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Dec 19, 2013
STEVEN W. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
13-20929-CR-ALTONAGA/SIMONTON
CASE NO.

18 U.S.C. § 1951(a)
18 U.S.C. § 201 (b)(2)(C)
18 U.S.C. § 1001(a)(3)
18 U.S.C. § 981(a)(1)(C)

UNITED STATES OF AMERICA

vs.

JUAN FELIPE MARTINEZ,

Defendant.

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

Department of Homeland Security

1. The United States Department of Homeland Security (DHS) is a federal agency under the Executive Branch of the United States Government and is charged with administering and enforcing various federal laws.

2. United States Immigration and Customs Enforcement (ICE) is an investigative agency within DHS and is responsible for investigating a wide range of domestic and international activities arising from the illegal movement of people and goods into, within, and out of the United States.

3. Homeland Security Investigations (HSI) is a sub-agency within ICE and its agents, known as Special Agents, are responsible for investigating various federal crimes, including, but not limited to, immigration, narcotics, and financial crimes.

Office of Foreign Assets Control

4. The Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury administers and enforces economic and trade sanctions consistent with United States foreign policy and national security interests. These sanctions are imposed against targeted foreign countries, terrorists, international narcotics traffickers, weapons proliferators, and other national security, foreign policy, or economic threats. OFAC imposes controls on transactions and freezes assets under United States jurisdiction. OFAC also maintains a list of all individuals and companies subject to these controls and United States persons are generally prohibited from dealing with them. This list is known as the Specially Designated Nationals List (SDN List).

The Defendant

5. Defendant **JUAN FELIPE MARTINEZ (MARTINEZ)** was first employed as a Special Agent by the United States Customs Service in 2001. In 2003, the United States Customs Service was absorbed within DHS, at the time a new federal department, and became known as ICE. **MARTINEZ** remains a Special Agent with ICE.

6. **MARTINEZ**, as a Special Agent for ICE, has the authority to investigate violations of federal law, including, but not limited to, immigration, narcotics, and financial crimes. In this professional capacity, **MARTINEZ** has also had unique access to, and relationships with, other federal officials and their offices, including OFAC.

Colombian Company 1

7. Colombian Company 1 is a commercial and residential construction company located in Pereira, Colombia.

8. L. F. O.-A., A. J-S., M. L. O-A., A. U-M., and J. M-G. (hereinafter collectively referred to as "Company Individuals") are either owners, officers, employees, or associated with Colombian Company 1.

COUNT 1
Conspiracy to Commit Extortion
(18 U.S.C. § 1951(a))

1. Paragraphs 1 through 8 of the General Allegations section of this Indictment are re-alleged and incorporated as though fully set forth herein.

2. Beginning at least as early as in or around July 2010, the exact date being unknown, and continuing through on or about March 29, 2011, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

did knowingly and willfully combine, conspire, confederate, and agree with others known and unknown to the Grand Jury to obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, by means of extortion, as the terms "commerce" and "extortion" are defined in Title 18, United States Code, Sections 1951(b)(2) and (b)(3), in that the defendant and his co-conspirators did conspire to obtain money and property of Colombian Company 1 and Company Individuals, with the consent of Colombian Company 1 and Company Individuals, induced by wrongful use of fear of economic harm and under color of official right.

OBJECT OF THE CONSPIRACY

3. The object of the conspiracy was for MARTINEZ and his co-conspirators to

unlawfully enrich themselves by using MARTINEZ's official position to obtain large payments from Colombian Company 1 and the Company Individuals by falsely stating that Colombian Company 1 and the Company Individuals were going to be put on the SDN list by OFAC and then offering to keep Colombian Company 1 and the Company Individuals off the SDN list.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the conspiracy was accomplished included, among other things, the following:

4. MARTINEZ would and did use his official position to benefit himself and his co-conspirators, in that members of the conspiracy notified Colombian Company 1 and Company Individuals that an official investigation was being conducted in the United States by HSI that would result in Colombian Company 1 and Company Individuals, being placed on the OFAC SDN List, thus, causing financial harm to the company.

5. MARTINEZ and members of the conspiracy would and did offer to use MARTINEZ's official position to block or prevent Colombian Company 1 and Company Individuals from being placed on the OFAC SDN List, if the company, through its owners, officers, employees, and others associated with the company, provided a large payment of money to members of the conspiracy.

6. MARTINEZ and members of the conspiracy would and did travel between Colombia and Miami-Dade County, Florida, to carry out the conspiracy and would use the telephone and e-mails in interstate and foreign commerce, to coordinate with co-conspirators.

7. MARTINEZ and members of the conspiracy would and did direct the Company Individuals to make wire transfer of funds in interstate and foreign commerce to accounts in the United States in order to comply with the extortionate demands.

