

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Crim. No. 25-
	:	
JAMES MASTROGIOVANNI	:	18 U.S.C. § 371
	:	18 U.S.C. § 1341
	:	18 U.S.C. § 1957
	:	18 U.S.C. § 1029(a)(2)
	:	

INFORMATION

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

COUNT ONE
(Conspiracy to Defraud the United States)

1. At all times relevant to this Information:

a. Defendant James Mastrogiovanni (“MASTROGIOVANNI”) resided in Washington Township, New Jersey. From in or around 2021 through in or around 2023, MASTROGIOVANNI did not own or operate any businesses. In or around June 2023, MASTROGIOVANNI was employed as a car salesman at a car dealership in Mahwah, New Jersey.

b. Leon Haynes (“Haynes”), a co-conspirator not charged in this Information, resided in Bogota, New Jersey and Teaneck, New Jersey and was a tax preparer who assisted MASTROGIOVANNI in filing various tax forms with the Internal Revenue Service (“IRS”).

c. Individual A, Individual B, and Individual C were MASTROGIOVANNI's relatives.

d. Victim A, an individual who resided in New Jersey, owned and operated a single-member limited liability company ("LLC") and controlled the LLC's bank account (the "Victim A Bank Account").

e. Financial Institution A was a "financial institution" as defined in Title 18, United States Code, Section 20.

f. The IRS was an agency of the United States Department of the Treasury responsible for administering the tax laws of the United States and collecting taxes owed to the United States, including income and employment taxes.

g. Federal law required employers to collect, truthfully account for, and pay over to the United States, certain payroll taxes, including their employees' withheld federal income taxes, Social Security and Medicare taxes, and the employer's matching portion of the Social Security and Medicare taxes. A responsible person at a business was required to file quarterly an Employer's Quarterly Federal Tax Return, Form 941 ("Form 941"), reporting certain information and assessing payroll taxes for the business. On the Form 941, the responsible person was required to supply the IRS with information about the number of employees the business had and the wages paid by the business to its employees during that quarter, among other information.

COVID-Related Tax Credits

h. The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) was a federal law enacted in or around March 2020 designed to provide emergency financial assistance to Americans suffering economic effects caused by the COVID-19 pandemic. One source of relief provided by the CARES Act was an employee retention credit (“ERC”), which was designed to encourage businesses to retain employees on their payroll during the COVID-19 pandemic. The Taxpayer Certainty and Disaster Tax Relief Act of 2020 and the American Rescue Plan Act modified and extended the ERC.

i. For calendar year 2020, the ERC was a refundable tax credit against certain employment taxes equal to 50 percent of up to \$10,000 of qualified wages an eligible employer paid to each employee from March 13, 2020 through December 31, 2020. For calendar year 2021, the ERC was a refundable tax credit against certain employment taxes equal to 70 percent of up to \$10,000 of qualified wages an eligible employer paid to each employee during each quarter. Thus, the ERC was capped at \$5,000 per employee for calendar year 2020 and \$7,000 per employee per quarter for calendar year 2021.

j. Generally, businesses and tax-exempt organizations that qualified for the ERC were those that: (a) were shut down during 2020 or the first three calendar quarters of 2021 by government order due to the COVID-19 pandemic; (b) experienced a specified decline in gross receipts during the eligibility

periods during 2020 or the first three calendar quarters of 2021; or (c) qualified as a recovery startup business for the third or fourth quarters of 2021.

k. The Families First Coronavirus Response Act provided for eligible employers to receive refundable tax credits for wages paid to employees while on sick leave to recover from any injury, disability, illness, or condition resulting from COVID-19 or wages paid to employees while on family leave to care for a family member who was injured, disabled, ill, or otherwise suffering from a condition due to COVID-19. Together these credits were called the Sick and Family Leave Wage Credit (“SFLC”).

l. Under the SFLC, employers were entitled to receive a dollar-for-dollar credit for qualified wages paid to an employee, plus allocable health plan expenses and the employer’s share of Medicare taxes, while that employee was on sick leave resulting from COVID-19. This credit was limited to up to ten days of sick leave per employee for the period ending March 31, 2021. That resulted in a maximum credit of \$5,110 per employee for that period. The American Rescue Plan Act (“ARPA”) provided an identical credit for the period April 1, 2021 through September 31, 2021 with an identical maximum of \$5,110 in credits per employee.

