

United States District Court

FOR THE
NORTHERN DISTRICT OF CALIFORNIA

VENUE: SAN JOSE

FILED
2014 JAN -9 P 2:26
DISTRICT CLERK
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v. **CV 12 0750**

LHK

PSG

FIDENCIO MORENO,
ARTURO MORENO, and
ELENA MORENO

DEFENDANT(S).

SUPERSEDING INDICTMENT

- 18 U.S.C. § 371 - Conspiracy
- 26 U.S.C. § 7206(1) - Filing False Tax Returns
- 18 U.S.C. § 1014 - False statement
- 18 U.S.C. § 1349 - Conspiracy

A true bill.

Nancy J. Peterson
Foreman

Filed in open court this 9th day of

January 2014

Clerk

Bail, \$ no money

Sylvia A. Lopez

FILED
2014 JAN -9 P 2:26
RICHARD W. WIEKING
CLERK OF DISTRICT COURT
SANTA CLARA COUNTY, CALIFORNIA

1 MELINDA HAAG (CABN 132612)
United States Attorney
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,) No. CR-12-750-LHK
Plaintiff,)
12 v.) SUPERSEDING INDICTMENT
13 FIDENCIO MORENO, aka "Eric," "Fench,")
ARTURO MORENO, aka "Art," and) 18 U.S.C. § 371 - Conspiracy
14 ELENA MORENO,) 26 U.S.C. § 7206(1) - Filing False Tax Returns
Defendants.) 18 U.S.C. § 1014 - False statement
15) 18 U.S.C. § 1349 - Conspiracy
16)
17) SAN JOSE VENUE

18 THE GRAND JURY CHARGES:

19 GENERAL ALLEGATIONS

20 At all times relevant to this Indictment,

- 21 1. FIDENCIO MORENO, ARTURO MORENO, and ELENA MORENO resided in the
22 Northern District of California.
23 2. FIDENCIO MORENO and ARTURO MORENO were brothers.
24 3. FIDENCIO MORENO and ELENA MORENO were married to each other.
25 4. The Internal Revenue Service (hereinafter "IRS") was an agency of the United States
26 Department of Treasury responsible for enforcing and administering the federal tax laws of the United
27 States.

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QUALITY ASSURANCE TRAVEL

1
2 5. Quality Assurance Travel was a California corporation that provided charter bus services
3 and had an office in Santa Clara, California.

4 6. FIDENCIO MORENO was the President of Quality Assurance Travel and fifty-percent
5 owner.

6 7. ARTURO MORENO was the Vice President of Quality Assurance Travel and fifty-
7 percent owner.

8 8. ELENA MORENO worked for Quality Assurance Travel.

9 9. Quality Assurance Travel had a duty to annually file a Form 1120S, a U.S. income tax
10 return for an S corporation, that was required to report, among other things, all its gross receipts, sales,
11 and income, in whatever form received.

12 COUNT ONE: (18 U.S.C. § 371 - Conspiracy to Defraud the United States)

13 10. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

14 11. Beginning on a date unknown to the grand jury but by at least 2005, and continuing
15 thereafter up to and through at least July 2010, in the Northern District of California and elsewhere,
16 defendants,

17 ARTURO MORENO,
18 FIDENCIO MORENO, and
19 ELENA MORENO,

20 did unlawfully, voluntarily, intentionally and knowingly conspire, combine, confederate, and agree
21 together and with each other and with other individuals both known and unknown to the Grand Jury, to
22 defraud the United States by deceitful and dishonest means for the purpose of impeding, impairing,
23 obstructing, and defeating the lawful government function of the Internal Revenue Service of the
24 Department of the Treasury in the ascertainment, computation, assessment, and collection of the
25 revenue: to wit, income taxes.

26 Manner and Means of the Conspiracy
27
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1 12. To accomplish the object of the conspiracy, defendants ARTURO MORENO,
2 FIDENCIO MORENO, and ELENA MORENO, and others both known and unknown to the Grand
3 Jury, both individually and jointly, utilized the following manner and means, among others:

- 4 a. Caused business receipts for Quality Assurance Travel not to be deposited into Quality
5 Assurance Travel's bank accounts.
- 6 b. Caused the financial books and records for Quality Assurance Travel to be false and
7 fraudulent.
- 8 c. Caused ARTURO MORENO to receive income that was not reported on his federal
9 income tax return.
- 10 d. Caused FIDENCIO MORENO and ELENA MORENO to receive income that was not
11 reported on their joint federal income tax return.
- 12 e. Filed and caused the filing of false and fraudulent federal income tax returns.

