

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

UNITED STATES OF AMERICA

3:21-cr- 00455-1M

v.

INDICTMENT

DAVID A. KATZ,
MARTIN S. ELIZONDO,
MELESIO GOMEZ-RIVERA,
JORGE PERAZA,
JOSE L. ALTAMIRANO, SR.,
NATALIE N. GRAHAM,

18 U.S.C. § 371
31 U.S.C. §§ 5324(a)(2) and 5324(d)(2)

Defendants.

THE GRAND JURY CHARGES:

Introduction

At all times relevant to this Indictment:

1. Defendant **DAVID A. KATZ**, age 45, a resident of Tualatin, Oregon, operated a check cashing business called Check Cash Pacific, Inc. (Check Cash Pacific or CCP). CCP had several locations in the Portland, Oregon, metropolitan area and one location in Vancouver, Washington. The CCP location in Vancouver, Washington, was the primary source of cash for the under the table payments alleged in this indictment. CCP was a “financial institution” under federal law.

2. Defendant **MARTIN S. ELIZONDO**, age 46, a resident of Tualatin, Oregon, worked with Edgewood Construction, LLC (Edgewood), and Power Construction, LLC (Power), coconspirator-operated subcontracting companies used in the conspiracy to defraud the United States to obtain cash to pay construction workers under the table.

3. Defendant **MELESIO GOMEZ-RIVERA**, age 47, a resident of Aloha, Oregon, was a manager of Edgewood. Defendant **GOMEZ-RIVERA** also operated his own construction company, Novatos Construction, LLC, and used Power to obtain cash to pay the employees of Novatos Construction, LLC under the table.

4. Defendant **JORGE PERAZA**, age 49, a resident of Beaverton, Oregon, operated a construction company, Presto Homes, Inc. (Presto), and used Power, Edgewood, and 4 Pillars Construction, LLC (4 Pillars), another coconspirator-operated subcontracting company used in the tax evasion conspiracy, to obtain cash to pay construction workers, including employees of Presto, under the table.

5. Defendant **JOSE L. ALTAMIRANO, SR.**, age 60, a resident of Bend, Oregon, operated from Bend a construction company, L&L Bendormex LLC, and used Power to obtain cash to pay the employees of L&L Bendormex LLC under the table.

6. Defendant **NATALIE N. GRAHAM**, age 46, a resident of Beaverton, Oregon, worked in the office of All Purpose Construction, LLC (All Purpose), another coconspirator-operated subcontracting company used in the tax evasion conspiracy to obtain cash to pay construction workers under the table. Defendant **GRAHAM** helped organize under the table payments to employees of construction companies.

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Indictment

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Federal Employment/Payroll Taxes

7. Employers generally must withhold federal income tax from employees' wages. Employers generally must also withhold part of social security and Medicare taxes from employees' wages and must pay a matching amount of these taxes. Withheld federal income taxes, social security taxes, and Medicare taxes are collectively called employment taxes or payroll taxes.

8. In general, employers must pay withheld federal income tax and both employee and employer social security and Medicare taxes by using the IRS's electronic funds transfer system to deposit these taxes with the IRS. Employers must deposit these taxes with the IRS monthly or semi-weekly, depending on the amount of employment taxes the employer paid the previous four calendar quarters.

9. In general, employers that withhold federal income taxes, social security taxes, and Medicare taxes must file an Employer's Quarterly Federal Tax Return for each calendar quarter. The employer must accurately report the amount of withheld taxes for each calendar quarter. Each such tax return must be signed under penalty of perjury as accurately reporting the amount of withheld taxes.

10. At the end of the year, an employer must complete for each employee, and file with the Social Security Administration, a Form W-2, Wage and Tax Statement. On each Form W-2, the employer must report the wages and tax withholdings for an employee. The employer must also give each employee a copy of the filed W-2.

