

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL NO. 15-236
v.	*	SECTION: "G"
LUIS RIVERA GARCIA	*	MAGISTRATE: 1

* * *
FACTUAL BASIS

The defendant, **LUIS RIVERA GARCIA**, (hereinafter "**GARCIA**") has agreed to plead guilty as charged to Count One, Conspiracy to Commit Access Device Fraud, in violation of Title 18, United States Code, Section 1029(b)(2), and Count Five, aggravated identity theft, in violation of Title 18, United States Code, Section 1028A.

The limited purpose of this Factual Basis is to demonstrate that there exists a sufficient legal basis for **GARCIA**'s guilty plea. This Factual Basis does not attempt to set forth all of the facts known to the United States at this time. By their signatures below, the parties expressly agree that there is a factual basis for the guilty plea that the defendant will tender pursuant to the plea agreement. The parties also agree that this Factual Basis may, but need not, be used by the United States Probation Office and the Court in determining the applicable advisory guideline range under the United States Sentencing Guidelines or the appropriate sentence under 18 U.S.C. § 3553(a). The defendant agrees not to object to any fact set forth below being used by the Court or the United States Probation Office to determine the applicable advisory guideline range or the appropriate sentence under 18 U.S.C. § 3553(a). The parties' agreement does not preclude either party from hereafter presenting the Court with additional facts which do not contradict facts to which the parties have agreed not to object and which are relevant to the Court's guideline computations, to the 18 U.S.C. § 3553 factors, or to the Court's overall sentencing decision.

The United States and **GARCIA** do hereby stipulate and agree that the allegations in the indictment and the following facts are true and correct and that, should this matter have proceeded to trial, the government would have proven them beyond a reasonable doubt, through the introduction of competent testimony and admissible tangible and documentary exhibits.

The defendant, **LUIS RIVERA GARCIA**, was a Cuban national who resided in the State of Florida.

Gas Station A was a business in the Eastern District of Louisiana that accepted credit cards for payment.

The term “access device” meant any card, plate, code, account number, electronic serial number, personal identification number, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument).

The term “counterfeit access device” meant any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device. The term “unauthorized access device” meant any access device that was lost, stolen, expired, revoked, canceled, or obtained with intent to defraud. The term “produce” included design, alter, authenticate, duplicate, or assemble. The term “traffic” meant transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of. The term “device-making equipment” meant any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device.

A “means of identification” was any name or number that could be used, alone or in conjunction with any other information, to identify a specific individual, including a name, credit card number, and date of birth.

Beginning at least on or about July 27, 2015, and continuing through on or about July 31, 2015, in the Eastern District of Louisiana, and elsewhere, the defendants, JULIET ESTRADA PEREZ, **LUIS RIVERA GARCIA**, JESUS ENRIQUE GONZALES TORRES, ORLANDO GUILLEN DIAZ, YOETNIS VAZQUEZ PEDROSA, and YILIAM TORRES, together with others did knowingly, intentionally, and unlawfully combine, conspire, confederate, and agree, in a manner affecting interstate commerce, to knowingly, and with intent to defraud:

- a. produce, use, and traffic in one or more counterfeit access devices, in violation of Title 18, United States Code, Section 1029(a)(1);
- b. possess fifteen or more devices which were counterfeit or unauthorized access devices, in violation of Title 18, United States Code, Section 1029(a)(3); and
- c. produce, possess, and have custody and control of device-making equipment, in violation of Title 18, United States Code, Section 1029(a)(4).

It was part of the conspiracy that co-conspirators would and did produce, possess, and jointly have custody and control over card skimming devices designed to capture credit cards swiped by unsuspecting victims and embossing and encoding equipment used to produce counterfeit access devices. It was part of the conspiracy that co-conspirators would and did alter gift and prepaid debit cards by, among other things, removing account numbers from the front of the cards, and embossing and encoding them with new numbers, including stolen credit card numbers.

It was part of the conspiracy that co-conspirators possessed fifteen or more counterfeit access devices, including both genuine and altered gift and prepaid debit cards. It was part of the conspiracy that co-conspirators would and did distribute counterfeit access devices among themselves and possess, use, and attempt to use counterfeit and unauthorized access devices to purchase goods and gift cards at retail stores.

On or about July 27, 2015, defendants JULIET ESTRADA PEREZ, **LUIS RIVERA GARCIA**, JESUS ENRIQUE GONZALES TORRES, ORLANDO GUILLEN DIAZ, YOETNIS VAZQUEZ PEDROSA, and YILIAM TORRES traveled from Florida to the New Orleans, Louisiana area in a van rented by **GARCIA**. The purpose of the trip was to install credit card skimming devices in gas station pumps, to use the credit card numbers captured thereby to create counterfeit credit cards, and to use counterfeit credit cards to obtain things of value, including gift cards.