13 Overt Acts

14 13. In furtherance of said conspiracy, and to effect the objects thereof, the following overt
15 acts, among others, were committed by the members of the conspiracy in the Northern District of
16 California and elsewhere:

- 17 a. From a date unknown, but from at least 2005, and through July 2010, ARTURO
18 MORENO, ELENA MORENO, and FIDENCIO MORENO, both individually and
19 jointly, and others known and unknown to the Grand Jury, withheld cash from deposits
20 into the Quality Assurance Travel bank accounts.
- 21 b. From a date unknown, but by at least 2006, FIDENCIO MORENO, and others known
22 and unknown to the Grand Jury, caused business receipts of Quality Assurance Travel to
23 be deposited in his personal bank account.
- 24 c. From a date unknown, but by at least 2005, and through July 2010, ARTURO MORENO,
25 ELENA MORENO, both individually and jointly, and others known and unknown to the
26 Grand Jury, caused the books and records for Quality Assurance Travel to be false and
27 fraudulent, in part by not including all gross receipts, sales, and income and by falsely
28 characterizing expenses paid by Quality Assurance Travel.

- 1 d. From a date unknown, but from at least 2007, ARTURO MORENO, FIDENCIO
2 MORENO, and ELENA MORENO, both individually and jointly, and others known and
3 unknown to the Grand Jury, maintained a cash journal, which tracked the receipt and
4 distribution of gross receipts and income that Quality Assurance Travel received in U.S.
5 currency, which were not deposited into Quality Assurance Travel's bank accounts and
6 not disclosed to their tax return preparer.
- 7 e. From a date unknown, but by at least 2005, through July 2010, FIDENCIO MORENO,
8 ARTURO MORENO, and ELENA MORENO, received U.S. currency from Quality
9 Assurance Travel.
- 10 f. From a date unknown, but by at least by April 2006 through May 2006, ARTURO
11 MORENO and ELENA MORENO, both individually and jointly, provided false and
12 fraudulent books and records to the tax return preparer for Quality Assurance Travel.
- 13 g. From a date unknown, but by at least by February 2007, through March 2007, ARTURO
14 MORENO and ELENA MORENO, both individually and jointly, provided false and
15 fraudulent books and records to the tax return preparer for Quality Assurance Travel.
- 16 h. From a date unknown, but by at least by February 2008, through March 2008, ARTURO
17 MORENO and ELENA MORENO, both individually and jointly, provided false and
18 fraudulent books and records to the tax return preparer for Quality Assurance Travel.
- 19 i. From a date unknown, but by at least by January 2009, through February 2009,
20 ARTURO MORENO and ELENA MORENO, both individually and jointly, provided
21 false and fraudulent books and records to the tax return preparer for Quality Assurance
22 Travel.
- 23 j. From a date unknown, but by at least by February 2010, through March 2010, ARTURO
24 MORENO and ELENA MORENO, both individually and jointly, provided false and
25 fraudulent books and records to the tax return preparer for Quality Assurance Travel.
- 26 k. On or about the dates set forth in Counts 2, 3, and 4 below, ARTURO MORENO and
27 FIDENCIO MORENO caused the filing of false and fraudulent income tax returns for
28 Quality Assurance Travel as identified therein.

1 l. On or about the dates set forth in Counts 5 through 8 below, FIDENCIO MORENO and
2 ELENA MORENO, caused the filing of false and fraudulent income tax returns as
3 identified therein.

4 m. On or about the dates set forth in Counts 9 through 12 below, ARTURO MORENO
5 caused the filing of false and fraudulent income tax returns as identified therein.

6 n. On or about July 14, 2010, ARTURO MORENO made false statements to IRS Special
7 Agents regarding the treatment of U.S. currency received by Quality Assurance Travel.

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

9 COUNT TWO: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or Other
10 Document)

11 14. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

12 15. On or about March 5, 2008, in the Northern District of California and elsewhere,
13 defendant,

14 ARTURO MORENO

15 did willfully make and subscribe a U.S. Income Tax Return for an S Corporation, Form 1120S, for
16 Quality Assurance Travel for the calendar year 2007, which was verified by a written declaration that it
17 was made under the penalties of perjury, and which he did not believe to be true and correct as to every
18 material matter. This income tax return, which was filed with the IRS, reported gross receipts or sales of
19 \$1,525,970 at line 1a and total income at line 6 of \$1,525,970, whereas, as ARTURO MORENO then
20 and there well knew, Quality Assurance Travel received gross receipts, sales, and total income in
21 addition to the amounts stated on the return.

