

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

FILED
CHARLOTTE, N.C.

APR 22 2008

U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES of AMERICA,

v.

CARLO ANTONIO TESTORE
a/k/a Carlos Testori

Defendant

DOCKET NO. 3:08-cr-78-C

BILL OF INDICTMENT

Vio: 18 U.S.C. § 371
18 U.S.C. § 2326
18 U.S.C. § 1343
18 U.S.C. § 982
18 U.S.C. § 2

THE GRAND JURY CHARGES:

At all times relevant to this Indictment:

COUNT ONE
(CONSPIRACY - 18 U.S.C. SECTION 371)

Background

1. Beginning in or about 2001, the defendant and his co-conspirators operated "call centers" in San Jose, Costa Rica to defraud United States residents by deceiving them into believing that they had won a large monetary prize in a sweepstakes contest.

2. As used in this indictment, a call center is a business that engages in an illegal telemarketing scheme. These call centers are also commonly referred to as "boiler rooms." The telemarketers in the call centers all used identical or similar "pitch sheets" developed and provided to them by the owners of the call centers. A pitch sheet is a script designed to be read over the telephone to a prospective victim.

3. In many instances, victims were contacted first by an "opener" and then by a "loader." An opener is the telemarketer who has the initial contact with the prospective victim. A loader is the telemarketer who takes over the contact with the victim after the victim has made an initial payment as a result of the misrepresentations made by the opener. A loader induces the victim to send additional moneys to allegedly pay for various fees, duties and insurance to retrieve the sweepstakes prize.

4. The name, address, and telephone number of the victim is known as a "lead." The name, address, and telephone numbers of the victims were purchased by the owners of the call centers from lead or list brokers.

5. The defendant and other telemarketers in the call centers used aliases, concealed and frequently changed the location of the call centers, and did business from Costa Rica for the purpose of, among other things, avoiding investigation by law enforcement authorities and victims.

THE DEFENDANT

6. Defendant, **CARLO ANTONIO TESTORE, a/k/a Carlos Testori**, a citizen of Canada, owned and operated, with other co-conspirators, call centers in Costa Rica.

THE CONSPIRACY

7. Beginning in or about 2001, the exact date being unknown, and continuing until on or about May 16, 2006, in Mecklenburg County, within the Western District of North Carolina, and elsewhere,

**CARLO ANTONIO TESTORE,
a/k/a Carlos Testori,**

together with other conspirators, both known and unknown to the Grand Jury, knowingly combined, conspired, confederated and agreed to commit the following offenses:

A. To knowingly and intentionally devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and to transmit and cause to be transmitted, by means of wire, radio and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, specifically, Western Union wire-transfers, which were all routed through Western Union facilities in Charlotte, Mecklenburg County, North Carolina, for the purpose of executing such scheme and artifice and attempting to do so, contrary to Title 18, United States Code, Section 1343;

B. To knowingly and intentionally devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting to do so, place and caused to be placed in a post office and authorized depository for mail matter, to be sent and delivered by the Postal Service and deposited matters and things to be delivered by private and commercial interstate carriers, specifically lists of victims' contact information, contrary to Title 18, United States Code, Section 1341; and

C. To knowingly transport, transmit, and transfer, via Western Union money wire transfers, in interstate and foreign commerce, goods, wares, merchandise, securities and money, of the value of \$5,000 and more, knowing

the same to have been stolen, converted, and taken by fraud, contrary to Title 18, United States Code, Section 2314.

Purpose of the Conspiracy - Scheme to Defraud

8. A purpose of the conspiracy was for the defendant and his co-conspirators to unjustly enrich themselves by fraudulently inducing the victims to pay thousands of dollars to them by creating the false impression that said victims had won valuable prizes.

Manner and Means Used in the Conspiracy

Among the manner and means by which the defendant and his co-conspirators carried out the purpose of the conspiracy were the following:

9. The defendant and his co-conspirators would target thousands of residents of the United States, typically, although not exclusively, over the age of 55, and would inform them that they had won second prize in a sweepstakes. The defendant and his co-conspirators would tell their victims that in order to receive the prize, the victims had to send from one thousand to several thousand dollars for a purported "refundable insurance fee," via Western Union money wire-transfers, to an alleged "insurance entity" in Costa Rica. The defendant and his co-conspirators would then keep the supposed "refundable insurance fees" for their own personal benefit.