8. After payment by Colombian Company 1 and Company Individuals of the money demanded, **MARTINEZ** and members of the conspiracy would and did deliver to Colombian Company 1 and Company Individuals, documents indicating that they were no longer the targets of an investigation being conducted in the United States by HSI.

All in violation of Title 18, United States Code, Section 1951(a).

COUNT 2
Extortion
(18 U.S.C. § 1951(a))

Beginning in or around July 2010, and continuing until on or about March 29, 2011, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

did knowingly and unlawfully obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, by means of extortion, as the terms "commerce" and "extortion" are defined in Title 18, United States Code, Sections 1951(b)(2) and (b)(3), in that the defendant and his accomplices did obtain money payments, from Colombian Company 1 and Company Individuals, with their consent, induced by wrongful use of fear of economic harm and under color of official right, in violation of Title 18, United States Code, Sections 1951(a) and 2.

COUNT 3
Bribery
(18 U.S.C. § 201(b)(2)(C))

On or about March 2, 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

being a public official, that is, a Special Agent in the Department of Homeland Security, did knowingly and corruptly, directly and indirectly, demand, seek, receive, accept, and agree to

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accept anything of value, that is, approximately \$10,000 in United States currency, in return for being induced to do and omit to do an act in violation of his official duty as a Special Agent, that is, to fraudulently obtain United States Significant Public Benefit Paroles on behalf of three persons, in violation of Title 18, United States Code, Section 201(b)(2)(C).

COUNT 4
Bribery
(18 U.S.C. § 201(b)(2)(C))

On or about March 25, 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

being a public official, that is, a Special Agent in the Department of Homeland Security, did knowingly and corruptly, directly and indirectly, demand, seek, receive, accept, and agree to accept anything of value, that is, approximately \$6,000 in United States currency, in return for being induced to do and omit to do an act in violation of his official duty as a Special Agent, that is, to fraudulently obtain a United States Significant Public Benefit Parole on behalf of a person, in violation of Title 18, United States Code, Section 201(b)(2)(C).

COUNT 5
False Writing
(18 U.S.C. § 1001(a)(3))

On or about March 2, 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

in a matter within the jurisdiction of the executive branch of the Government of the United States, that is, the United States Department of Homeland Security, did knowingly and willfully make and use a false writing and document, knowing the writing and document to contain

materially false, fictitious, and fraudulent statements and entries, in that the defendant wrote and used a DHS Significant Public Benefit Parole Authorization Form stating, with regard to the parolees, that the "individuals are witnesses/cooperators in support of an ongoing narcotic investigation"; when, in truth and in fact, and as the defendant then and there well knew, these individuals were not witnesses/cooperators in support of an ongoing narcotic investigation, in violation of Title 18, United States Code, Section 1001(a)(3).

COUNT 6
False Writing
(18 U.S.C. § 1001(a)(3))

On or about March 25, 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

in a matter within the jurisdiction of the executive branch of the Government of the United States, that is, the United States Department of Homeland Security, did knowingly and willfully make and use a false writing and document, knowing the writing and document to contain materially false, fictitious, and fraudulent statements and entries, in that the defendant wrote and used a DHS Significant Public Benefit Parole Authorization Form stating that the parolee "is the dependent of a witness against" indicted individuals who were high-ranking members of a drug trafficking organization; when, in truth and in fact, and as the defendant then and there well knew, the parolee was not the dependent of a witness against indicted individuals who were high-ranking members of a drug trafficking organization, in violation of Title 18, United States Code, Section 1001(a)(3).

COUNT 7
Extortion
(18 U.S.C. § 1951(a))

Beginning in or around late 2009, and continuing until in or around March 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

did knowingly and unlawfully obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, by means of extortion, as the terms "commerce" and "extortion" are defined in Title 18, United States Code, Sections 1951(b)(2) and (b)(3), in that the defendant did obtain money and other property not due to the defendant, that is, a diamond ring, from another, C. A. G., with his consent, under color of official right, in violation of Title 18, United States Code, Section 1951(a).

COUNT 8
Extortion
(18 U.S.C. § 1951(a))

In or around April 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

did knowingly and unlawfully obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, by means of extortion, as the terms "commerce" and "extortion" are defined in Title 18, United States Code, Sections 1951(b)(2) and (b)(3), in that the defendant did obtain money and other property not due to the defendant, that is, bottles of liquor, from another, C. A. G., with his consent, under color of official right, in violation of Title 18, United States Code, Section 1951(a).