22 All in violation of Title 26, United States Code, Section 7206(1).

23 COUNT THREE: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or
24 Other Document)

25 16. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

26 17. On or about February 19, 2009, in the Northern District of California and elsewhere,
27 defendant,

28 ARTURO MORENO

1 did willfully make and subscribe a U.S. Income Tax Return for an S Corporation, Form 1120S, for
2 Quality Assurance Travel for the calendar year 2008, which was verified by a written declaration that it
3 was made under the penalties of perjury, and which he did not believe to be true and correct as to every
4 material matter. This income tax return, which was filed with the IRS, reported gross receipts or sales of
5 \$2,836,701 at line 1a and total income at line 6 of \$2,836,701, whereas, as ARTURO MORENO then
6 and there well knew, Quality Assurance Travel received gross receipts, sales, and total income in
7 addition to the amounts stated on the return.

8 All in violation of Title 26, United States Code, Section 7206(1).

9 COUNT FOUR: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or
10 Other Document)

11 18. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein

12 19. On or about March 11, 2010, in the Northern District of California and elsewhere,
13 defendant,

14 FIDENCIO MORENO

15 did willfully make and subscribe a U.S. Income Tax Return for an S Corporation, Form 1120S, for
16 Quality Assurance Travel, for the calendar year 2009, which was verified by a written declaration that it
17 was made under the penalties of perjury, and which he did not believe to be true and correct as to every
18 material matter. This income tax return, which was filed with the IRS, reported gross receipts or sales of
19 \$2,608,442 at line 1a and total income at line 6 of \$2,712,890, whereas, as FIDENCIO MORENO then
20 and there well knew, Quality Assurance Travel received gross receipts, sales, and total income in
21 addition to the amounts stated on the return.

22 All in violation of Title 26, United States Code, Section 7206(1).

23 COUNT FIVE: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or Other
24 Document)

25 20. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

26 21. On or about March 16, 2007, in the Northern District of California, defendants,

27 FIDENCIO MORENO, and
28 ELENA MORENO,

1 residents of San Jose, California, did willfully make and subscribe a joint U.S. Individual Income Tax
2 Return, Form 1040, for the tax year 2006, which was verified by a written declaration that it was made
3 under the penalties of perjury, and which they did not believe to be true and correct as to every material
4 matter. This joint U.S. individual income tax return, Form 1040, for the tax year 2006, which was
5 prepared and signed in the Northern District of California and was filed with the Internal Revenue
6 Service, stated that the schedule E non-passive income was \$34,576, whereas, as they then and there
7 well knew and believed, their Schedule E non-passive income exceeded the amount reported.

8 All in violation of Title 26, United States Code, Section 7206(1).

9 COUNT SIX: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or Other
10 Document)

11 22. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

12 23. On or about April 15, 2008, in the Northern District of California and elsewhere,
13 defendants,

14 FIDENCIO MORENO, and
15 ELENA MORENO,

16 did willfully make and subscribe a joint U.S. Individual Income Tax Return, Form 1040, for the 2007
17 calendar year, which was verified by a written declaration that it was made under the penalties of
18 perjury, and which they did not believe to be true and correct as to every material matter. This income
19 tax return, which was filed with the IRS, reported Schedule E income at line 17 of -\$46,310 and total
20 income at line 22 of \$33,630, whereas, as FIDENCIO MORENO and ELENA MORENO well knew and
21 believed, they received income in addition to the amounts stated on the return.

22 All in violation of Title 26, United States Code, Section 7206(1).

23 COUNT SEVEN: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or
24 Other Document)

25 24. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

26 25. On or about April 15, 2009, in the Northern District of California and elsewhere,
27 defendants,

28 FIDENCIO MORENO, and

ELENA MORENO,

1
2
3 did willfully make and subscribe a joint U.S. Individual Income Tax Return, Form 1040, for the 2008
4 calendar year, which was verified by a written declaration that it was made under the penalties of
5 perjury, and which they did not believe to be true and correct as to every material matter. This income
6 tax return, which was filed with the IRS, reported Schedule E income at line 17 of \$24,648 and total
7 income at line 22 of \$171,023, whereas, as FIDENCIO MORENO and ELENA MORENO well knew
8 and believed, they received income in addition to the amounts stated on the return.