m. Under the SFLC, employers also were entitled to receive a credit of up to two-thirds of the qualified wages paid to an employee while that employee was on family leave to care for a family member suffering from a condition resulting from COVID-19, plus allocable health plan expenses and the employer’s share of Medicare taxes. For the period ending March 31, 2021, this credit was limited to up

to \$200 per day for up to ten weeks, resulting in a maximum eligible credit of \$10,000 per employee. The ARPA provided an identical credit for the period April 1, 2021 through September 31, 2021 and extended the length of family leave to twelve weeks, thereby raising the maximum eligible credit for that period to \$12,000 per employee.

n. For purposes of the SFLC, the same wages could not be reported as both qualified sick leave wages and qualified family leave wages.

o. Similarly, an employer could not receive both the SFLC and the ERC for the same wages.

p. Together, the ERC and SFLC are referred to herein as the “COVID-Related Tax Credits.”

q. COVID-Related Tax Credits could be claimed by an employer by filing a Form 941 or an Adjusted Employer’s Quarterly Federal Tax Return or Claim for Refund, Form 941X, with the IRS for the relevant quarter.

The Conspiracy

2. From in or around March 2021 through in or around December 2022, in the District of New Jersey, and elsewhere, the Defendant,

JAMES MASTROGIOVANNI,

did unlawfully, voluntarily, intentionally, and knowingly conspire, combine, confederate, and agree together and with Haynes and other individuals to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating

the lawful Government functions of the IRS in the ascertainment, computation, assessment, and collection of the revenue: namely, employment taxes.

Goal of the Conspiracy

3. The goal of the conspiracy was for MASTROGIOVANNI, Haynes, and others to enrich themselves and others by fraudulently obtaining tax refunds by claiming COVID-Related Tax Credits to which they were not entitled.

Manner and Means of the Conspiracy

4. It was part of the conspiracy that:

a. From in or around March 2021 through in or around December 2022, MASTROGIOVANNI and Haynes prepared and filed and caused to be filed Forms 941, falsely claiming COVID-Related Tax Credits for the benefit of MASTROGIOVANNI, MASTROVIOVANNI's relatives, and others who MASTROGIOVANNI recruited to join the conspiracy.

b. MASTROGIOVANNI provided Haynes with personal identifying information about himself and his relatives so that Haynes could prepare false Forms 941 for their benefit.

c. All of the Forms 941 filed on behalf of MASTROGIOVANNI and his relatives were false and fraudulent because they listed businesses, employees, and wages that, in fact, did not exist. These fake businesses, employees, and wages were used to claim COVID-Related Tax Credits and, in so doing, fraudulently caused the U.S. Treasury to issue tax refunds.

d. All the Forms 941 filed on behalf of MASTROGIOVANNI and his relatives were also false in that they sought more tax credits than the programs allowed by (a) claiming an SFLC in excess of the amount of wages reported; (b) listing the same wages as both qualified sick leave wages and qualified family leave wages; and/or (c) claiming an SFLC and ERC for the same wages.

e. The IRS and Social Security Administration (“SSA”) sent letters requesting verification of the information reported on the false Forms 941. In response, MASTROGIOVANNI and Haynes prepared and submitted to the IRS documents reporting false information.

f. The Forms 941 filed on behalf of MASTROGIOVANNI and his relatives claimed tax refunds to which they were not entitled totaling at least approximately \$1,443,409.

g. As a result of the scheme, the U.S. Treasury disbursed at least approximately \$545,692 in tax refunds to MASTROGIOVANNI and his relatives.

h. MASTROGIOVANNI paid Haynes approximately \$80,000 in cash from the tax refund checks as a fee for preparing the false Forms 941.

i. MASTROGIOVANNI deposited tax refund checks sent by the U.S. Treasury into bank accounts that he controlled.