COUNT 9
Extortion
(18 U.S.C. § 1951(a))

Beginning on or about April 30, 2010, and continuing until on or about May 3, 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

did knowingly and unlawfully obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, by means of extortion, as the terms "commerce" and "extortion" are defined in Title 18, United States Code, Sections 1951(b)(2) and (b)(3), in that the defendant did obtain money and other property not due to the defendant, that is, airline tickets, from another, C. A. G., with his consent, under color of official right, in violation of Title 18, United States Code, Section 1951(a).

COUNT 10
Extortion
(18 U.S.C. § 1951(a))

Beginning in or around July 2010, and continuing until in or around December 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

did knowingly and unlawfully obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, by means of extortion, as the terms "commerce" and "extortion" are defined in Title 18, United States Code, Sections 1951(b)(2) and (b)(3), in that the defendant did obtain money and other property not due to the defendant, that is, a wristwatch, from another, C. A. G., with his consent, under color of official right, in violation of Title 18, United States Code, Section 1951(a).

COUNT 11
Extortion
(18 U.S.C. § 1951(a))

In or around October 2010, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

did knowingly and unlawfully obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, by means of extortion, as the terms "commerce" and "extortion" are defined in Title 18, United States Code, Sections 1951(b)(2) and (b)(3), in that the defendant did obtain money and other property not due to the defendant, that is, a rifle and scope, from another, C. A. G., with his consent, under color of official right, in violation of Title 18, United States Code, Section 1951(a).

COUNT 12
Extortion
(18 U.S.C. § 1951(a))

Beginning in or around February 2009, and continuing until on or about March 29, 2011, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendant,

JUAN FELIPE MARTINEZ,

did knowingly and unlawfully obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, by means of extortion, as the terms "commerce" and "extortion" are defined in Title 18, United States Code, Sections 1951(b)(2) and (b)(3), in that the defendant did obtain money and other property not due to the defendant, that is, various cash payments, totaling approximately \$150,000 dollars, from another C. A. G., with his consent, under color of official right, in violation of Title 18, United States Code, Section 1951(a).

CRIMINAL FORFEITURE ALLEGATION

a. Paragraphs 1 through 8 of the General Allegations section and the allegations of Counts 1 through 12 of this Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant has an interest, pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C), and the procedures of Title 21, United States Code, Section 853.

b. Upon conviction of any offense alleged in Counts 1-4, and 7-12 of this Indictment, the defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), all property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of such offenses.

c. If the property described above, as being subject to forfeiture, as a result of any act or omission of the defendant,

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred, sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) 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), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), as made applicable by

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Title 28, United States Code, Section 2461(c), and the procedures set forth at Title 21, United States Code, Section 853.

A TRUE BILL,

FOREPERSON

 *Chief, Criminal Div.*
WIFREDO A. FERRER
UNITED STATES ATTORNEY


KAREN E. GILBERT
ASSISTANT UNITED STATES ATTORNEY

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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UNITED STATES OF AMERICA

CASE NO. _____

vs.

JUAN FELIPE MARTINEZ,

CERTIFICATE OF TRIAL ATTORNEY*

Defendant.

Superseding Case Information:

Court Division: (Select One)

☒ Miami ☐ Key West
☐ FTL ☐ WPB ☐ FTP

 New Defendant(s) _____
 Number of New Defendants _____
 Total number of counts _____

Yes _____ No _____

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the indictment/information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) No
List language and/or dialect _____
- This case will take 10 days for the parties to try.
- Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

- 0 to 5 days
- 6 to 10 days ☒
- 11 to 20 days _____
- 21 to 60 days _____
- 61 days and over _____

 Petty _____
 Minor _____
 Misdem. _____
 Felony ☒

- Has this case been previously filed in this District Court? (Yes or No) No

If yes: _____

Judge: _____

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes: _____

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

Rule 20 from the _____

District of _____

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes X No

- Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? Yes X No


 KAREN E. GILBERT
 ASSISTANT UNITED STATES ATTORNEY
 Florida Bar No. 771007

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: JUAN FELIPE MARTINEZ

Case No: _____

Count: 1

Conspiracy to Commit Extortion

Title 18, United States Code, Section 1951(a)

*Max. Penalty: 20 Years' Imprisonment

Count: 2

Extortion

Title 18, United States Code, Section 1951(a)

*Max. Penalty: 20 Years' Imprisonment

Counts: 3-4

Bribery

Title 18, United States Code, Section 201 (b)(2)(C)

*Max. Penalty: 15 Years' Imprisonment

Counts: 5-6

False Writing

Title 18, United States Code, Section 1001(a)(3)

*Max. Penalty: 20 Years' Imprisonment

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: JUAN FELIPE MARTINEZ

Case No: _____

Counts: 7-12

Extortion

Title 18, United States Code, Section 1951(a)

*Max. Penalty: 20 Years' Imprisonment

*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.