10. In order to induce their victims to wire money to Costa Rica, the defendant and his co-conspirators would often falsely represent themselves as being agents of the "Sweepstakes Security Commission," or the "Sweepstakes Security Bureau," or a variant thereof. The defendant and his co-conspirators would then falsely represent to the victims that they were a governmental agency charged with ensuring that

sweepstakes winners received their money. Frequently, the defendant and his co-conspirators would inform their victims that it was the job of the "Sweepstakes Security Commission" to see that the victims received their prize money.

11. The defendant and his co-conspirators would call their victims from Costa Rica, first using land-line telephones and later Voice over Internet Protocol (VoIP), which utilized computers to make telephone calls over the Internet. VOIP permitted the defendant and his co-conspirators to use recognizable United States area codes, such as the Washington, D.C. area code, to make it appear on the victims' caller identification devices that the calls were made from somewhere within the United States when, in fact, the defendant and his co-conspirators were calling from Costa Rica.

12. When an intended victim asked to validate the legality of the sweepstakes company that purportedly had awarded the prize, the defendant and his co-conspirators would give the intended victim telephone numbers with United States area codes, but which actually were accessed in Costa Rica at the same call center. The defendant and his co-conspirators, posing as a representative of the non-existent sweepstakes company, would answer these telephone calls in Costa Rica and would falsely reassure victims that they had indeed won a sweepstakes prize.

13. After a victim had been induced to send money, the defendant and his co-conspirators would call that victim and would tell the victim that: 1) a mistake had been made; 2) the victim had actually won first prize; and 3) the victim had to wire thousands of additional dollars in additional fees to ensure the safe delivery of the winning proceeds. The defendant and his co-conspirators would continue to contact each

victim and provide with additional bogus reasons as to why the victim had to wire more money. This practice would continue so long as the victim continued to wire money.

14. The defendant and his co-conspirators would unjustly enrich themselves by retaining the proceeds of this fraud, exceeding ten million dollars.

Overt Acts

15. In furtherance of the conspiracy and to effect the objects thereof, the defendant and his co-conspirators committed the following overt acts, among others, in Mecklenburg County, within the Western District of North Carolina, and elsewhere,

16. The defendant and his co-conspirators caused the following telephone calls to be made to the following victims on or about the following dates:

Overt Act	Initials of Victim	Date of Call
a	SP	08/03/2003
b	MK	09/04/2003
c	HB	10/01/2003
d	GP	10/06/2003
e	JP	10/07/2003
f	MC	10/08/2003
g	EB	10/08/2003
h	FA	10/09/2003
i	ED	10/12/2003
j	SJH	10/17/2003
k	HRB	10/18/2003
l	JP	10/19/2003
m	MC	10/29/2003
n	MJ	11/03/2003

Overt Act	Initials of Victim	Date of Call
o	SL	11/05/2003
p	JH	11/05/2003
q	JHN	11/06/2003
r	EH	11/06/2003
s	BW	11/07/2003
t	MEF	11/09/2003
u	MH	11/21/2003
v	VPN	11/23/2003

17. The defendant and his co-conspirators caused to be made and received, the following Western Union wire transfers from the following victims on or about the following dates:

Overt Act	Initials of Victims	Location Where Wire Received	Approximate Amount of Wire	Approximate Date of Wire
a	SP	Costa Rica	\$1,500	08/03/2003
b	HB	Costa Rica	\$2,100	10/01/2003
c	JP	Costa Rica	\$1,720	10/07/2003
d	EB	Costa Rica	\$2,400	10/08/2003
e	ED	Costa Rica	\$1,886	10/12/2003
f	HRB	Costa Rica	\$1,000	10/18/2003
g	MC	Costa Rica	\$1,000	10/29/2003
h	SL	Costa Rica	\$1,500	11/05/2003
i	JHN	Costa Rica	\$1,000	11/06/2003
j	BW	Costa Rica	\$1,000	11/07/2003
k	MEF	Costa Rica	\$2,500	11/09/2003

Overt Act	Initials of Victims	Location Where Wire Received	Approximate Amount of Wire	Approximate Date of Wire
l	BA	Costa Rica	\$2,850	11/26/2003
m	BT	Costa Rica	\$1,025	12/02/2003
n	ER	Costa Rica	\$1,012	01/20/2004
o	OG	Costa Rica	\$1,020	02/03/2004
p	VH	Costa Rica	\$2,070	03/05/2004
q	AR	Costa Rica	\$2,000	05/06/2004
r	JM	Costa Rica	\$1,800	08/14/2004
s	JC	Costa Rica	\$2,000	09/24/2004
t	TS	Costa Rica	\$1,500	11/01/2004
u	MT	Costa Rica	\$1,000	12/11/2004
v	TS	Costa Rica	\$1,098	8/30/2005
w	DG	Costa Rica	\$1,200	9/12/2005
x	DA	Costa Rica	\$4,439	9/26/2005
y	DP	Costa Rica	\$1,120	9/30/2005
z	CE	Costa Rica	\$1,078	10/28/2005
aa	NR	Costa Rica	\$993	10/31/2005
bb	BH	Costa Rica	\$1,208	11/1/2005
cc	CS	Costa Rica	\$1,208	11/10/2005
dd	TJ	Costa Rica	\$1,138	11/29/2005
ee	JO	Costa Rica	\$1,208	11/30/2005
ff	DR	Costa Rica	\$1,010	12/16/2005

