

ATTACHMENT A

COUNT 1
(Theft from Agency Receiving Federal Funds)

Between in or about August 2016 and in or about July 2020, in the District of New Jersey and elsewhere, defendant

JOSE RODRIGUEZ

being an agent of the National Railroad Passenger Corporation ("Amtrak"), which received in excess of \$10,000 in federal benefits within the relevant one-year periods, embezzled, stole, obtained by fraud and otherwise without authority converted to the use of any person other than the rightful owner and intentionally misapplied property valued at \$5,000 and more that was owned by, and was under the care, custody, and control of Amtrak.

In violation of Title 18, United States Code, Section 666(a)(1)(A) and Section 2.

COUNT 2
(Theft of Government Property)

Between in or about August 2016 and in or about July 2020, in the District of New Jersey and elsewhere, defendant

JOSE RODRIGUEZ

did knowingly and intentionally embezzle, steal, purloin, and convert to his use and the use of others, and without authority sold, conveyed, and disposed of property of the United States and any department and agency thereof, and property made and being made under contract for the United States and any department and agency thereof, the value of which exceeded \$1,000, specifically, chainsaws belonging to Amtrak.

In violation of Title 18, United States Code, Section 641 and Section 2.

ATTACHMENT B

I, John Hess, a Special Agent with Amtrak OIG, have been personally involved in the investigation of this matter. The information contained in the complaint is based upon my personal knowledge, as well as information obtained from other sources, including: (a) statements made or reported by various witnesses with knowledge of relevant facts; (b) my review of publicly available information; and (c) my review of business and telephone records and other evidence. Because this complaint is being submitted for the limited purpose of establishing probable cause, it does not include every fact that I have learned during the investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

BACKGROUND

1. Defendant JOSE RODRIGUEZ (“defendant RODRIGUEZ”) has been an Amtrak employee since in or about October 2007. He was a Senior Engineer based out of a facility in North Brunswick, New Jersey until on or about March 2, 2021. He is currently a Maintenance of Way Repairman, still based out of the facility in North Brunswick.

2. Amtrak is a private, for-profit corporation, which was created by the United States Congress in 1970, by the passage of the Rail Passenger Service Act. Notwithstanding its structure as a private corporation, the United States Supreme Court has recognized that Amtrak was “created by the [federal] Government, is controlled by the Government, and operates for the Government's benefit.” *Dept. of Trans. v. Assoc. of Am. Railroads*, 575 U.S. 43, 53 (2015).

3. Amtrak’s ownership and corporate structure are heavily controlled by the federal government:

- a. All of Amtrak's preferred stock and most of its common stock are owned by the federal government, specifically, the United States Department of Transportation.
- b. Amtrak’s nine-member Board of Directors is composed of: 1) the Secretary of the United States Department of Transportation; 2) seven other board members appointed by the President of the United States and confirmed by the United States Senate; and 3) a Board President selected by the other eight members of the Board.
- c. Amtrak’s Board members are subject to salary limits set by Congress, and the appointed Board members are removable by the President of the United States without cause.

4. The branches of the federal government exercise substantial supervision over Amtrak's operations:
- a. Amtrak is required to submit annual reports to Congress and the President of the United States detailing such information as route-specific ridership and on-time performance.
 - b. Congress conducts frequent oversight hearings to delve into details of Amtrak's budget, routes and prices.
 - c. The Freedom of Information Act applies to Amtrak.
 - d. Amtrak is a "designated federal entity" under the Inspector General Act of 1978, and must maintain an inspector general.
 - e. Amtrak is statutorily required to, in addition to advancing its economic interests, pursue numerous public objectives, such as providing reduced fares to the disabled and elderly, ensuring mobility in times of national disaster, and maintaining certain specific routes.

5. For each one-year period from in or about August 2016 to in or about July 2020, Amtrak received well in excess of \$10,000 in benefits in each period under federal programs involving grants, contracts, subsidies, loans, guarantees, insurance, and other forms of federal assistance.

6. Between in or about August 2016 and in or about July 2020, while in New Jersey, defendant RODRIGUEZ obtained from Amtrak approximately 77 chainsaws, approximately 103 chainsaw replacement bars, and approximately 163 replacement chains. The total value of this Amtrak property was approximately \$53,535.

Date Range	Approximate Value of Amtrak Property Obtained by defendant RODRIGUEZ
August 2016 to July 2017	\$14,825
August 2017 to July 2018	\$9,565
August 2018 to July 2019	\$17,379
August 2019 to July 2020	\$11,766
Total	\$53,535

The investigation revealed evidence that defendant RODRIGUEZ stole Amtrak's chainsaws and chainsaw parts and sold them to purchasers throughout the United States.

