It was further part of the manner and means of the unlawful scheme that **JOHANA TORRES-FIGUEROA** used M.G.O.'s ATM card to use and withdraw for her own benefit the emergency assistance intended for M.G.O. All in violation to Title 18, United States Code, Section 1040.

COUNT TWO

False Statement or Representation Made to a Department or Agency of the United States (Title 18, United States Code, § 1001(a)(2))

1. Paragraphs one through three of the General Allegations and the allegations of Count One are re-alleged and incorporated herein by reference, as if fully set forth herein.

2. On or about September 21, 2018 in the District of Puerto Rico and within the jurisdiction of this Court,

JOHANA TORRES-FIGUEROA,

the defendant herein, did willfully and knowingly make a materially false, fictitious, and fraudulent statement and representation in a matter within the jurisdiction of a department or agency of the United States, namely, the Social Security Administration, by making false representations in a Statement of Claimant or Other Person, Form SSA-795, that is, that she used FEMA money to pay all the people that M.G.O. owed money to. The statements and representations were false because, as **JOHANA TORRES-FIGUEROA**, then and there well knew, she used the FEMA money for her own benefit. All in violation of Title 18, United States Code, 1001(a)(2).

COUNT THREE
Aggravated Identity Theft
(Title 18, United States Code, 1028A(a)(1))

1. Paragraphs one through three of the General Allegations and the allegations of Count One are realleged and incorporated by reference as if fully set forth herein.

2. Between on or about October 11, 2017 to on or about December 29, 2017, in the District of Puerto Rico, the defendant,

JOHANA TORRES-FIGUEROA,

did knowingly transferred, possessed, or used, without lawful authority, means of identification of other persons, to wit, the name, social security numbers and date of birth of elderly victim with initials M.G.O., during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c)(5), that is, fraud in connection with major disaster or emergency benefits, as alleged in Count One of this Indictment. All in violation of Title 18, United States Code, Section 1028A(a)(1).

FORFEITURE ALLEGATION

1. Upon conviction of the offense in violation of Title 18, United States Code, Section 1040, charged in Count One of this indictment, the defendant, **JOHANA TORRES-FIGUEROA**,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any property, real or personal, that constitutes, or is derived from, proceeds traceable to the commission of the offense, including but not limited to approximately \$5,925.31 in United States currency.

2. If any of the property described in paragraph 1 hereof 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 this Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

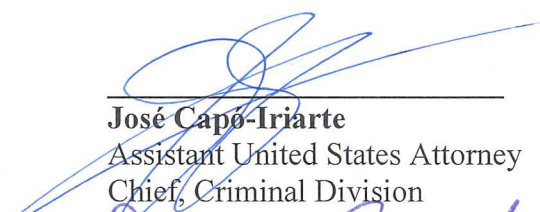
it is the intention of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of substitute property. All pursuant to Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461(c).

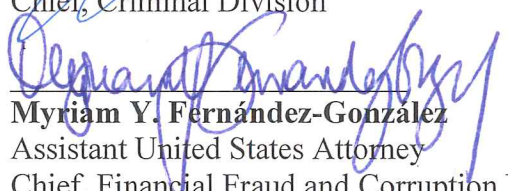
ROSA EMILIA RODRIGUEZ-VELEZ
United States Attorney

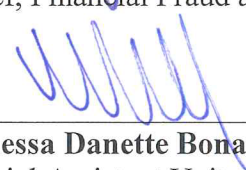
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FOREPERSON

Date: 7/26/2019


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