

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 14-
:
: Hon. Faith S. Hochberg, U.S.D.J.
v. :
: 18 U.S.C. § 371
LUIS PENA :

I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

Background

1. At all times relevant to this Information:
 - a. Natural born citizens of the Commonwealth of Puerto Rico are, upon birth, automatically granted United States Citizenship.
 - b. Citizens of the Commonwealth of Puerto Rico are, upon application, issued Social Security numbers by the Social Security Administration.
 - c. Citizens of the Commonwealth of Puerto Rico who reside in Puerto Rico are not required to file tax returns with the Internal Revenue Service ("IRS") as long as all of the Puerto Rico residents' income is derived from sources in Puerto Rico.

The Conspiracy

2. From in or about September 2011 through in or about April 2013, in the District of New Jersey, and elsewhere, defendant

LUIS PENA

did knowingly and intentionally conspire and agree with others to embezzle, steal, purloin, and knowingly convert to his own use and the use of others, money of the United States, specifically United States Treasury checks in the approximate amount of \$336,647.38, contrary to Title 18, United States Code, Section 641.

Object of the Conspiracy

3. The object of the conspiracy was for defendant PENA and his co-conspirators to obtain and ultimately cash income tax refund checks that were generated through the filing of materially false and fraudulent individual income tax returns with the IRS and State tax agencies, and to use the resulting illicit cash proceeds for their personal benefit.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that beginning in or about September 2011, members of the conspiracy obtained the personally identifiable information, including the names and social security numbers, of certain individuals. Among other

things, members of the conspiracy obtained the social security numbers of Puerto Rican citizens.

5. It was further part of the conspiracy that members of the conspiracy filed with the IRS false and fraudulent U.S. Individual Income Tax Returns, using the identity information of others, including Puerto Rican citizens, and seeking state and federal tax refunds (collectively, the "Tax Returns") to which the members of the conspiracy were not entitled. The objective in doing so was to generate false and fraudulent income tax refund checks issued by the United States Department of the Treasury and State tax agencies (the "Tax Refund Checks").

6. It was further part of the conspiracy that, while members of the conspiracy used the personally identifiable information of certain individuals, including Puerto Rican citizens, to generate the Tax Refund Checks, they had the Tax Refund Checks issued and sent to different addresses that were in and around the District of New Jersey and elsewhere and were controlled by members of the conspiracy. Members of the conspiracy did this so that the Tax Refund Checks would be directed to addresses where they could retrieve them.

7. It was further part of the conspiracy that, once received, defendant PENA would sell the Tax Refund Checks to other members of the conspiracy, and those other members of the

conspiracy would cash the Tax Refund Checks in a variety of ways, including at banks and at businesses controlled by members of the conspiracy and others.

8. It was further part of the conspiracy that members of the conspiracy would deposit into a co-conspirator's bank account the proceeds from the cashed Tax Refund Checks, less his profit or share. The co-conspirator then withdrew the proceeds from the cashed Tax Refund Checks and, in some instances, provided other co-conspirators with a portion of those proceeds.

Overt Acts

9. In furtherance of the conspiracy and to effect the unlawful object thereof, defendant PENA and his co-conspirators committed and caused to be committed the following overt acts in the District of New Jersey and elsewhere:

a. In or around 2011, a co-conspirator mail carrier agreed to let defendant PENA use addresses on that co-conspirator's Flushing, New York Mail Route to receive Fraudulent Treasury Checks. The co-conspirator mail carrier agreed to intercept those Fraudulent Treasury Checks from the Flushing, New York Mail Route and deliver them to defendant PENA, in exchange for a cash payment of approximately \$400 per check.

b. From in or around September 2011 until in or around May 2011, the co-conspirator mail carriers intercepted at least 44 Fraudulent Treasury Checks.

c. Defendant PENA passed the Fraudulent Treasury Checks on to co-conspirators, after which the Fraudulent Treasury Checks were ultimately deposited into bank accounts controlled by co-conspirators.

d. On or about March 7, 2012, a co-conspirator deposited a Fraudulent Treasury Check for \$7,845.00 in a bank account in Newark, New Jersey. The tax return associated with this Fraudulent Treasury Check was filed using the identity of an individual with the initials "D.A.C." who purportedly resided along the co-conspirator mail carrier's mail route in Flushing, New York.

e. On or about February 13, 2012, a co-conspirator deposited a Fraudulent Treasury Check for \$7,419.76 in a bank account in Newark, New Jersey. The tax return associated with this Fraudulent Treasury Check was filed using the identity of an individual with the initials "J.L.B." who purportedly resided in Bayonne, New Jersey.

In violation of Title 18, United States Code, Section 371.



PAUL J. FISHMAN
UNITED STATES ATTORNEY

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INFORMATION FOR

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