7. Defendant RODRIGUEZ sold the majority of the Amtrak chainsaws and parts that he obtained using an online auction service. Transaction records from defendant RODRIGUEZ's online auction account show that he sold approximately 54 chainsaws, some including bars and chains, through the online auction service between in or about August 2016 and in or about June 2020. Several of these were listed as "new" items, and many were identified as a particular brand (the "Manufacturer"). According to the transaction records, defendant RODRIGUEZ sold the chainsaws through the online auction service for between approximately \$475 and approximately \$644 each and sent them to purchasers in multiple states including Pennsylvania, Michigan, West Virginia, Ohio, Illinois, California, and South Carolina.

Defendant RODRIGUEZ Sells Amtrak Chainsaws and Parts to Purchaser 1

8. One of the purchasers identified in defendant RODRIGUEZ's online auction account was a resident of Pennsylvania ("Purchaser 1"). Defendant RODRIGUEZ sent the chainsaws to Purchaser 1 in Pennsylvania via the United States Postal Service ("USPS"). Purchaser 1 provided law enforcement agents with approximately 11 boxes that defendant RODRIGUEZ used to ship chainsaws to Purchaser 1. The return addressee on each box was defendant RODRIGUEZ. The return addresses were defendant RODRIGUEZ's addresses in Brick, New Jersey and Somerset, New Jersey.

9. Defendant RODRIGUEZ sold approximately 13 chainsaws to Purchaser 1 between February 2019 and February 2020 and collected a total of approximately \$7,186.22 in exchange. According to Amtrak's records, defendant RODRIGUEZ obtained chainsaws from Amtrak prior to each transaction, as follows.

Date defendant RODRIGUEZ obtained Amtrak Chainsaws	Date defendant RODRIGUEZ sold Chainsaws to Purchaser 1	Payment from Purchaser 1 to defendant RODRIGUEZ	Purchased item, as described in payment records
3 Chainsaws, 12/27/2018	2/13/2019	\$564.30	[Manufacturer] chainsaw
	2/13/2019	\$564.30	[Manufacturer] chainsaw 362
2 Chainsaws, 1/15/2019			
4 Chainsaws, 2/7/2019	2/22/2019	\$564.30	[Manufacturer] chainsaw
	3/18/2019	\$524.30	[Manufacturer] chainsaw 362
	4/4/2019	\$564.30	[Manufacturer] chainsaw ms 362

Date defendant RODRIGUEZ obtained Amtrak Chainsaws	Date defendant RODRIGUEZ sold Chainsaws to Purchaser 1	Payment from Purchaser 1 to defendant RODRIGUEZ	Purchased item, as described in payment records
	4/4/2019	\$564.30	[Manufacturer] chainsaw MS 362
4 Chainsaws, 5/28/2019	6/5/2019	\$564.30	[Manufacturer] chainsaw ms 362
	6/25/2019	\$524.30	[Manufacturer] chainsaw ms 362
	6/26/2019	\$524.30	[Manufacturer] chainsaw ms 362
2 Chainsaws, 7/16/2019	8/30/2019	\$579.30	[Manufacturer] chainsaw ms 362
2 Chainsaws, 10/9/2019	10/29/2019	\$524.30	[Manufacturer] chainsaw ms 362
4 Chainsaws, 2/4/2020 2 Chainsaw Bars, 1/13/2020	2/5/2020	\$561.96	New [Manufacturer] MS362 Chainsaw 16" Bar And Chain
	2/11/2020	\$561.96	New [Manufacturer] MS362 Chainsaw 16" Bar And Chain
4 Chainsaw Chains, 1/13/2020			

10. The serial numbers listed on three of the boxes for chainsaws that defendant RODRIGUEZ sold to Purchaser 1 matched serial numbers of Amtrak chainsaws that were contained in Amtrak vendor records. Specifically, Amtrak purchased a Manufacturer's model MS362 chainsaw with a serial number ending in -385 on or about May 6, 2019. Amtrak also purchased a Manufacturer's model MS362 chainsaw with a serial number ending in -699 on or about May 9, 2019. On or about January 15, 2020, Amtrak purchased a Manufacturer's model MS362 chainsaw with a serial number ending in -600. Defendant RODRIGUEZ sold all three of these Amtrak chainsaws to Purchaser 1.

Defendant RODRIGUEZ Sells Amtrak Chainsaws and Parts to Purchaser 2

11. Defendant RODRIGUEZ also sold Amtrak chainsaws and chainsaw parts directly, without using the online auction service. Defendant RODRIGUEZ accepted payment for these chainsaws using an online payment account registered to him.