18. On or about July 23, 2003, TRENT BRADFORD NYFFELER, a/k/a Tula, shipped the list of "leads" by private and commercial interstate carrier from Texas to a call center in Costa Rica.

19. On or about July 29, 2003, TRENT BRADFORD NYFFELER, a/k/a Tula, shipped the list of "leads" by private and commercial interstate carrier from Texas to a call center in Costa Rica.

20. On or about August 6, 2003, TRENT BRADFORD NYFFELER, a/k/a Tula, shipped the list of "leads" by private and commercial interstate carrier from Texas to a call center in Costa Rica.

21. On or about November, 25, 2003, TRENT BRADFORD NYFFELER, a/k/a Tula, shipped the list of "leads" by private and commercial interstate carrier from Texas to a call center in Costa Rica.

22. Counts 2 through 29, set forth below, are hereby realleged and incorporated by reference as if fully set forth herein as additional overt acts.

All in violation of Title 18, United States Code, Sections 371 and 2326(2)(A) & (B).

COUNTS 2 THROUGH 29
(WIRE FRAUD - 18 U.S.C. SECTION 1343)

1. The allegations in paragraphs 1 through 6 inclusive of Count 1 of this Indictment are hereby realleged and incorporated by reference as if fully set forth herein.

The Scheme

2. The allegations in paragraphs 9 through 14 of Count 1 of this Indictment are hereby realleged and incorporated by reference as if fully set forth herein, as describing the defendant's scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises.

Wire and Radio Communications

3. On or about the dates set forth below, in Mecklenburg County, within the Western District of North Carolina, and elsewhere, defendant,

CARLO ANTONIO TESTORE,
a/k/a Carlos Testori,

knowingly transmitted and caused to be transmitted, by means of wire and radio communication in interstate and foreign commerce the following signals and sounds, specifically Western Union wire-transfers, which were all routed through Western Union facilities in Charlotte, Mecklenburg County, North Carolina, for the purpose of executing the scheme and artifice and attempting to do so:

Count	Victims' Initials and Origin of Wire	Location Where Wire Received	Approx. Date of Wire	Approx. Amount of Wire
2	SP Paoli, PA	San Jose, Costa Rica	08/08/2003	\$1,500
3	MK Detroit, MI	San Jose, Costa Rica	09/04/2003	\$2,000
4	HB Rolling Meadow, IL	San Jose, Costa Rica	10/01/2003	\$2,100
5	GP Louisville, KY	San Jose, Costa Rica	10/06/2003	\$2,100
6	JP Lake Wales FL	San Jose, Costa Rica	10/07/2003	\$1,720
7	FA Cary, NC	San Jose, Costa Rica	10/09/2003	\$2,000
8	HRB Orlando, FL	San Jose, Costa Rica	10/18/2003	\$1,000
9	JP Birmingham, AL	San Jose, Costa Rica	10/19/2003	\$1,200
10	MC Rocky Mount, NC	San Jose, Costa Rica	10/29/2003	\$1,000
11	MJ East Norriton, PA	San Jose, Costa Rica	11/03/2003	\$1,140
12	SL Springhill, FL	San Jose, Costa Rica	11/05/2003	\$1,500
13	JHN Kings Mountain, NC	San Jose, Costa Rica	11/06/2003	\$1,000
14	EH Ottawa, KS	San Jose, Costa Rica	11/06/2003	\$1,140
15	MEF Bridgeton, MO	San Jose, Costa Rica	11/12/2003	\$2,500
16	VPN Silver Spring, MD	San Jose, Costa Rica	11/23/2003	\$1,000