9 All in violation of Title 26, United States Code, Section 7206(1).

10 COUNT EIGHT: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or
11 Other Document)

12 26. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

13 27. On or about April 15, 2010, in the Northern District of California and elsewhere,
14 defendants,

15 FIDENCIO MORENO, and
16 ELENA MORENO,

17 did willfully make and subscribe a joint U.S. Individual Income Tax Return, Form 1040, for the 2009
18 calendar year, which was verified by a written declaration that it was made under the penalties of
19 perjury, and which they did not believe to be true and correct as to every material matter. This income
20 tax return, which was filed with the IRS, reported Schedule E income at line 17 of \$123,172 and total
21 income at line 22 of \$225,897, whereas, as FIDENCIO MORENO and ELENA MORENO well knew
22 and believed, they received income in addition to the amounts stated on the return.

23 All in violation of Title 26, United States Code, Section 7206(1).

24 COUNT NINE: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or Other
25 Document)

26 28. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

27 29. On or about March 16, 2007, in the Northern District of California, defendant,

28 ARTURO MORENO,

1 a resident of San Jose, California, did willfully make and subscribe a joint U.S. Individual Income Tax
2 Return, Form 1040, for the tax year 2006, which was verified by a written declaration that it was made
3 under the penalties of perjury, and which he did not believe to be true and correct as to every material
4 matter. This joint U.S. individual income tax return, Form 1040, for the tax year 2006, which was
5 prepared and signed in the Northern District of California and was filed with the Internal Revenue
6 Service, stated that his Schedule E non-passive income was \$34,576, whereas, as he then and there knew
7 and believed, his Schedule E non-passive income exceeded the amount reported.

8 All in violation of Title 26, United States Code, Section 7206(1).

9 COUNT TEN: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or Other
10 Document)

11 30. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

12 31. On or about April 15, 2008, in the Northern District of California and elsewhere,
13 defendant,

14 ARTURO MORENO

15 did willfully make and subscribe a joint U.S. Individual Income Tax Return, Form 1040, for the 2007
16 calendar year, which was verified by a written declaration that it was made under the penalties of
17 perjury, and which they did not believe to be true and correct as to every material matter. This income
18 tax return, which was filed with the IRS, reported Schedule E income at line 17 of -\$34,480 and total
19 income at line 22 of \$21,316, whereas, as ARTURO MORENO well knew and believed, he received
20 income in addition to the amounts stated on the return.

21 All in violation of Title 26, United States Code, Section 7206(1).

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23 COUNT ELEVEN: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or
24 Other Document)

25 32. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

26 33. On or about April 15, 2009, in the Northern District of California and elsewhere,
27 defendant,

28 ARTURO MORENO

1 did willfully make and subscribe a joint U.S. Individual Income Tax Return, Form 1040, for the 2008
2 calendar year, which was verified by a written declaration that it was made under the penalties of
3 perjury, and which they did not believe to be true and correct as to every material matter. This income
4 tax return, which was filed with the IRS, reported Schedule E income at line 17 of \$21,486 and total
5 income at line 22 of \$140,502, whereas, as ARTURO MORENO well knew and believed, he received
6 income in addition to the amounts stated on the return.

7 All in violation of Title 26, United States Code, Section 7206(1).

8 COUNT TWELVE: (26 U.S.C. § 7206(1) - Making and Subscribing a False Tax Return, Statement, or
9 Other Document)

10 34. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

11 35. On or about April 14, 2010, in the Northern District of California and elsewhere,
12 defendant,

13 ARTURO MORENO

14 did willfully make and subscribe a joint U.S. Individual Income Tax Return, Form 1040, for the 2009
15 calendar year, which was verified by a written declaration that it was made under the penalties of
16 perjury, and which they did not believe to be true and correct as to every material matter. This income
17 tax return, which was filed with the IRS, reported Schedule E income at line 17 of \$123,168 and total
18 income at line 22 of \$228,865, whereas, as ARTURO MORENO well knew and believed, he received
19 income in addition to the amounts stated on the return.

20 All in violation of Title 26, United States Code, Section 7206(1).

21 COUNT THIRTEEN: (18 U.S.C. § 1349 - Conspiracy to Commit Bank Fraud and Wire Fraud)

22 36. Paragraphs 1 through 9 are incorporated and realleged as if fully set forth herein.

23 37. Lehman Brothers Bank FSB ("Lehman") was insured by the Federal Deposit Insurance
24 Corporation ("FDIC").

25 38. Wells Fargo Bank, NA ("Wells Fargo") was insured by the FDIC. Wells Fargo Home
26 Mortgage is a division of Wells Fargo.

