

08-20052

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

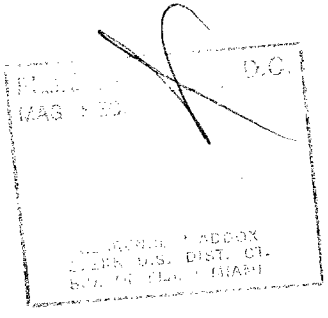
18 U.S.C. § 371
31 U.S.C. § 5313(a)
31 U.S.C. §§ 5324(a)(2) and (d)(2)
31 C.F.R. §§ 103.22 and 103.28
18 U.S.C. § 2

UNITED STATES OF AMERICA

v.

EDUARDO ANTONIO OLIVAR,
WILLIAM JOSE HERNANDEZ,
and
TOMAS GARCIA,

Defendants.



INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

Background

1. The Internal Revenue Service ("IRS") is an agency of the United States Department of Treasury ("Treasury Department").
2. Under federal law, specifically, the Bank Secrecy Act, codified at Title 31, United States Code, Sections 5313-5326, and its related federal regulations, financial institutions are required to file with the Treasury Department a "currency transaction report" ("CTR"), FINCEN

Form 104, for each financial transaction that involves United States currency in excess of \$10,000. Covered financial transactions include deposits, withdrawals, check cashing, or other transactions involving the physical transfer of currency from one person to another.

3. Before concluding any financial transaction with respect to which a CTR is required, a financial institution is required to verify and accurately record the name and address of the individual presenting a financial transaction, as well as accurately record the identity, social security or taxpayer identification number of any person or entity on whose behalf such financial transaction is to be effected.

4. Cash Flow Financing, Inc., ("Cash Flow"), incorporated in the State of Florida on or about May 22, 2000, has as its principal place of business 5394 W. 16th Avenue, Hialeah, Florida, 33012. Cash Flow, a check cashing store, is licensed and registered in the State of Florida as a money service business. As a money service business, Cash Flow is a "financial institution" as that term is defined in Title 31, United States Code, Section 5312(a)(2)(k) and under Title 31, Code of Federal Regulations, Sections 103.11 (n)(3) and (uu)(2), subject to the CTR filing requirements of the Bank Secrecy Act and attendant regulations.

Maytemar Corporation, d/b/a "La Bamba Check Cashing" ("La Bamba"), incorporated in the State of Florida on or about May 1993, has a principal place of business located at 7378 S.W. 42nd Street, Miami, Florida, with storefront locations in the South Florida area. La Bamba, a check cashing store, is licensed and registered in the State of Florida as a money service business. As a money service business, La Bamba is a "financial institution" as that term is defined in Title 31, United States Code, Section 5312(a)(2)(k) and under Title 31, Code of Federal Regulations, Sections 103.11(n)(3) and (uu)(2), subject to the CTR filing requirements of the Bank Secrecy Act and attendant regulations.

6. On or about April 6, 2007, the operator and de facto owner of Cash Flow became a cooperating witness ("CW"), assisting the IRS in an undercover operation to investigate possible illegal activities within the local money service industry. Using Cash Flow as the venue, the CW presented himself as someone willing to cash checks of substantial amounts and to assist in the filing of false CTRs, which would disguise the true source of the funds being cashed.

Defendants and Other Relevant Entities

7. Four by Four Plaster, Inc. ("Four by Four") was a Florida corporation established on or about December 19, 2006. Four by Four, a purported construction company, was a shell company with no true operations.

8. Raim Construction Group, Inc. ("Raim Construction") was a Florida corporation established on or about November 13, 2007. Raim Construction, a purported construction company, was a shell company with no true operations. The nominee owner of Raim Construction was S.B., whom corporate records filed with the State of Florida list as the company's president, registered agent and incorporator.