From on or about July 28, 2015, through on or about July 31, 2015, defendants JULIET ESTRADA PEREZ, **LUIS RIVERA GARCIA**, JESUS ENRIQUE GONZALES TORRES, ORLANDO GUILLEN DIAZ, YOETNIS VAZQUEZ PEDROSA, and YILIAM TORRES rented and stayed in a hotel room in Metairie, Louisiana, where they possessed, used, and stored equipment to make counterfeit credit cards, including card skimming devices, a card encoding machine, and a card embossing machine. All six defendants shared the same room and stored their personal effects throughout the room.

Beginning on or about July 28, 2015, the defendants scouted various gas stations in the New Orleans area for potential sites to install credit card skimming devices. From on or about July 28, 2015, through on or about July 31, 2015, the defendants installed card skimming devices at Gas Station A. On at least one occasion, the defendants retrieved the card skimming devices

from Gas Station A. Defendant **GARCIA** and others used a laptop computer to read the credit card numbers from these devices and to encode stolen credit card numbers onto counterfeit credit cards. The defendants, including **GARCIA**, further altered gift or prepaid debit cards by removing printed card numbers and embossing the cards with stolen credit card numbers obtained using the card skimming devices installed at Gas Station A.

Defendants JULIET ESTRADA PEREZ, **LUIS RIVERA GARCIA**, JESUS ENRIQUE GONZALES TORRES would had did produce, possess, and jointly have custody and control over card skimming devices designed to capture credit cards swiped by unsuspecting victims and embossing and encoding equipment, including a laptop computer, used to produce counterfeit access devices. Each of these defendants would and did alter gift and prepaid debit cards by, among other things, removing account numbers from the front of the cards, and embossing and encoding them with new numbers, including stolen credit card numbers.

Each of the defendants possessed fifteen or more counterfeit access devices, including both genuine and altered gift and prepaid debit cards. Each of the defendants would and did distribute counterfeit access devices among themselves and possess, use, and attempt to use counterfeit and unauthorized access devices to purchase goods and gift cards at retail stores.

From on or about July 28, 2015, through on or about July 31, 2015, **GARCIA** and others used one or more counterfeit access devices containing victims' stolen credit card numbers to purchase goods, including gift and prepaid debits cards, at various retail stores in the Eastern District of Louisiana. On or about July 31, 2015, the defendants traveled to Slidell, Louisiana, among other places, to make such purchases using counterfeit access devices and stolen credit card numbers. On or about July 31, 2015, **ORLANDO GUILLEN DIAZ** and JESUS ENRIQUE GONZALES TORRES used counterfeit access devices at a Slidell, Louisiana retailer. Certain of

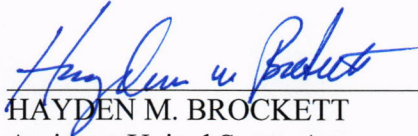
the defendants gave the gift cards they purchased with stolen credit card numbers to **GARCIA**. **GARCIA** retained a portion of the gift cards purchased with stolen credit card numbers for himself. **GARCIA** also directed other defendants on how to apportion the fraudulently obtained gift cards and how to use the counterfeit access devices he had created.

On or about July 31, 2015, defendants JULIET ESTRADA PEREZ, **LUIS RIVERA GARCIA**, JESUS ENRIQUE GONZALES TORRES, ORLANDO GUILLEN DIAZ, YOETNIS VAZQUEZ PEDROSA, and YILIAM TORRES traveled in the rented minivan to Gas Station A, where the defendants attempted to retrieve the card skimming devices previously installed in two gas pumps. Upon finding that the card skimming devices had been removed, the defendants left Gas Station A and were later lawfully stopped by law enforcement officials, who obtained search warrants for the minivan and hotel room occupied by these defendants. Gift cards, prepaid debit cards, and altered gift and debit cards were stored and plainly visible throughout the hotel room, including in or near the luggage or personal effects of each defendant. On or about July 31, 2015, defendants JULIET ESTRADA PEREZ, **LUIS RIVERA GARCIA**, and JESUS ENRIQUE GONZALES TORRES, possessed at least 98 counterfeit access devices, including both those in the minivan and those in the shared hotel room. The laptop computer and device making equipment controlled by these defendants further contained additional stolen credit card numbers.

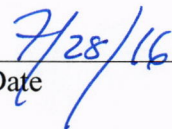
On or about July 31, 2015, in the Eastern District of Louisiana, and elsewhere, defendant **GARCIA** did knowingly transfer, possess, and use the means of identification of another person, to wit, a Credit card number ending in ****9997 and belonging to E.E., without lawful authority, during and in relation to Access Device Fraud, in violation of Title 18, United States Code, Section 1029(a)(1), knowing that the means of identification belonged to an actual person.

Evidence, including video recordings, access device-making equipment, photographs, bank records, and other documents and tangible objects would be introduced at trial to prove the facts as set forth above. In addition, the testimony of employees and agents of the Secret Service, Jefferson Parish Sheriff's Office, and Homeland Security Investigations, and other competent witnesses would be introduced at trial to prove the facts set forth above.

APPROVED AND AGREED TO:



HAYDEN M. BROCKETT
Assistant United States Attorney



Date

STAVROS PANAGOULOPOULOS
Attorney for Defendant
Bar Roll No. _____

Date

LUIS RIVERA GARCIA
Defendant

Date