27 39. Bank of America, NA ("Bank of America") was insured by the FDIC. Bank of America
28 Home Loans is a division of Bank of America.

1 40. Aurora Loan Services, LLC (“Aurora”), is owned by Aurora Bank, which was insured by
2 the FDIC.

3 41. Until it was purchased by Chase in 2008, Washington Mutual Bank (“Washington
4 Mutual”) was insured by the FDIC.

5 42. Until it was purchased by Merrill Lynch in 2006, First Franklin Financial Corporation
6 (“First Franklin”), a subsidiary of National City Bank of Indiana, was insured by the FDIC.

7 43. National City Bank was insured by the FDIC.

8 44. NationStar Mortgage was in the mortgage lending business.

9 45. Lehman, Wells Fargo, Bank of America, Aurora, Washington Mutual, First Franklin,
10 National City, and NationStar Mortgage all made loans directly to home buyers and also bought home
11 loans from other lenders after the other lenders had funded them.

12 46. Beginning on a date unknown to the grand jury but by at least 2005 and continuing
13 thereafter up to and through at least July 2013, in the Northern District of California and elsewhere,
14 defendants,

15 ARTURO MORENO,
16 FIDENCIO MORENO, and
17 ELENA MORENO,

18 did unlawfully, voluntarily, intentionally and knowingly conspire, combine, confederate, and agree
19 together and with each other and with other individuals both known and unknown to the Grand Jury, to:

- 20 a. Commit bank fraud by devising a scheme or artifice (1) to defraud financial institutions, the
21 deposits of which were insured by the FDIC, and (2) obtain monies and funds owned by and
22 under the custody and control of these financial institutions, the deposits of which were
23 insured by the FDIC, by means of materially false and fraudulent pretenses, representations
24 and promises, all in violation of Title 18, United States Code, Section 1344; and
25 b. Commit wire fraud by willfully and knowingly, having devised and intending to devise a
26 scheme and artifice to defraud, and for obtaining money and property by means of false and
27 fraudulent pretenses, representations, and promises, for the purpose of executing such
28 scheme and artifice and attempting to do so, would and did transmit and cause to be

1 transmitted by means of wire, radio, and television communication in interstate commerce,
2 any writing, signs, signals, pictures, or sounds, for the purpose of executing such scheme or
3 artifice, all in violation of Title 18, United States Code, Section 1343.

4 Manner and Means of the Conspiracy

5 47. To accomplish the object of the conspiracy, defendants ARTURO MORENO,
6 FIDENCIO MORENO, and ELENA MORENO, and others both known and unknown to the Grand
7 Jury, both individually and jointly, utilized the following manner and means, among others:

- 8 a. Submitted false and fraudulent loan applications.
9 b. Submitted false and fraudulent supporting documentation for their loan applications.
10 c. Made false statements about the applicant's financial condition, including but not limited
11 to the applicant's income, assets, and liabilities.
12 d. Made false statements regarding the intended use of the property.
13 e. Transmitted and caused to be transmitted interstate wire communications.

14 Overt Acts

15 48. In furtherance of said conspiracy, and to effect the objects thereof, the following overt
16 acts, among others, were committed by the members of the conspiracy in the Northern District of
17 California and elsewhere:

- 18 a. On or about December 2005, FIDENCIO MORENO and ARTURO MORENO, both
19 individually and jointly, and others known and unknown to the grand jury, caused a grant
20 deed to be recorded with respect to the real property located at 5832 Cadiz Drive, San
21 Jose, California, which purported to show a sale from Fidencio to Arturo.
22 b. On or about December 27, 2005, FIDENCIO MORENO and ARTURO MORENO, both
23 individually and jointly, and others known and unknown to the grand jury, caused a grant
24 deed to be recorded with respect to the real property located at 356 Lincoln Avenue, San
25 Jose, California, which purported to show a sale from Fidencio to Arturo.
26 c. On or about December 27, 2005, FIDENCIO MORENO and ARTURO MORENO, both
27 individually and jointly, and others known and unknown to the grand jury, caused a grant
28

1 deed to be recorded with respect to the real property located at 5832 Cadiz Drive, San
2 Jose, California, which purported to show a sale from Fidencio to Arturo.

3 d. From a date unknown but by at least December 2005, FIDENCIO MORENO, and others
4 known and unknown to the grand jury, caused loan applications to be submitted to
5 finance the purchase of the real property located at 5839 Chesbro Avenue, San Jose,
6 California.