9. Defendant **EDUARDO ANTONIO OLIVAR** worked closely with Cash Flow, recruiting companies and individuals to become customers of the check cashing store, for which **OLIVAR** would receive an agreed upon fee and commission. **OLIVAR** established or helped to establish shell companies, including Four by Four and Raim Construction, both of which were ultimately used by Cash Flow customers (as more fully explained in paragraphs 4-10 of the Manner and Means Section in Count 1) to cash checks in anonymity. **OLIVAR** was the owner of Four by Four, and was listed in corporate records filed with the State of Florida as the company's president, registered agent, and incorporator.

10. Defendant **WILLIAM JOSE HERNANDEZ** assisted **EDUARDO ANTONIO OLIVAR** in the recruitment of companies and individuals interested in using shell companies to cash checks at Cash Flow in anonymity.

11. Defendant **TOMAS GARCIA** helped to establish the shell company Raim Construction.

COUNT 1
CONSPIRACY
(18 U.S.C. § 371)

1. Paragraphs 1 through 11 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. From in or around January 2007, and continuing through present, in Miami-Dade County, in the Southern District of Florida, the defendants,

EDUARDO ANTONIO OLIVAR,
WILLIAM JOSE HERNANDEZ,
and
TOMAS GARCIA,

did willfully, that is with the intent to further the object of the conspiracy, and knowingly combine, conspire, confederate and agree among themselves and with others, both known and unknown to the Grand Jury, to commit certain offenses against the United States, that is: to knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a), and regulations prescribed thereunder, cause a domestic financial institution to file a report under Title 31, United States Code, Section 5313(a), and regulations prescribed thereunder, that is, a Currency Transaction Report on Treasury Department, FINCEN Form 104, that contained a material omission and misstatement of fact concerning, among other things, the true identity of the parties involved in the financial transactions and the source of the funds involved, as part of a pattern of illegal

activity involving more than \$100,000 in a 12-month period, in violation of Title 31, United States Code, Sections 5324(a)(2) and (d)(2), and Title 31, Code of Federal Regulations, Sections 103.22 and 103.28.

PURPOSE OF THE CONSPIRACY

3. It was a purpose of the conspiracy for the defendants and their co-conspirators to unlawfully enrich themselves by earning substantial commissions and fees for the service of cashing checks on behalf of numerous companies and individuals, and thereafter causing the filing with the Treasury Department of CTRs which contained materially false statements and omissions of material fact, concerning, among other things, the true identity of the parties involved in the financial transactions and the source of the funds cashed.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which the defendants and their co-conspirators sought to accomplish the object and purpose of the conspiracy included, among other things, the following:

4. **EDUARDO ANTONIO OLIVAR, WILLIAM JOSE HERNANDEZ, and TOMAS GARCIA**, and co-conspirators known and unknown to the Grand Jury, used various shell corporations established in the State of Florida. These shell corporations, purportedly construction companies, included Four by Four and Raim Construction. In truth, none of these shell corporations were legitimate companies engaged in the construction business.

5. **EDUARDO ANTONIO OLIVAR** was the owner of Four by Four.

6. In or around January 2007, **EDUARDO ANTONIO OLIVAR** reached an agreement with the CW, who was the operator of Cash Flow and then a co-conspirator, whereby **OLIVAR** would bring customers to Cash Flow, and Cash Flow would cash checks payable to the shell company and pay **OLIVAR** a commission for each check. Per their agreement, the typical fee for

cashing a check payable to the shell companies, including Four by Four and Raim Construction, ranged from 4 % to 6 ½ %, with Cash Flow keeping between 2% to 2 ½ %. The remainder would be kept by **OLIVAR**, although **WILLIAM JOSE HERNANDEZ** would also receive a portion of the fee if the customer had been referred to Cash Flow by him. Once Raim Construction was founded, **TOMAS GARCIA** also received a part of the commission.

7. Thereafter, **EDUARDO ANTONIO OLIVAR** and **WILLIAM JOSE HERNANDEZ** would identify and recruit customers, typically local construction companies, interested in using a shell company as a manner in which to cash checks in anonymity. That is, **OLIVAR's** and **HERNANDEZ's** customers could write checks payable to Four by Four, and later Raim Construction, and then, for a fee, cash the same checks at Cash Flow, as agreed to by Cash Flow's operator, despite the fact that the checks were not payable to the customers.