11. A person or a company that makes payments in the course of a trade or business to a person who is not an employee must, at the conclusion of each calendar year, prepare and

file with the IRS a Form 1099-MISC that identifies the payment recipient and reports the amount paid. The payment recipient must be given a copy of the 1099-MISC.

12. Employees who are paid wages above a certain minimum amount in a particular year must file with the IRS an individual income tax return for that year. On each individual income tax return, an employee must accurately report their wages, taxes withheld, and tax due, if any. Each such tax return must be signed under penalty of perjury as accurately reporting these items.

“Under The Table” Wage Payments

13. The phrases “under the table”, “pay under the table”, and “under the table payments” refer to the practice of paying employee wages partially or wholly in cash, usually without creating and maintaining accurate records of these payments, with the understanding and intention that the payments would not be reported to taxing authorities and taxes would not be paid on the payments.

Currency Transaction Reports

14. A Currency Transaction Report (CTR) is a report financial institutions, including CCP, were required to file with the Financial Crimes Enforcement Network (FinCEN), a bureau of the United States Department of the Treasury.

15. All financial institutions, including CCP, were required to file a CTR for each cash transaction or group of related cash transactions, including the cashing of checks, in a single day that aggregate to more than \$10,000.

16. All financial institutions, including CCP, were required to verify and accurately record on each CTR the name and address of the individual who conducted a reportable currency

transaction. When that individual conducted the transaction on behalf of another entity, such as a

business, the financial institution was required to accurately record the name and employer identification number, also called the taxpayer identification number, of that entity.

State of Oregon Construction Licenses

17. The State of Oregon requires that anyone who works for compensation in any construction activity involving improvements to real property have a license issued by the Oregon Construction Contractors Board (CCB). Construction activities requiring a CCB license include roofing, siding, drywalling, and most other construction services. Oregon law requires contractors to carry surety bonds, general liability insurance, and workers' compensation insurance for employees.

18. During the time period relevant to Count 1, construction companies in the Portland, Oregon, metropolitan area bid on work to be performed at residential real estate projects. These construction companies typically did not have enough employee-workers to perform all the work the real estate project would require.

19. To supplement their permanent employee-workers, these construction companies hired and paid independent work crews. These independent work crews did not possess validly issued and required CCB licenses.

20. To obtain a CCB license to give to the construction companies, leaders of unlicensed work crews wanting to work on residential construction projects paid a fee to a person who controlled one or more companies with a CCB license to use that license. The leaders of the work crews then represented to the construction companies that their work crews had legitimate CCB licenses so the construction companies would hire the work crews. In some instances, the owner/operators of the construction companies knew or suspected the work crews did not have CCB licenses but nonetheless accepted the "rented" CCB licenses as valid.

COUNT 1
(Conspiracy to Defraud the United States)
(18 U.S.C. § 371)

21. Beginning on or about January 1, 2014 and continuing through December 29, 2017, in the District of Oregon and elsewhere, defendants **DAVID A. KATZ, MARTIN S. ELIZONDO, MELESIO GOMEZ-RIVERA, JORGE PERAZA, JOSE L. ALTAMIRANO, SR.,** and **NATALLIE N. GRAHAM,** and with other individuals both known and unknown to the Grand Jury, did unlawfully, voluntarily, intentionally and knowingly conspire, combine, confederate, and agree to defraud the United States by impeding, impairing, obstructing, and defeating the lawful Government functions of the Internal Revenue Service in the ascertainment, computation, assessment, and collection of the revenue: namely, payroll taxes, also known as employment taxes, and individual income taxes.

Manner and Means of the Conspiracy

22. During the time period relevant to Count 1, construction companies in the Portland, Oregon, metropolitan area and in central Oregon bid on work to be performed at residential real estate projects. These construction companies typically did not have enough employee-workers to perform all the work the real estate project would require.

23. To supplement their permanent employee-workers, these construction companies hired and paid independent work crews. These independent work crews did not possess validly issued and required CCB licenses.