7 e. From a date unknown but by at least February 2006, ELENA MORENO and others
8 known and unknown to the grand jury, caused a loan application to be submitted to
9 obtain a line of credit on the real property located at 7535 Bayliss Place, San Jose,
10 California.

11 f. From a date unknown but by at least February 2006, FIDENCIO MORENO and ELENA
12 MORENO, both individually and jointly, caused loan applications to be submitted to
13 finance the purchase of the real property located at 5937 Hillview Avenue, San Jose,
14 California.

15 g. On or about the dates set forth in Counts 14 through 16, and 20 below, FIDENCIO
16 MORENO made false statements in loan applications as identified therein.

17 h. On or about the date set forth in Count 17 below, ELENA MORENO made false
18 statements in the loan application as identified therein.

19 i. On or about the dates set forth in Counts 18 and 19 below, FIDENCIO MORENO and
20 ELENA MORENO, made false statements in the loan applications as identified therein.

21 j. Beginning on a date unknown to the grand jury, but by at least April 2013 and continuing
22 through at least August 2013, FIDENCIO MORENO, and others known and unknown to
23 the grand jury, submitted false and fraudulent documentation to NationStar Mortgage in
24 support of his request to modify the loan on the real property located at 5839 Chesbro
25 Avenue, San Jose, California.

26 k. On or about February 15, 2013, FIDENCIO MORENO caused to be transmitted a
27 facsimile transmission to NationStar Mortgage, which included, among other things, a
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1 letter of explanation and evidence of rent deposits, in support of his application to modify
2 the loan on 5839 Chesbro Avenue, San Jose, California.

3 l. On or about February 19, 2013, FIDENCIO MORENO caused to be transmitted a
4 facsimile transmission to NationStar Mortgage, which included, among other things, a
5 letter of explanation, receipts for payments of rent, paystubs and a business tax return for
6 Quality Assurance Travel, in support of his application to modify the loan on 5839
7 Chesbro Avenue, San Jose, California.

8 m. On or about June 14, 2013, FIDENCIO MORENO caused to be transmitted a facsimile
9 transmission to NationStar Mortgage, which included profit and loss documents for
10 Quality Assurance Travel and bank statements, in support of his application to modify the
11 loan on 5839 Chesbro Avenue, San Jose, California.

12 n. On or about October 17, 2013, FIDENCIO MORENO caused a letter of explanations to
13 be transmitted to NationStar Mortgage, which concerned rental payments and the short
14 sale of 7535 Bayliss Place, San Jose, California.

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

16 COUNT FOURTEEN: (18 U.S.C. § 1014 - False Statements)

17 49. Paragraphs 1 through 9 and 37 through 45 are incorporated and realleged as if fully set
18 forth herein.

19 50. In or about January 2006, in the Northern District of California and elsewhere, defendant,
20 FIDENCIO MORENO
21 knowingly made and caused to be made to Lehman Brothers, an entity that makes in whole and in part
22 federally related mortgage loans, a false statement for the purpose of influencing the actions of Lehman
23 Brothers, a financial institution insured by the FDIC, on a loan, that is a \$133,400 loan for the purchase
24 of 5839 Chesbro Avenue, San Jose, California, in that he caused to be submitted to the Lehman Brothers
25 a false and fraudulent loan application that he represented was true and accurate when, as he then well
26 knew and believed, that application overstated his income and assets, understated his liabilities, and
27 falsely represented the intended use of the property.

28 All in violation of Title 18, United States Code, Section 1014.

1 COUNT FIFTEEN: (18 U.S.C. § 1014 - False Statements)

2 51. Paragraphs 1 through 9 and 37 through 45 are incorporated and realleged as if fully set
3 forth herein.

4 52. In or about January 2006, in the Northern District of California and elsewhere, defendant,
5 FIDENCIO MORENO
6 knowingly made and caused to be made to Lehman Brothers, a false statement for the purpose of
7 influencing the actions of Lehman Brothers on a loan, that is a \$533,600 loan for the purchase of 5839
8 Chesbro Avenue, San Jose, California, in that he caused to be submitted to the Lehman Brothers, a
9 financial institution insured by the FDIC, a false and fraudulent loan application that he represented was
10 true and accurate when, as he then well knew and believed, that application overstated his income and
11 assets, understated his liabilities, and falsely represented the intended use of the property.

12 All in violation of Title 18, United States Code, Section 1014.

13 COUNT SIXTEEN: (18 U.S.C. § 1014 - False Statements)

14 53. Paragraphs 1 through 9 and 37 through 45 are incorporated and realleged as if fully set
15 forth herein.

16 54. In or about February 2006, in the Northern District of California and elsewhere,
17 defendant,

18 FIDENCIO MORENO

19 knowingly made and caused to be made to Wells Fargo Bank, a false statement for the purpose of
20 influencing the actions of Wells Fargo Bank on a loan, that is a \$521,000 loan on 7535 Bayliss Place,
21 San Jose, California, in that he caused to be submitted to the Wells Fargo Bank, a financial institution
22 insured by the FDIC, a false and fraudulent loan application that he represented was true and accurate
23 when, as he then well knew and believed, that application overstated his income and assets.

24 All in violation of Title 18, United States Code, Section 1014.

25 COUNT SEVENTEEN: (18 U.S.C. § 1014 - False Statements)

26 55. Paragraphs 1 through 9 and 37 through 45 are incorporated and realleged as if fully set
27 forth herein.

1 MORENO, and ELENA MORENO shall forfeit to the United States, pursuant to Title 18, United States
2 Code, Section 982(a)(2)(A), any property constituting, or derived from, proceeds obtained, directly or
3 indirectly, as a result of such violations, and also, pursuant to Title 18, United States Code, Section
4 981(a)(1)(C), which is incorporated by 28 U.S.C. § 2461(c), any property, real or personal, which
5 constitutes or is derived from proceeds traceable to such violations. This includes, but is not limited to,
6 the following:

- 7 a. Money, in the amount of at least \$3,328,600 in U.S. currency, which represents the
8 proceeds that were obtained directly or indirectly as a result of the violation of 18 U.S.C.
9 § 1014, and of the conspiracy to commit bank fraud and wire fraud.
- 10 b. All the lots or parcels of real property, together with its buildings, appurtenances,
11 improvements, fixtures, attachments and easements, having a mailing address of 5937
12 Hillview Avenue, San Jose, California.
- 13 c. All the lots or parcels of real property, together with its buildings, appurtenances,
14 improvements, fixtures, attachments and easements, having a mailing address of 5839
15 Chesbro Avenue, San Jose, California.
- 16 d. All the lots or parcels of real property, together with its buildings, appurtenances,
17 improvements, fixtures, attachments and easements, having a mailing address of 5832
18 Cadiz Drive, San Jose, California.
- 19 e. Substitute assets: If any of the above-described forfeitable property, as a result of any act
20 or omission of the defendant: (1) cannot be located upon the exercise of due diligence;
21 (2) has been transferred, sold to, or deposited with, a third party; (3) has been placed
22 beyond the jurisdiction of the Court; (4) has been substantially diminished in value; or (5)
23 has been commingled with other property which cannot be divided without difficulty; it
24 is the intent of the United States, pursuant to Title 21, United States Code, Section
25 853(p), as incorporated in Title 28, United States Code, Section 2461(c), to seek
26 forfeiture of any other property of said defendants up to the value of the forfeitable
27 property described above.

All in violation of 18 U.S.C. §§ 982(a)(2), 981(a)(1)(C); 28 U.S.C. § 2461(c), and 21 U.S.C. § 853(p).

A True Bill

Dated: *January 9, 2014*

Nancy J. Peterson
FOREPERSON

MELINDA HAAG
United States Attorney

J. Douglas Wilson
J. DOUGLAS WILSON

Assistant United States Attorney
Chief, Criminal Division

Katherine L. Wong
Katherine L. Wong, Trial Attorney
Todd Kostyshak, Trial Attorney
U.S. Department of Justice, Tax Division

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

OFFENSE CHARGED

18 U.S.C. § 371 - Conspiracy;
26 U.S.C. § 7206(1) - Filing False
Tax Returns; 18 U.S.C. § 1014 -
False statement;
18 U.S.C. § 1349 - Conspiracy

Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

PLEASE SEE ATTACHMENT

DEFENDANT - U.S.

FIDENCIO MORENO

DISTRICT COURT NUMBER

CR-12-00750-LHK

FILED

JAN 9 2014

CLERK U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

PROCEEDING

Name of Complainant Agency, or Person (&Title, if any)

INTERNAL REVENUE SERVICE

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person
Furnishing Information on MELINDA HAAG
THIS FORM

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y
(if assigned) THOMAS MOORE, AUSA, Chief Tax.

