

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 14-  
 :  
 v. : 18 U.S.C. § 371  
 : 18 U.S.C. § 641  
 ELIAN MATLOVSKY :

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 that:

COUNT ONE  
(Conspiracy to Defraud the United States)

Overview

1. Beginning in or around 2010, defendant ELIAN MATLOVSKY participated in a scheme to defraud the United States through the fraudulent creation, sale, and distribution of tax refund treasury checks issued in the names of stolen identities (the “Stolen Identity Refund Fraud Scheme” or the “SIRF Scheme”). In total, the SIRF Scheme caused more than approximately 8,000 fraudulent Individual Income Tax Return Form 1040s (“Form 1040s”) to be filed with the United States Treasury Department (the “U.S. Treasury”), sought more than approximately \$65 million in tax refunds, and caused actual losses to the U.S. Treasury of more than approximately \$11 million.

## Background

2. At all times relevant to this Information:

a. The standard form used by United States citizens to file individual federal income tax returns was the Form 1040. On a Form 1040, taxpayers were required to report, among other things, their wages, withholdings, and applicable tax credits. Based on the information reported in Form 1040s, the U.S. Treasury either required taxpayers to provide additional taxes or refunded excess payments to taxpayers.

b. The U.S. Treasury paid tax refunds in the form of checks, which were mailed to taxpayers (the "Tax Refund Treasury Checks").

c. Citizens of the Commonwealth of Puerto Rico were, upon birth, automatically granted United States citizenship, and were, upon application, issued Social Security numbers by the Social Security Administration. Citizens of Puerto Rico who resided in Puerto Rico were not, however, required to file tax returns with the Internal Revenue Service ("IRS") if all of their income was derived from sources in Puerto Rico.

d. Stolen Identity Refund Fraud ("SIRF") was a common type of fraud committed against the United States government that resulted in more than approximately \$2 billion in losses annually to the U.S. Treasury.

### The Conspiracy

3. From in or around January 2010 through in or around September 2012, in the District of New Jersey, and elsewhere, defendant

ELIAN MATLOVSKY

did knowingly and intentionally conspire and agree with others to embezzle, steal, purloin, and knowingly convert to her own use and the use of others money and things of value of the United States, namely United States Treasury Checks, contrary to Title 18, United States Code, Section 641.

### Object of the Conspiracy

4. The object of the conspiracy was for defendant ELIAN MATLOVSKY, Robert Diaz, Jose Torres, Ennio Guzman, and others (collectively, the “Co-Conspirators”) to obtain and ultimately cash Tax Refund Treasury Checks that were generated through the filing of materially false and fraudulent Form 1040s with the IRS, and to use the resulting illicit proceeds for their personal benefit.

### Manner and Means of the Conspiracy

5. It was part of the conspiracy that certain Co-Conspirators unlawfully obtained personally identifiable information (the “PII”), including the names and social security numbers, of thousands of individuals, primarily that of Puerto Rican citizens.

6. It was further part of the conspiracy that certain Co-Conspirators filed or caused to be filed with the IRS false and fraudulent Form 1040s using

the PII of others, namely Puerto Rican citizens (collectively, the “Fraudulent Form 1040s”). The Fraudulent Form 1040s were completed using falsified wages earned, taxes withheld, and other data. The Fraudulent Form 1040s therefore made it appear as though the filers were entitled to tax refunds in the form of Tax Refund Treasury Checks. In fact, however, no tax refunds were due.

7. It was further part of the conspiracy that, in exchange for payment, certain Co-Conspirators recruited mail carriers (the “Corrupt Mail Carriers”), to participate in the SIRF Fraud. The Corrupt Mail Carriers provided addresses along the Corrupt Mail Carriers’ mail routes to be used on the Fraudulent Form 1040s.

8. It was further part of the conspiracy that when certain Co-Conspirators used the PII to generate the Tax Refund Treasury Checks, they caused the Tax Refund Treasury Checks to be issued and sent to addresses in New Jersey and elsewhere provided by the Corrupt Mail Carriers and controlled by the Co-Conspirators, not to the addresses of the individuals to whom the PII actually belonged.

9. It was further part of the conspiracy that the Corrupt Mail Carriers then, in exchange for illegal payments, removed Tax Refund Treasury Checks generated by submission of the Fraudulent Form 1040s from the mail stream and provided them to other Co-Conspirators.

10. It was further part of the conspiracy that certain Co-Conspirators generated cash proceeds from the SIRF Fraud by selling Tax Refund Treasury Checks at a discount to face value to yet other Co-Conspirators.

11. It was further part of the conspiracy that certain Co-Conspirators, including defendant ELIAN MATLOVSKY, negotiated the Tax Refund Treasury Checks in a variety of ways, including at banks and check-cashing establishments, and used the proceeds for their personal benefit.

#### Overt Acts

12. In furtherance of the conspiracy and to effect the unlawful object thereof, defendant ELIAN MATLOVSKY and her Co-Conspirators committed and caused to be committed the following overt acts, among others, in the District of New Jersey and elsewhere:

a. In or around September 2011, defendant MATLOVSKY and her Co-Conspirators caused approximately five unlawfully-obtained Tax Refund Treasury checks to be sent to various addresses in or around Nutley, New Jersey. These Tax Refund Checks had been generated by other Co-Conspirators using Fraudulent Form 1040s, included stolen PII.

b. In or around September 2011, these Tax Refund Treasury Checks were removed from the mail stream by a Corrupt Mail Carrier.

c. On or about September 28, 2011, defendant ELIAN MATLOVSKY

deposited these approximately five Tax Refund Treasury Checks, totaling approximately \$39,556.00, into an account controlled by defendant MATLOVSKY.