8. **EDUARDO ANTONIO OLIVAR, WILLIAM JOSE HERNANDEZ,** and **TOMAS GARCIA** visited Cash Flow on a regular basis to collect their fees and commissions for checks cashed at Cash Flow which had been made payable to the shell companies. These fees were paid in cash.

9. **EDUARDO ANTONIO OLIVAR** and **TOMAS GARCIA** would provide the CW with identifying information for the shell companies and nominee owners, including **OLIVAR** and **S.B.**, thereby causing CTRs filed with the Treasury Department to falsely state that the parties involved in the check cashing transactions were the shell companies and their nominee owners, thus misrepresenting the true source of money and the identities of the individuals conducting the check cashing transactions.

10. From in or around January 2007, to in or around September 2007, **EDUARDO ANTONIO OLIVAR** and **WILLIAM JOSE HERNANDEZ** ultimately caused La Bamba to file

materially false CTRs reflecting financial transactions by Four by Four totaling more than \$2,836,000. During the same time period, **OLIVAR** and **HERNANDEZ** caused the cashing of numerous checks payable to Four by Four, which totaled more than \$3,028,000. Since December 2007, **OLIVAR**, with the assistance of **TOMAS GARCIA**, has caused the cashing of numerous checks payable to Raim Construction, totaling more than \$137,000.

OVERT ACTS

In furtherance of the conspiracy and to achieve the object and purpose thereof, at least one of the following overt acts, among others, was committed by at least one of the defendants and their co-conspirators, in the Southern District of Florida and elsewhere:

1. In or around January 2007, **EDUARDO ANTONIO OLIVAR** met with the CW, then the owner of Cash Flow and a co-conspirator, to discuss cashing checks payable to a shell company named Four by Four in exchange for an agreed upon fee.

2. On or about March 26, 2007, **EDUARDO ANTONIO OLIVAR** and **WILLIAM JOSE HERNANDEZ** caused a CTR to be filed with the Treasury Department, which falsely represented that Four by Four had transacted business at La Bamba in the amount of \$67,477.

3. On or about June 9, 2007, **EDUARDO ANTONIO OLIVAR** visited Cash Flow and collected a commission for those checks payable to Four by Four which had been recently cashed.

4. On or about June 29, 2007, **WILLIAM JOSE HERNANDEZ** visited Cash Flow and collected a commission for those checks written by **HERNANDEZ**'s referrals payable to Four by Four and recently cashed.

5. On or about July 14, 2007, **EDUARDO ANTONIO OLIVAR** visited Cash Flow and collected a commission for those checks payable to Four by Four which had been recently cashed.

6. On or about July 17, 2007, **EDUARDO ANTONIO OLIVAR** and **WILLIAM JOSE HERNANDEZ** caused a CTR to be filed with the Treasury Department, which falsely represented that Four by Four had transacted business at La Bamba in the amount of \$48,979.

7. On or about July 31, 2007, **WILLIAM JOSE HERNANDEZ** visited Cash Flow and collected a commission for those checks written by **HERNANDEZ's** referrals payable to Four by Four and recently cashed.

8. On or about August 29, 2007, **EDUARDO ANTONIO OLIVAR** and **WILLIAM JOSE HERNANDEZ** caused a CTR to be filed with the Treasury Department, which falsely represented that Four by Four had transacted business at La Bamba in the amount of \$28,145.

9. On or about September 14, 2007, **WILLIAM JOSE HERNANDEZ** visited Cash Flow and collected a commission for those checks written by **HERNANDEZ's** referrals payable to Four by Four and recently cashed.

10. On or about October 24, 2007, **EDUARDO ANTONIO OLIVAR** visited Cash Flow and collected a commission on those checks payable to Four by Four which had been recently cashed.

11. On or about October 24, 2007, **EDUARDO ANTONIO OLIVAR** told the CW of **OLIVAR's** intention to open a new shell company as a replacement of Four by Four. **OLIVAR** explained that the company would be in the name of another individual, although **OLIVAR** would still control the new company.