OVERT ACTS

5. In furtherance of the conspiracy, and to effect its object, MASTROGIOVANNI and others committed the following overt acts, among others, in the District of New Jersey, and elsewhere:

a. On or about the following dates, for the purported businesses associated with the individuals and tax periods listed below, MASTROGIOVANNI and Haynes prepared and filed, and caused to be prepared and filed, Forms 941 claiming COVID-Related Tax Credits to which the individuals were not entitled:

Overt Act	Approx. Date Form 941 was Received by IRS	Tax Period	Individual	Refund Requested
(i)	3/22/2021	2020 Q2	MASTROGIOVANNI	\$61,369
(ii)	3/22/2021	2020 Q3	MASTROGIOVANNI	\$42,535
(iii)	3/22/2021	2020 Q4	MASTROGIOVANNI	\$49,291
(iv)	3/28/2021	2020 Q4	Individual A	\$40,270
(v)	3/31/2021	2020 Q3	Individual A	\$44,785
(vi)	3/31/2021	2020 Q2	Individual A	\$47,063
(vii)	4/5/2021	2020 Q2	Individual C	\$39,932
(viii)	4/5/2021	2020 Q3	Individual C	\$32,151
(ix)	4/5/2021	2020 Q4	Individual C	\$35,777
(x)	4/10/2021	2021 Q1	MASTROGIOVANNI	\$27,869
(xi)	4/10/2021	2021 Q1	Individual C	\$30,863
(xii)	4/10/2021	2021 Q1	Individual A	\$27,585
(xiii)	5/24/2021	2020 Q2	Individual B	\$32,527
(xiv)	5/24/2021	2020 Q3	Individual B	\$27,147
(xv)	5/24/2021	2021 Q1	Individual B	\$26,138
(xvi)	5/24/2021	2020 Q4	Individual B	\$27,328
(xvii)	7/6/2021	2021 Q2	MASTROGIOVANNI	\$73,677
(xviii)	7/6/2021	2021 Q2	Individual C	\$69,977
(xix)	7/6/2021	2021 Q2	Individual A	\$99,085
(xx)	11/4/2021	2021 Q3	MASTROGIOVANNI	\$65,191
(xxi)	11/4/2021	2021 Q3	Individual A	\$59,563
(xxii)	1/19/2022	2021 Q4	MASTROGIOVANNI	\$51,777
(xxiii)	1/19/2022	2021 Q4	Individual A	\$17,964
(xxiv)	3/31/2022	2021 Q3	Individual C	\$55,342
(xxv)	3/31/2022	2021 Q4	Individual C	\$58,606
(xxvi)	3/31/2022	2022 Q1	MASTROGIOVANNI	\$58,625
(xxvii)	3/31/2022	2022 Q1	Individual C	\$59,094
(xxviii)	3/31/2022	2022 Q1	Individual A	\$60,970
(xxix)	7/1/2022	2022 Q2	MASTROGIOVANNI	\$60,970
(xxx)	7/1/2022	2022 Q2	Individual A	\$59,938

b. On or about the following dates, MASTROGIOVANNI deposited tax refund checks from the U.S. Treasury into bank accounts he controlled:

Overt Acts	Approx. Date Check Deposited	Associated Tax Period	Payee	Approx. Amount
(xxxi)	4/29/2021	2020 Q2	MASTROGIOVANNI	\$59,100.20
(xxxii)	4/29/2021	2020 Q3	MASTROGIOVANNI	\$40,892.55
(xxxiii)	4/29/2021	2020 Q4	MASTROGIOVANNI	\$47,387.55
(xxxiv)	5/28/2021	2021 Q1	MASTROGIOVANNI	\$27,210.22
(xxxv)	5/28/2021	2021 Q1	Individual A	\$26,932.51
(xxxvi)	5/28/2021	2021 Q1	Individual C	\$30,133.30
(xxxvii)	12/2/2021	2020 Q2	Individual A	\$46,736.37
(xxxviii)	12/2/2021	2020 Q3	Individual A	\$44,417.26
(xxxix)	12/2/2021	2020 Q4	Individual A	\$39,391.78
(xl)	12/2/2021	2021 Q2	MASTROGIOVANNI	\$74,338.31
(xli)	5/20/2022	2021 Q4	MASTROGIOVANNI	\$51,433.11
(xlii)	5/26/2022	2022 Q1	MASTROGIOVANNI	\$57,718.76

c. On or about August 1, 2022, MASTROGIOVANNI sent a text message to Haynes regarding how to respond to questionnaires sent to MASTROGIOVANNI and his relatives by the SSA and IRS requesting information to verify the Forms 941 Haynes prepared and filed.

d. On or about September 22, 2022, Haynes sent a text message to MASTROGIOVANNI regarding the false Forms 941 that Haynes filed with the IRS, stating “you need to give me a summary of the people and who did taxes etc.”

