

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

UNITED STATES OF AMERICA :
 : Criminal No. 19-
 v. :
 : 26 U.S.C. § 7201
OMAR RODRIGUEZ :

I N F O R M A T I O N

**Counts 1-3
(Tax Evasion)**

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

1. At all times relevant to this Information:

a. Defendant OMAR RODRIGUEZ (“defendant RODRIGUEZ”) was a resident of Middlesex County, New Jersey, who owned and operated Mojito LLC, d/b/a Mojito Lounge and Restaurant (“Mojito’s”), a restaurant that served Cuban cuisine located in Elizabeth, New Jersey.

b. Under the Internal Revenue Code, defendant RODRIGUEZ operated Mojito’s as a “Schedule C” business and was accordingly required to report income from the restaurant on his personal federal income tax return, Form 1040.

c. Mojito’s, meanwhile, remained responsible for paying employment taxes on employee pay, including withholding federal income taxes, paying and reporting Social Security and Medicare taxes, workers’ compensation taxes, and unemployment taxes (collectively, “Employment Taxes”).

d. Defendant RODRIGUEZ was responsible for maintaining

Mojito's books and records and oversaw all aspects of the restaurant's business, including paying suppliers, overseeing employees, managing employee payroll, withholding Employment Taxes and paying them over to the Internal Revenue Service ("IRS"), and ensuring that all necessary tax returns on behalf of Mojito's were filed with the IRS.

e. Mojito's generated a substantial amount of gross cash receipts. Defendant RODRIGUEZ "skimmed" a substantial portion of this cash for his personal use, which he did not report as income, and to pay Mojito's employees and suppliers in cash.

2. On or about the dates indicated below, defendant RODRIGUEZ signed and caused to be filed with the IRS a Form 1040 for tax years 2015 through 2017 on behalf of himself and his wife. For each year listed, these returns declared certain taxable income, but did not report additional taxable income that defendant RODRIGUEZ received from Mojito's that year, including the cash that he skimmed from the business. In each year, with this additional unreported income from Mojito's, defendant RODRIGUEZ was responsible for the following additional tax amounts due and owing to the United States:

Tax Year	Taxable Income Originally Reported	Additional Income Not Reported	Additional Approximate Tax Due and Owing
2015	\$31,712	\$277,509	\$28,700
2016	\$124,832	\$295,632	\$46,154
2017	\$144,592	\$271,444	\$45,301

3. In total, between 2015 and 2017, defendant RODRIGUEZ received approximately \$844,585 in income from Mojito's that he failed to report to the IRS. This resulted in a total of approximately \$120,155 in additional personal income taxes due and owing to the IRS.

4. In addition, as set forth below, for each tax quarter from 2015 through 2017, defendant RODRIGUEZ, in his capacity as Mojito's owner, signed and caused to be filed with the IRS a Form 941, an employer's quarterly federal tax return (the "Restaurant Returns"). The Restaurant Returns reported, among other things, the Mojito's Employment Taxes and employee payroll.

5. As Mojito's owner, defendant RODRIGUEZ knew and understood that the Restaurant Returns were filed with the IRS on his behalf while substantially underreporting the Restaurant's payroll. As a result of this underreported payroll, Mojito's, and hence defendant RODRIGUEZ, was responsible for the following additional Employment Taxes due and owing on that payroll for tax years 2015 through 2017:

Quarterly Form 941	Signatory for Form 941 on behalf of Mojito's	Additional Unreported Cash Payroll Not Reported	Additional Approximate Employment Taxes Due and Owing
1 st quarter 2015	Omar Rodriguez	\$39,779	\$6,131
2 nd quarter 2015	Omar Rodriguez	\$39,779	\$6,131
3 rd quarter 2015	Omar Rodriguez	\$39,779	\$6,131
4 th quarter 2015	Omar Rodriguez	\$39,779	\$6,131
1 st quarter 2016	Omar Rodriguez	\$41,062	\$6,132.50
2 nd quarter 2016	Omar Rodriguez	\$41,062	\$6,132.50
3 rd quarter 2016	Omar Rodriguez	\$41,062	\$6,132.50
4 th quarter 2016	Omar Rodriguez	\$41,062	\$6,132.50
1 st quarter 2017	Omar Rodriguez	\$39,920	\$6,131
2 nd quarter 2017	Omar Rodriguez	\$39,920	\$6,131
3 rd quarter 2017	Omar Rodriguez	\$39,920	\$6,131
4 th quarter 2017	Omar Rodriguez	\$39,920	\$6,131

6. In total, between 2015 and 2017, defendant RODRIGUEZ caused Mojito's to fail to report approximately \$483,044 in cash payroll. This resulted in a total of approximately \$73,578 in additional Employment Taxes due and owing to the IRS.

7. On or about the dates set forth below in Middlesex County, in the District of New Jersey and elsewhere, defendant

OMAR RODRIGUEZ

did knowingly and willfully attempt to evade and defeat a substantial tax due and owing by him to the IRS for the tax years 2015, 2016, and 2017, as set forth below, by skimming cash for his personal use from his business and by filing false and fraudulent U.S. Individual Income Tax Returns on Form 1040s, knowing these returns to be false and fraudulent, with the IRS.

Count	Tax Year and Return	Tax Deficiency	Date of Offense
1	2015, Form 1040	\$28,700	6/14/2016
2	2016, Form 1040	\$46,154	7/11/2017
3	2017, Form 1040	\$45,301	4/17/2018

In violation of Title 26, United States Code, Section 7201.


CRAIG CARPENITO
United States Attorney

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INFORMATION FOR

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