12. On or about November 16, 2007, **WILLIAM JOSE HERNANDEZ** told the CW that **EDUARDO ANTONIO OLIVAR** and **HERNANDEZ** had discussed that it was time to close Four by Four and open a new shell company, under the name of a new person, and with a new address.

13. On or about November 29, 2007, **EDUARDO ANTONIO OLIVAR** and **TOMAS GARCIA**, and other co-conspirators, met with the CW at Cash Flow and discussed the establishment of the new shell company Raim Construction.

14. On or about November 29, 2007, **TOMAS GARCIA**, with **EDUARDO ANTONIO OLIVAR**, provided the CW with identifying information for Raim Construction and its nominee owner, S.B., to facilitate the filing of false CTRs with the Treasury Department when checks payable to Raim Construction were cashed.

15. On or about November 29, 2007, **TOMAS GARCIA** and **EDUARDO ANTONIO OLIVAR** explained that either they or an unindicted co-conspirator would be collecting the commissions for checks cashed at Cash Flow payable to Raim Construction.

16. On or about January 9, 2008, **WILLIAM JOSE HERNANDEZ** went to Cash Flow and cashed a check payable to Raim Construction.

17. On or about January 15, 2008, **TOMAS GARCIA** confirmed with the CW that **WILLIAM JOSE HERNANDEZ** should receive a commission for those checks written by **HERNANDEZ's** referrals made payable to Raim Construction and cashed at Cash Flow.

All in violation of Title 18, United States Code, Section 371.

COUNTS 2-10
CAUSE AND ATTEMPT TO CAUSE THE FILING
OF FALSE CURRENCY TRANSACTION REPORTS
(31 U.S.C. §§ 5313(a), 5324(a)(2) and (d)(2);
31 C.F.R. §§ 103.22 and 103.28; and 18 U.S.C. § 2)

1. Paragraphs 1 through 10 of the General Allegations section of this Indictment are realleged and incorporated by reference as though fully set forth herein.

2. On or about the dates set forth below, in Miami Dade County, in the Southern District of Florida, and elsewhere, the defendants,

EDUARDO ANTONIO OLIVAR
and
WILLIAM JOSE HERNANDEZ,

did knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a), and the regulations prescribed thereunder, cause and attempt to cause a domestic financial institution to file a report required by Title 31, United States Code, Section 5313(a), specifically, a Currency Transaction Report on Treasury Department, FINCEN Form 4789, that contained a material omission and misstatement of fact concerning, among other things, the true identity of the parties involved in the financial transactions and the source of the funds involved, as part of a pattern of illegal activity involving more than \$100,000 in a 12-month period, as set forth below.


COUNT	APPROX. DATE OF TRANSACTION	CLAIMED FINANCIAL TRANSACTION	CTR NO.
2	1/27/07	Checks payable to Four by Four totaling \$103,511 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20071086140730
3	3/26/07	Checks payable to Four by Four totaling \$67,477 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20071356144630
4	5/5/07	Checks payable to Four by Four totaling \$115,275 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20072087182730
5	6/5/07	Checks payable to Four by Four totaling \$41,398 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20072016537130
6	6/27/07	Checks payable to Four by Four totaling \$48,507 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20072086575830

COUNT	APPROX. DATE OF TRANSACTION	CLAIMED FINANCIAL TRANSACTION	CTR NO.
7	7/17/07	Checks payable to Four by Four totaling \$48,979 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20072256534230
8	7/31/07	Checks payable to Four by Four totaling \$33,275 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20072366437130
9	8/1/07	Check payable to Four by Four totaling \$96,075 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20072366436630
10	8/29/07	Checks payable to Four by Four totaling \$28,145 cashed at La Bamba by EDUARDO ANTONIO OLIVAR	20072576109230


In violation of Title 31, United States Code, Sections 5313(a), 5324(a)(2) and (d)(2); Title 31, Code of Federal Regulations, Sections 103.22 and 103.28; and Title 18, United States Code, Section 2.

A TRUE BILL

FOREPERSON



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



WILFREDO FERNANDEZ
ASSISTANT UNITED STATES ATTORNEY