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

COUNT TWO  
(Theft of Government Property)

1. The allegations set forth in paragraphs 1, 2, and 4 through 12 of Count One of this Information are realleged and reincorporated as if set forth herein.

2. From in or around January 2010 through in or around September 2012, in the District of New Jersey, and elsewhere, defendant

ELIAN MATLOVSKY

did knowingly and intentionally embezzle, steal, purloin, and convert to her own use and the use of others, money, and things of value of the United States, namely United States Treasury Checks.

In violation of Title 18, United States Code, Section 641.

## FORFEITURE ALLEGATION

1. The allegations contained in this Information are hereby realleged and incorporated by reference for the purpose of noticing forfeiture pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to the defendant, that upon her conviction of the offenses charged in this Information, the government will seek forfeiture in accordance with Title 18, United States Code, Sections 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses.

3. If any of the above-described forfeitable property, 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 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section

2461(c), to seek forfeiture of any other property of such defendant up to the value of the forfeitable property described in paragraph 2.

  
\_\_\_\_\_  
PAUL J. FISHMAN  
United States Attorney

**CASE NUMBER:**

---

---

**United States District Court  
District of New Jersey**

---

---

**UNITED STATES OF AMERICA**

**v.**

**ELIAN MATLOVSKY**

---

---

**INFORMATION FOR**  
18 U.S.C. §§ 371 & 641

---

---

**PAUL J. FISHMAN**  
*U.S. ATTORNEY*  
*NEWARK, NEW JERSEY*

---

---

**MALA HARKER**  
**ZACH INTRATER**  
*ASSISTANT U.S. ATTORNEYS*  
*(973) 645-2744*  
*(973) 645-2728*

---

---

**USA-48AD 8**  
**(Ed. 1/97)**



**U.S. Department of Justice**

*United States Attorney  
District of New Jersey*

---

*970 Broad Street, Suite 700  
Newark, New Jersey 07102*

April 10, 2014

VIA EMAIL

William T. Walsh, Clerk  
U.S. District Court  
Martin Luther King, Jr. Building  
50 Walnut Street  
Newark, NJ 07102

Attention: Andrea Lewis-Walker, Deputy Clerk

RE: United States v. Elian Matlovsky, related to: United States v. Ennio Guzman, Crim. No. 13-583 (CCC); United States v. Jose Torres, Crim. No. 13-733 (CCC); United State v. Benny Haynes, Crim. No. 13-108 (CCC)

Dear Ms. Lewis-Walker:

Enclosed for assignment is an Information charging defendant Elian Matlovsky with conspiracy to defraud the United States and theft of government property. The charges contained in the Information arose out of the same events charged in the Informations listed above, which were all assigned to the Honorable Claire C. Cecchi, U.S.D.J.

Pursuant to Local Criminal Rule 18.1, this letter is submitted to inform you of the relationship of these cases so that you may determine whether this information should be considered a related case to the cases listed above and assigned to Judge Thompson in the interests of judicial economy.

Respectfully submitted,

PAUL J. FISHMAN  
United States Attorney

  
By: THOMAS J. EICHER  
Chief, Criminal Division

Enc.

Sep 12, 2012      Elian Matlovsky      Mala Harker/Zach Intrater      +1 (973) 645-2728  
ARREST DATE      DEFENDANT'S NAME      AUSA      TEL. NO.

Defendant's Address

Crime Type  Was a summons issued?  No  Yes If yes, Date:  VICTIM CASE  No  Yes

Offense:

U.S.C. citation:  Where was offense committed?

Has a complaint been previously filed?  No  Yes If yes, Magistrate No.

BAIL  WAS  WAS NOT set by Magistrate Judge  on

in the amount of \$  in the nature of

Defendant is NOT IN CUSTODY and  District

Defendant is IN CUSTODY at  Select:

On what date did continuous custody begin on this charge?

If arresting agent & warrant were not Federal, what date was defendant transferred to U.S. custody?

This defendant/proceeding to be transferred pursuant to F.R.C.P. 20, 21, 40 from/to which District?

Is this a prosecution:

- (1) of charge previously dismissed on motion of  ?  No  Yes      MAG. OR CR.?      Docket No.       Judge
- (2) after a mistrial?       No  Yes      MAG. OR CR.?      Docket No.       Judge
- (3) after appellate action?       No  Yes      MAG. OR CR.?      Docket No.       Judge
- (4) which supersedes a previous prosecution?       No  Yes      MAG. OR CR.?      Docket No.       Judge
- (5) related to a pending case?       No  Yes      Crim.       Docket No.       Judge

Is any time between arrest and the filing of this information/ indictment excludable pursuant to 18 U.S.C. § 3161(h)?  No  Yes If yes, indicate below:

From  to  Statutory Authority

Reasons for exclusion

Estimated time for trial  Defense Counsel  Tel. No.

Defense Counsel's Address

Public Defender  CJA  Retained

Interpreter Required?  No  Yes If yes, which language: