

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Criminal No. 20-
 :
 v. : 18 U.S.C. § 1349
 : 18 U.S.C. § 1029(a)(3)
 EMMANUEL A. BARRIENTOS- : 18 U.S.C. § 1028A
 FERMIN : 18 U.S.C. § 2

INDICTMENT

The Grand Jury in and for the District of New Jersey, sitting at Newark,
charges:

COUNT ONE
(Conspiracy to Commit Wire Fraud)

Background

1. At all times relevant to this Indictment:
 - a. Defendant Emmanuel A. Barrientos-Fermin (BARRIENTOS) resided in or near Tenafly, New Jersey.
 - b. “CC-1,” a co-conspirator who is not named as a defendant herein, recruited defendant BARRIENTOS into the conspiracy.
 - c. “Victim-1” was a resident of El Paso, Texas.
 - d. “Victim-2” was a resident of Bayamon, Puerto Rico.
 - e. “Victim-3” was a resident of San German, Puerto Rico.
 - f. “Tax Preparation Company” was a company that operated tax preparation offices throughout the United States, including in New Jersey.
 - g. The Internal Revenue Service (“IRS”) was an agency of the United States Department of the Treasury, responsible for administering and

enforcing the tax laws of the United States, and collecting the taxes that were due and owing to the Treasury of the United States by its citizens and businesses.

The Conspiracy

2. From in or around January 2020 through in or around February 2020, in the District of New Jersey, and elsewhere, the defendant,

EMMANUEL A. BARRIENTOS-FERMIN,

did knowingly and intentionally conspire and agree with others to devise a scheme and artifice to defraud, and to obtain money and property, that is, tax refunds, by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing such scheme and artifice to defraud, to transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce certain writings, signs, signals, and sounds, contrary to Title 18, United States Code, Section 1343.

Goal of the Conspiracy

3. It was the goal of the conspiracy for defendant BARRIENTOS and others to enrich themselves by using stolen personal identifying information (“PII”) of third parties, including Victim-1, Victim-2, and Victim-3 (collectively, the “Victims”), to submit fraudulent tax returns in the Victims’ names to obtain tax refunds to which they were not entitled.

Manner and Means of the Conspiracy

4. The manner and means by which BARRIENTOS and others sought to accomplish the goal of the conspiracy included, among other things, the following:

a. BARRIENTOS presented fraudulent documents including, but not limited to, New Jersey driver's licenses, social security cards, Puerto Rican birth certificates, and IRS Forms W-2 bearing the Victims' names, which BARRIENTOS had received from CC-1, to the Tax Preparation Company, and caused the Tax Preparation Company to prepare and file fraudulent tax returns in the Victims' names.

b. BARRIENTOS caused the Tax Preparation Company to submit the tax returns from New Jersey via wire communications in interstate and foreign commerce to the Tax Preparation Company's Data Center, located in Columbus, Ohio, in anticipation of them being sent to the IRS.

c. BARRIENTOS received debit cards from the Tax Preparation Company for any refund the Tax Preparation Company anticipated being issued by the IRS for the fraudulent tax returns filed on behalf of, and unbeknownst to, the Victims.

d. BARRIENTOS provided the debit cards received from the Tax Preparation Company to CC-1 who, in turn, provided BARRIENTOS with a percentage of the illicit profits from the scheme.

In violation of Title 18, United States Code, Section 1349.

COUNT TWO
(Access Device Fraud)

1. The allegations contained in paragraphs 1, 3 and 4 of Count One of this Indictment are hereby repeated, realleged, and incorporated as if fully set forth herein.

2. On or about January 23, 2020, in the District of New Jersey, and elsewhere, the defendant,

EMMANUEL A. BARRIENTOS-FERMIN,

knowingly and with intent to defraud, possessed fifteen or more devices which are counterfeit or unauthorized access devices, as defined in Title 18, United States Code, Sections 1029(e)(1)-(3), namely social security numbers and falsified driver's licenses, in and affecting interstate commerce.

In violation of Title 18, United States Code, Section 1029(a)(3) and Section 2.

COUNT THREE
(Aggravated Identity Theft)

1. The allegations contained in paragraphs 1, 3 and 4 of Count One of this Indictment are hereby repeated, realleged, and incorporated as if fully set forth herein.

2. From in or around January 2020 through in or around February 2020, in the District of New Jersey, and elsewhere, the defendant,

EMMANUEL A. BARRIENTOS-FERMIN,

did knowingly transfer, possess, and use, without lawful authority, a means of identification of another person, namely the name, date of birth, and social security numbers of Victim-1, Victim-2, and Victim-3, during and in relation to a felony violation, that is, conspiracy to commit wire fraud, contrary to 18 U.S.C. § 1349, knowing that the means of identification belonged to another actual person.

In violation of Title 18, United States Code, Section 1028A(a)(1) and Section 2.

FORFEITURE ALLEGATION AS TO COUNT ONE

1. As a result of committing the wire fraud offense charged in Count One of this Indictment, defendant Emmanuel A. Barrientos-Fermin (“BARRIENTOS”) 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, constituting or derived from proceeds traceable to the offense contrary to Title 18, United States Code, Section 1343, in violation of Title 18, United States Code, Section 1349 alleged in Count One of this Indictment.

FORFEITURE ALLEGATION AS TO COUNT TWO

2. As a result of committing the access device fraud offense in violation of 18 U.S.C. § 1029 alleged in Count Two of this Indictment, the defendant BARRIENTOS shall forfeit to the United States, pursuant to 18 U.S.C. § 982(a)(2)(B), any property constituting, or derived from, proceeds obtained directly or indirectly, as a result of such offense, and pursuant to 18 U.S.C. § 1029(c)(1)(C), any personal property that was used or intended to be used to commit or to facilitate the commission of the offense charged in Count Two of the Indictment.

SUBSTITUTE ASSETS PROVISION
(Applicable to All Forfeiture Allegations)

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;

the United States shall be entitled, pursuant to 21 U.S.C. § 853(p) (as incorporated by 28 U.S.C. § 2461(c)), to forfeiture of any other property of the defendant up to the value of the above-described forfeitable property.

A TRUE BILL

FOREPERSON



CRAIG CARPENITO
United States Attorney

CASE NUMBER: _____

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

UNITED STATES OF AMERICA

v.

EMMANUEL A. BARRIENTOS-FERMIN

INDICTMENT FOR

18 U.S.C. § 1349
18 U.S.C. § 1029(a)(3)
18 U.S.C. § 1028A(a)(1)
18 U.S.C. § 2

A True Bill,

Foreperson

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