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

COUNT TWO
(Mail Fraud)

6. The allegations in paragraphs 1, 4, and 5 of this Information are realleged here.

7. From in or around March 2021 through in or around December 2022, in the District of New Jersey, and elsewhere, the Defendant,

JAMES MASTROGIOVANNI,

knowingly and intentionally devised and intended to devise a scheme and artifice to defraud the IRS and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, including by filing and causing to be filed false Forms 941 claiming COVID-Related Tax Credits on behalf of himself and others, and, for the purpose of executing and attempting to execute such scheme and artifice to defraud, did knowingly transmit and cause to be transmitted by means of the mails in interstate and foreign commerce, the following mailing:

Tax Period	Approx. Date U.S. Treasury Check Issued	Location Check Mailed From	Location Check Mailed To	Approx. Amount of Check Issued
2021 Q2	11/30/2021	Kansas City, Missouri	Washington Township, New Jersey	\$74,338.31

In violation of Title 18, United States Code, Section 1341.

COUNT THREE
(Money Laundering)

8. The allegations in paragraphs 1, 4, 5, 6, and 7 of this Information are realleged here.

9. On or about January 6, 2022, in the District of New Jersey and elsewhere, the Defendant,

JAMES MASTROGIOVANNI,

did knowingly engage and attempt to engage in a monetary transaction by, through, and to a financial institution, affecting interstate and foreign commerce, in criminally derived property of a value greater than \$10,000, that is, causing a \$15,000 transfer from MASTROGIOVANNI's bank account ending in x4041 to MASTROGIOVANNI's bank account ending in x8182, such property having been derived from a specified unlawful activity, that is, mail fraud, as charged in Count Two of this Information, in violation of Title 18, United States Code, Section 1341.

In violation of Title 18, United States Code, Sections 1957.

COUNT FOUR
(Access Device Fraud)

10. The allegations in paragraph 1 of this Information are realleged here.

11. From on or about June 19, 2023 through on or about December 7, 2023, in the District of New Jersey and elsewhere, the Defendant,

JAMES MASTRIOGIOVANNI,

did knowingly and with intent to defraud, use an unauthorized access device, namely, the account and routing numbers for the Victim A Bank Account, and by such conduct obtained approximately \$181,170 to conduct personal financial transactions, said conduct affecting interstate and foreign commerce.

In violation of Title 18, United States Code, Sections 1029(a)(2) and (c)(1)(a)(i).

FORFEITURE ALLEGATION AS TO COUNT TWO

Upon conviction of the mail fraud offense charged in Count Two of this Information, the Defendant, **JAMES MASTRIOGIOVANNI**, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to the commission of such offenses.

FORFEITURE ALLEGATION AS TO COUNT THREE

Upon conviction of the money laundering offense charged in Count Three of this Information, the Defendant, **JAMES MASTRIOGIOVANNI**, shall forfeit to the United States, pursuant to Title 18, United State Codes, Section 982(a)(1), any property, real or personal, involved in such offense, or any property traceable to such property.

FORFEITURE ALLEGATION AS TO COUNT FOUR

Upon conviction of the access device fraud offense charged in Count Four of this Information, the Defendant, **JAMES MASTRIOGIOVANNI**, shall forfeit to the United States, pursuant to Title 18, United State Codes, Section 982(a), any property constituting, or derived from, proceeds the defendant obtained directly or indirectly, as the result of such offense.

SUBSTITUTE ASSETS PROVISION
(Applicable to All Forfeiture Allegations)

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 person;
- 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 subdivided 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) and Title 18, United States Code, Section 982(b)(1), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.



ALINA HABBA
UNITED STATES ATTORNEY

CASE NUMBER: 25-

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

UNITED STATES OF AMERICA

v.

JAMES MASTROGIOVANNI

INFORMATION FOR

**18 U.S.C. § 371
18 U.S.C. § 1341
18 U.S.C. § 1957
18 U.S.C. § 1029(a)(2)**

**ALINA HABBA
UNITED STATES ATTORNEY
FOR THE DISTRICT OF NEW JERSEY**

**MATTHEW STARK
FATIME MEKA CANO
ASSISTANT U.S. ATTORNEYS
NEWARK, NEW JERSEY
973-645-2700**