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
 - 5) On another conviction
 - 6) Awaiting trial on other charges } Fed'l State
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No

If "Yes" give date filed

DATE OF ARREST

Month/Day/Year

Or... if Arresting Agency & Warrant were not

Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments:

1

Attachment to Indictment Penalty Sheet
FIDENCIO MORENO

18 U.S.C. § 371 – Conspiracy To Defraud Tax Offense

- 5 years prison
- \$250,000 fine
- 3 year supervised release
- \$100 special assessment

26 U.S.C. § 7206(1) - Filing False Tax Returns

- 3 years prison
- \$ 250,000 fine
- 1 year supervised release
- \$100 special assessment

18 U.S.C. § 1014 – False Statement

- 30 years prison
- \$1,000,000 fine
- 5 years supervised release
- \$100 special assessment

18 U.S.C. § 1349 – Conspiracy to Commit Loan Fraud

- 30 years prison
- \$1,000,000 fine
- 5 years supervised release
- \$100 special assessment

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

18 U.S.C. § 371 - Conspiracy; Petty
26 U.S.C. § 7206(1) - Filing False Tax Returns; Minor
18 U.S.C. § 1349 - Conspiracy Felony

PENALTY:

PLEASE SEE ATTACHMENT

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

INTERNAL REVENUE SERVICE

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of: **SHOW DOCKET NO.**

U.S. Att'y Defense }
 this prosecution relates to a pending case involving this same defendant **MAGISTRATE CASE NO.**
 prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

Name and Office of Person Furnishing Information on MELINDA HAAG THIS FORM

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned) THOMAS MOORE, AUSA, Chief Tax.

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DEFENDANT - U.S.

ARTURO MORENO

DISTRICT COURT NUMBER

CR-12-00750-LHK

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction
- 6) Awaiting trial on other charges } Fed'l State

If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No } If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address: _____

*Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____

Before Judge: _____

Comments:

Δ2

Attachment to Indictment Penalty Sheet
ARTURO MORENO

18 U.S.C. § 371 – Conspiracy To Defraud Tax Offense

- 5 years prison
- \$250,000 fine
- 3 year supervised release
- \$100 special assessment

26 U.S.C. § 7206(1) - Filing False Tax Returns

- 3 years prison
- \$ 250,000 fine
- 1 year supervised release
- \$100 special assessment

18 U.S.C. § 1349 – Conspiracy to Commit Loan Fraud

- 30 years prison
- \$1,000,000 fine
- 5 years supervised release
- \$100 special assessment

AO 257 (Rev. 6/78)

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

18 U.S.C. § 371 - Conspiracy;
26 U.S.C. § 7206(1) - Filing False
Tax Returns; 18 U.S.C. § 1014 -
False statement;
18 U.S.C. § 1349 - Conspiracy

Petty
 Minor
 Misdemeanor
 Felony

PENALTY:

PLEASE SEE ATTACHMENT

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

INTERNAL REVENUE SERVICE

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrP 20, 21 or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:

U.S. Att'y Defense

this prosecution relates to a pending case involving this same defendant

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under

SHOW DOCKET NO.

MAGISTRATE CASE NO.

Name and Office of Person Furnishing Information on MELINDA HAAG THIS FORM

U.S. Att'y Other U.S. Agency

Name of Asst. U.S. Att'y (if assigned) THOMAS MOORE, AUSA, Chief Tax.

Name of District Court, and/or Judge/Magistrate Location
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DEFENDANT - U.S.

ELENA MORENO

DISTRICT COURT NUMBER

CR-12-00750-LHK

DEFENDANT

IS NOT IN CUSTODY

- 1) Has not been arrested, pending outcome this proceeding. If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
 - 5) On another conviction
 - 6) Awaiting trial on other charges
- } Fed'l State
- If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No } If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not Month/Day/Year

DATE TRANSFERRED TO U.S. CUSTODY

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT Bail Amount: _____

If Summons, complete following:

Arraignment Initial Appearance

Defendant Address: _____

**Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment*

Date/Time: _____

Before Judge: _____

Comments:

Δ3

Attachment to Indictment Penalty Sheet
ELENA MORENO

18 U.S.C. § 371 – Conspiracy To Defraud Tax Offense

- 5 years prison
- \$250,000 fine
- 3 year supervised release
- \$100 special assessment

26 U.S.C. § 7206(1) - Filing False Tax Returns

- 3 years prison
- \$ 250,000 fine
- 1 year supervised release
- \$100 special assessment

18 U.S.C. § 1014 – False Statement

- 30 years prison
- \$1,000,000 fine
- 5 years supervised release
- \$100 special assessment

18 U.S.C. § 1349 – Conspiracy to Commit Loan Fraud

- 30 years prison
- \$1,000,000 fine
- 5 years supervised release
- \$100 special assessment

Δ3