24. To obtain a CCB license to give to the construction companies, leaders of unlicensed work crews wanting to work on residential construction projects paid a fee to a coconspirator who controlled one or more companies with a CCB license to use that license.

The leaders of the work crews then represented to the construction companies that their work

crews had legitimate CCB licenses so the construction companies would hire the work crews. In some instances, the owner/operators of the construction companies knew or suspected the work crews did not have CCB licenses but nonetheless accepted the “rented” CCB licenses as valid.

25. Depending on the circumstances of a particular construction project, the work crew workers were employees of either the construction companies or the subcontracting companies coconspirators operated.

26. It was part of the conspiracy that coconspirators established subcontracting companies to facilitate the conspiracy to defraud the United States. These subcontracting companies included, but were not limited to, Edgewood, 4 Pillars, and Power.

27. It was further part of the conspiracy that to pay workers on work crews without valid CCB licenses, coconspirator owner-operators of construction companies did not put these workers on their regular payroll system. Instead, these coconspirator owner-operators caused their construction companies to write checks payable to the coconspirator-operated subcontracting companies, which typically held the CCB licenses. These checks did not include payroll taxes, and the construction companies did not withhold payroll taxes from wages paid to workers on the work crews.

28. It was further part of the conspiracy that the coconspirator owner/operators of the actual CCB license holding companies authorized coconspirators to cash the payroll checks the construction companies made payable to the CCB license holding companies.

29. It was further part of the conspiracy that coconspirators almost always cashed these payroll checks at the Check Cash Pacific location in Vancouver, Washington, but sometimes cashed these checks at a Check Cash Pacific location in Beaverton, Oregon.

30. Before arriving at the Check Cash Pacific location, a coconspirator with checks to cash would either telephone CCP or send a text message to defendant **DAVID A. KATZ** to inform defendant **KATZ** when the coconspirator would arrive at the Check Cash Pacific location and to further inform defendant **KATZ** of the total amount of payroll checks the coconspirator intended to cash. Defendant **KATZ** and the check-cashing coconspirators agreed on this procedure so defendant **KATZ** could make sure the Check Cash Pacific location had enough cash on hand to cash the payroll checks.

31. **DAVID A. KATZ** would then visit a bank at which Check Cash Pacific maintained its bank accounts. Defendant **KATZ** would withdraw from a Check Cash Pacific bank account an amount of cash sufficient to cash the payroll checks. Defendant **KATZ** typically withdrew this cash from a bank branch in Portland, Oregon, then personally drove the cash to the Check Cash Pacific location at which the check-cashing coconspirator would cash the payroll checks. This was almost always the Check Cash Pacific location in Vancouver, Washington.

32. It was further part of the conspiracy that when one coconspirator cashed payroll checks, that coconspirator used the false and fictitious name “Miguel Lopez” and a false and fictitious Social Security Number at the check cashing locations to conceal his true identity and to conceal his participation in the conspiracy. Defendant **DAVID A. KATZ** knew “Miguel Lopez” was a false and fictitious name and that “Miguel Lopez” used a false and fictitious Social Security Number.

33. It was further part of the conspiracy that each time “Miguel Lopez” conducted a payroll check cashing transaction requiring CCP to file a CTR, defendant **DAVID A. KATZ**

caused CCP to prepare and file with FinCEN a CTR using the false and fictitious name “Miguel Lopez” and the false and fictitious Social Security Number for “Miguel Lopez.”

34. It was further part of the conspiracy that defendant **DAVID A. KATZ** charged a fee of 2.0% to 2.5% of the total amount of the checks cashed in the Vancouver, Washington, check cashing location. These check cashing fees were defendant **KATZ’S** and CCP’s profits from the tax evasion scheme.

35. It was further part of the conspiracy that after coconspirators received the cash from CCP, they, on behalf of the work crews, paid the valid CCB license holders approximately 7.5% of the total value of the checks as a fee or as “rent” for use of the CCB licenses. In some instances, a coconspirator kept 1% of this amount for himself. The coconspirators gave the rest of the cash to the coconspirator group leaders of the work crews, who then distributed the cash to the coconspirator work crew members.

36. It was further part of the conspiracy that the defendants, the coconspirator construction company owner/operators, the coconspirator operator of the check cashing business, the coconspirator work crew group leaders, and the coconspirator work crew workers agreed and intended that the cash wages paid to the workers would not be reported to the Internal Revenue Service and that no payroll taxes and no individual income taxes would be paid on these wages.

37. It was further part of the conspiracy that the coconspirators either did not file with the IRS required employment tax returns and/or income tax returns or the coconspirators filed employment tax returns and/or income tax returns that underreported, among other items, wages paid or received and taxes due to the IRS.

38. It was further part of the conspiracy that in some instances coconspirators cashed payroll checks at CCP for coconspirator construction contractors and returned the cash to the

coconspirator contractors so the coconspirator contractors could pay their own permanent employees, not work crew employees, “under the table” meaning without paying payroll taxes or withholding income taxes due on these wages for these employees. In these instances, the check-casher coconspirators delivered the cash to the coconspirator owner/operators. The coconspirators involved in obtaining cash for and in making these “under the table” payments intended that the cash wages paid to these permanent employees would not be reported to the Internal Revenue Service and that no payroll taxes and no individual income taxes would be paid on these wages.

39. It was further part of the conspiracy that to conceal the “under the table” cash wages paid to workers, coconspirators created false IRS Forms 1099. These Forms 1099 were false because they represented the reported funds were legitimate payments to CCB license holding companies for work those companies performed when, in fact, the funds were used to pay the coconspirator workers “under the table.” Coconspirators filed these false Forms 1099-MISC with the IRS.

40. It was further part of the conspiracy that to further conceal the “under the table” cash wages paid to the coconspirator work crew workers and to the coconspirator permanent employees of contracting companies, coconspirators filed with the IRS false employment tax returns, false corporation tax returns, and false individual income tax returns. These returns were false because they did not report the cash wages paid to the coconspirator work crew workers and to the coconspirator permanent employees and did not correctly report the amount of employment taxes or income taxes due on these wages.

41. It was further part of the conspiracy that the “under the table” payments allowed coconspirator workers either to not file required individual income tax returns or to file false

individual income tax returns that did not accurately report their annual wages and the income taxes due thereon.

42. It was further part of the conspiracy that the “under the table” payments allowed coconspirator permanent employees of the contracting companies to file false individual income tax returns that did not report the “under the table” wages they received and the income taxes due thereon.

43. It was further part of the conspiracy that, in total, coconspirators cashed approximately \$192 million in payroll checks, thereby causing approximately \$68 million in combined employment tax and individual income tax losses.

Overt Acts in Furtherance of the Conspiracy

44. In furtherance of the conspiracy and achieve its object of evading employment taxes and income taxes, defendants **DAVID A. KATZ, MARTIN S. ELIZONDO, MELESIO GOMEZ-RIVERA, JORGE PERAZA, JOSE L. ALTAMIRANO, SR.,** and **NATALLIE N. GRAHAM,** and/or other coconspirators committed the following overt acts, among others:

a. Some coconspirators created subcontracting companies, the creation of each such company being a separate overt act.

b. Coconspirators operating contracting companies wrote checks payable to subcontracting companies, or caused such checks to be written, intending the funds the checks represented would be used to pay work crew workers, or their own permanent employees, “under the table”, the writing of each check being a separate overt act.

c. Coconspirators operating contracting companies caused the checks to be delivered to, or picked up by, coconspirator representatives of the subcontracting companies, the physical transfer of each check being a separate overt act.

d. Defendant **DAVID A. KATZ**, or CCP employees acting at the direction of defendant **KATZ**, created customer accounts at CCP for coconspirators who cashed payroll checks at CCP, the creation of each such customer account being a separate overt act.

e. Coconspirator representatives of the subcontracting companies made telephone calls to CCP and sent text messages to defendant **DAVID A. KATZ** to inform defendant **KATZ** of the day(s) they would arrive at CCP to cash payroll checks and to inform defendant **KATZ** of the total amount payroll checks they would be cashing so that defendant **KATZ** could make sure CCP had enough cash on hand to cash the payroll checks, each such telephone call and text being a separate overt act.

f. Defendant **DAVID A. KATZ** would withdraw cash from CCP bank accounts and would deliver the cash to the CCP location at which coconspirators would cash payroll checks, each such withdrawal of cash and delivery of cash being a separate overt act.

g. Coconspirator representatives of the subcontracting companies cashed payroll checks at CCP, the cashing of each payroll check being a separate overt act.

h. Defendant **DAVID A. KATZ** caused CCP to file false CTRs with FinCEN, the filing of each such false CTR being a separate overt act.

i. Coconspirator representatives of the subcontracting companies delivered payroll cash to coconspirator leaders of work crews to be used as “under the table” payment of wages, each such delivery of payroll cash being a separate overt act.

j. Coconspirator leaders of work crews distributed the payroll cash to individual work crew workers as “under the table” payment of wages, each distribution of payroll cash to a crew worker being a separate overt act.

k. Coconspirator representatives of the subcontracting companies sometimes returned the payroll cash to the coconspirators operating the contracting companies and those coconspirators would then use the payroll cash to pay their permanent employees “under the table”, each transfer of payroll funds being a separate overt act.

l. Some coconspirators filed false employment tax returns, corporation returns, and individual income tax returns to conceal from the IRS the true amount of payroll cash paid “under the table” and to evade the taxes due on the “under the table” payroll cash, the filing of each such false return being a separate overt act.

In violation of Title 18, United States Code, Section 371.

COUNTS 2 – 5
(Filing False Currency Transaction Reports)
(31 U.S.C. § 5324(a)(2) and 31 U.S.C. § 5324(d)(2))

The allegations contained in paragraphs 1 through 44 are realleged and incorporated as if fully set forth in this paragraph.

On or about the dates set forth below, within the District of Oregon and elsewhere, defendant **DAVID A. KATZ**, did knowingly and for the purpose of evading the reporting requirements of Title 31, United States Code, Section 5313(a) and the regulations promulgated thereunder, cause and attempt to cause Check Cash Pacific, Inc., a domestic financial institution, to file Currency Transaction Reports that contained material omissions and misstatements of fact, those being (1) reporting “Miguel Lopez” as the person conducting transactions for another person or entity, and (2) reporting a false Social Security Number for “Miguel Lopez”, in

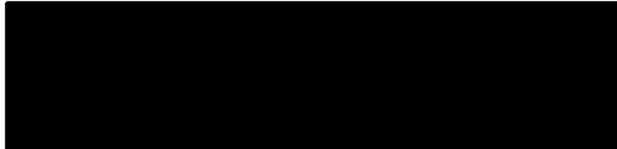
violation of Title 31 United States Code, Sections 5324(a)(2) and 5324(d)(2) and part of a pattern of illegal activity involving more than \$100,000 in a twelve-month period, as specified below:

<u>Count</u>	<u>Date CTR Filed</u>	<u>Total Cash Out</u>	<u>CTR No.</u>
2	12/03/2016	\$54,282	31000096609663
3	12/10/2016	\$352,519	31000096979165
4	12/24/2016	\$103,858	31000097682842
5	01/03/2017	\$80,894	31000098171388

In violation of Title 31, United States Code, Sections 5324(a)(2) and 5324(d)(2); Title 18, United States Code, Sections 2 and 3551 *et seq.*


Dated: December 1st, 2021

A TRUE BILL.



Presented by:

SCOTT ERIK ASPHAUG
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GAVIN W. BRUCE, OSB #113384
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