12. Defendant RODRIGUEZ's online payment account records show that between in or about February 2019 and in or about March 2020, defendant RODRIGUEZ sold approximately 6 chainsaws, some of which included additional parts, to a purchaser in West Virginia ("Purchaser 2"). Defendant RODRIGUEZ collected approximately \$2,888 in payments from Purchaser 2. USPS records confirm that defendant RODRIGUEZ sent parcels from New Jersey to Purchaser 2's address in West Virginia on the following dates, all of which match chainsaw sales from defendant RODRIGUEZ to Purchaser 2: February 9, 2019, March 15, 2019, April 8, 2019, and February 12, 2020.

13. Purchaser 2 confirmed to law enforcement agents that defendant RODRIGUEZ sold him multiple chainsaws. Purchaser 2 explained that Purchaser 2 bought the first couple of chainsaws from defendant RODRIGUEZ through the online auction service, but that defendant RODRIGUEZ eventually began to sell Purchaser 2 chainsaws directly to avoid the auction service's fees. Defendant RODRIGUEZ communicated with Purchaser 2 from a cell phone number subscribed to by defendant RODRIGUEZ.

14. One of the chainsaws that defendant RODRIGUEZ sold to Purchaser 2 was later found to have been reported stolen by Amtrak. Purchaser 2 informed law enforcement that Purchaser 2 resold the chainsaws that defendant RODRIGUEZ sold him to other individuals. One such individual in turn sold to a new owner a chainsaw that defendant RODRIGUEZ had sold to Purchaser 2. When the new owner took the chainsaw to be serviced at the Manufacturer's local dealer, that chainsaw was identified as one that Amtrak had reported stolen. The serial number for that chainsaw, ending in -586, matched the serial number of a chainsaw that Amtrak purchased on or about January 15, 2020.

Defendant RODRIGUEZ Sells Amtrak Chainsaws and Parts to Purchaser 3

15. Defendant RODRIGUEZ's online payment account records show that between in or about September 2017 and in or about October 2019, defendant RODRIGUEZ sold approximately 27 chainsaws, plus bars and chains, to a purchaser in Ohio ("Purchaser 3") directly and through the online auction service. In exchange, defendant RODRIGUEZ collected approximately \$16,126 from Purchaser 3.

16. Emails obtained from defendant RODRIGUEZ's email account pursuant to a search warrant showed communications between defendant RODRIGUEZ and Purchaser 3 regarding the chainsaw sales. The dates of the transactions described in emails from defendant RODRIGUEZ to Purchaser 3 coincide with dates that defendant RODRIGUEZ obtained chainsaws from Amtrak, as described below.

- a. On or about Sunday, December 3, 2017, defendant RODRIGUEZ emailed Purchaser 3, "Good morning[.] I have 2 more I have two pick up on Monday I have to sale them for 450." Amtrak records

show that defendant RODRIGUEZ did in fact obtain 2 Amtrak chainsaws on Monday, December 4, 2017. According to defendant RODRIGUEZ's online payment transaction records, he sold one chainsaw to Purchaser 3 on or about December 4, 2017 and another on or about December 10, 2017, for \$480 each.

- b. Amtrak records show that, on or about January 9, 2018, defendant RODRIGUEZ obtained 2 Amtrak chainsaws, 2 bars, and 4 chains. Also on or about January 9, 2018, defendant RODRIGUEZ emailed Purchaser 3, "Good evening and happy New Years[.] Got one saw in if interested Also 2-20in bars 2 chains 3-18in bars 3-18 Chains[.]" The online payment records show that defendant RODRIGUEZ then sold a "new" chainsaw, 2 bars, and 2 chains to Purchaser 3 for \$480 on or about January 10, 2018.
- c. On or about March 13, 2018, defendant RODRIGUEZ emailed Purchaser 3, "I have two [Manufacturer] chainsaws that I'm picking up today if you're interested please let me know and I'll get them ready for you." According to Amtrak records, defendant RODRIGUEZ did in fact pick up 2 Amtrak chainsaws on or about March 13, 2018.
- d. On or about November 29, 2018, defendant RODRIGUEZ obtained 2 chainsaws from Amtrak according to Amtrak records. Also on or about November 29, 2018, defendant RODRIGUEZ emailed Purchaser 3 a photo of a USPS receipt with a tracking number. USPS records show that defendant RODRIGUEZ sent a package from New Jersey to Purchaser 3 in Ohio on or about November 29, 2018. On or about November 27, 2018, Purchaser 3 paid defendant RODRIGUEZ approximately \$495 for a "new" chainsaw, 2 bars, and 2 chains.