Count	Victims' Initials and Origin of Wire	Location Where Wire Received	Approx. Date of Wire	Approx. Amount of Wire
17	BT Cuyahoga Falls, OH	San Jose, Costa Rica	12/02/2003	\$1,025
18	FH Huntington, WV	San Jose, Costa Rica	12/02/2003	\$2,300
19	NC Lincolnton, NC	San Jose, Costa Rica	04/13/2004	\$1,000
20	MW Rockingham, NC	San Jose, Costa Rica	04/13/2004	\$1,000
21	RM Roswell, GA	San Jose, Costa Rica	04/30/2004	\$1,100
22	NM Springlake, NC	San Jose, Costa Rica	06/08/2004	\$1,000
23	EL Forest, VA	San Jose, Costa Rica	06/29/2004	\$1,000
24	TS Myrtle Beach, SC	San Jose, Costa Rica	11/01/2004	\$1,500
25	FF Bellevue, NE	San Jose, Costa Rica	09/20/2005	\$4,500
26	DA Suwanee, GA	San Jose, Costa Rica	09/26/2005	\$4,439
27	HB Greensboro, NC	San Jose, Costa Rica	09/28/2005	\$1,308
28	DP New Castle, PA	San Jose, Costa Rica	09/30/2005	\$1,120
29	RB Shannon, NC	San Jose, Costa Rica	11/03/2005	\$1,208

All in violation of Title 18, United States Code, Sections 1343, 2326(2)(A) & (B), and 2.

NOTICE OF FORFEITURE
18 U.S.C. SECTION 982(a)(8)

1. The allegations in paragraphs 1 through 6, and 9 through 14 of Count 1 of this Indictment are hereby realleged and incorporated by reference as if fully set forth herein.

2. Upon conviction of the offenses in violation of Title 18, United States Code, Sections 371 and 1343 set forth in Counts 1 through 29 of this Indictment, which involved telemarketing as that term is used in Title 18, United States Code, Section 2325, the defendant,

CARLO ANTONIO TESTORE ,
a/k/a Carlos Testori,

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 982(a)(8),

(A) any real or personal property used or intended to be used to commit, to facilitate, or to promote the commission of such offenses;

(B) any real or personal property, constituting, derived from, or traceable to the gross proceeds obtained directly or indirectly as a result of the offenses; and

(C) a sum of money representing the amount of proceeds obtained as a result of the offense for which defendant is convicted up to a value of \$10,000,000.

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

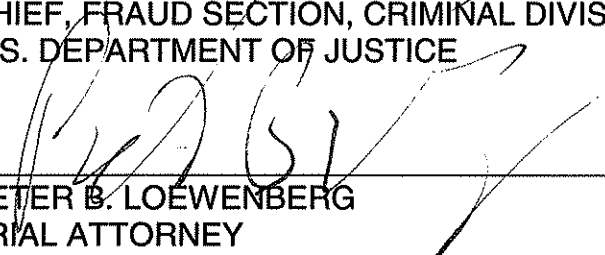
- (A) cannot be located upon exercise of due diligence;
- (B) has been transferred or sold to, or deposited with, a third party;
- (C) has been placed beyond the jurisdiction of the Court;
- (D) has been substantially diminished in value; or
- (E) has been commingled with other property which cannot be divided without difficulty;

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code. Section 982(b)(1).



GRETCHEN C. F. SHAPPERT
UNITED STATES ATTORNEY

STEVEN A. TYRRELL
CHIEF, FRAUD SECTION, CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE



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FRAUD SECTION, CRIMINAL DIVISION

NEW CRIMINAL CASE COVER SHEET

U. S. DISTRICT COURT

(To be used for all new Bills of Indictments and Bills of Information)

CASE SEALED: () Yes (X) No **DOCKET NUMBER:** 3:08cr78-C
(If case is to be sealed, a Motion to Seal and proposed Order must be attached.)

CASE NAME : US vs CARLO ANTONIO TESTORE

COUNTY OF OFFENSE : SAN JOSE, COSTA RICA

RELATED CASE INFORMATION :

Magistrate Judge Case Number : _____

Search Warrant Case Number : _____

Miscellaneous Case Number : _____

Rule 20b : _____

SERVICE OF PROCESS - IN CUSTODY

U.S.C. CITATIONS *(Mark offense carrying greatest weight):* ☐ Petty ☐ Misdemeanor ☒ Felony

Title 18 U.S.C. Sections 371; 2326; 1343; 982; 2

JUVENILE : ☐ Yes ☒ No

ASSISTANT U. S. ATTORNEY : PETER LOEWENBERG

VICTIM / WITNESS COORDINATORS : _____

INTERPRETER NEEDED : _____

LIST LANGUAGE AND/OR DIALECT: _____

REMARKS AND SPECIAL INSTRUCTIONS: