Approved: _____
MITZI S. STEINER
Assistant United States Attorney

Before: THE HONORABLE JAMES L. COTT
United States Magistrate Judge
Southern District of New York

21 MAG 11899

UNITED STATES OF AMERICA	**SEALED COMPLAINT**
- v. -	Violations of 18 U.S.C. §§ 641, 1028A, 1349, and 2
MARILUZ FERMIN, BELLANILDA FERMIN, and JUAN NOLASCO,	
Defendants.	COUNTY OF OFFENSE: BRONX, WESTCHESTER

SOUTHERN DISTRICT OF NEW YORK, ss.:

DAVID EIDAM, being duly sworn, deposes and says that he is a Special Agent with the United States Department of Labor, Office of the Inspector General ("DOL-OIG"), and charges as follows:

COUNT ONE
(Conspiracy to Commit Wire Fraud)

1. From in or about May 2020 up to and including in or about October 2020, in the Southern District of New York and elsewhere, MARILUZ FERMIN ("MARILUZ"), BELLANILDA FERMIN ("BELLANILDA"), and JUAN NOLASCO, the defendants, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit wire fraud, in violation of Title 18, United States Code, Section 1343.

2. It was a part and an object of the conspiracy that MARILUZ FERMIN, BELLANILDA FERMIN, and JUAN NOLASCO, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce,

writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343, to wit, MARILUZ, BELLANILDA, and NOLASCO submitted online applications for unemployment-insurance benefits using the personal identifying information of other persons in order to fraudulently obtain unemployment benefit funds.

(Title 18, United States Code, Section 1349.)

COUNT TWO
(Theft of Government Funds)

3. From in or about May 2020 up to and including in or about October 2020, in the Southern District of New York and elsewhere, MARILUZ FERMIN, BELLANILDA FERMIN, and JUAN NOLASCO, the defendants, did embezzle, steal, purloin, and knowingly convert to their use and the use of another, and without authority did sell, convey, and dispose of records, vouchers, money, and things of value of the United States and a department and agency thereof, to wit, the U.S. Department of the Treasury ("Treasury"), which exceeded the sum of $1,000, and did receive, conceal, and retain the same with intent to convert it to their use and gain, knowing it to have been embezzled, stolen, purloined and converted, to wit, MARILUZ, BELLANILDA, and NOLASCO submitted online applications for unemployment-insurance benefits using the personal identifying information of other persons in order to fraudulently obtain unemployment benefit funds.

(Title 18, United States Code, Sections 641 and 2.)

COUNT THREE
(Aggravated Identity Theft)

4. From in or about May 2020 up to and including in or about October 2020, MARILUZ FERMIN, BELLANILDA FERMIN, and JUAN NOLASCO, the defendants, knowingly did transfer, possess, and use, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit, MARILUZ, BELLANILDA, and NOLASCO submitted online applications for unemployment-insurance benefits using the personal identifying information of other persons in order to fraudulently obtain

unemployment benefit funds, in connection with the offense charged in Count Two of this Complaint.

(Title 18, United States Code, Sections 1028A(a)(1) and (b), and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

5. I am a Special Agent with the DOL-OIG and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents, witnesses, and others, as well as my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my 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. Where figures, calculations, and dates are set forth herein, they are approximate, unless stated otherwise.

Overview

6. Based on my participation in this investigation, I have learned that MARILUZ FERMIN and BELLANILDA FERMIN, the defendants, who are sisters, and JUAN NOLASCO, the defendant, who is BELLANILDA's partner, have engaged in a scheme to defraud the New York State Department of Labor ("NYS DOL") through NYS DOL's unemployment insurance program related to the COVID-19 pandemic, by using the personal identifying information of their victims to fraudulently file claims for unemployment-insurance benefits ("UIB") in their victims' names, resulting in an intended loss amount of at least approximately $1,319,328 and an actual loss amount of at least approximately $687,314. NYS DOL receives federal funds from the Treasury to administer the unemployment insurance program.

The Fraudulent Applications

7. Based on my conversations with employees of NYS DOL, I have learned, in substance and in part, that NYS DOL keeps records on applications for unemployment-insurance benefits, and that those records include information about, among other things, the

name, social security number, birth date, and email address used in each application for benefits filed with the agency.

a. In or about June 2020, MARILUZ FERMIN, BELLANILDA FERMIN, and JUAN NOLASCO, the defendants, filed UIB claims with NYS DOL and each listed an apartment building in Yonkers, New York (the "Building") as their personal residence.

b. The UIB claims filed by MARILUZ, BELLANILDA, and NOLASCO were each filed from a particular IP address (the "IP Address"). Based on my review of subscriber records, I know that NOLASCO is listed as the subscriber of the IP Address and BELLANILDA is listed as the contact for billing purposes. The IP Address was a "static" IP address during the relevant time period, which means that it was assigned to only one subscriber. The location of the IP Address is an apartment in the Building ("Apartment-1").

c. Based on my conversations with other law enforcement officers, I know that during border searches between in or about 2020 and in or about 2021, MARILUZ, BELLANILDA, and NOLASCO each informed law enforcement that they reside in the Building. Specifically, BELLANILDA and NOLASCO indicated that they reside in Apartment-1. In addition, MARILUZ indicated that she resides in a separate apartment in the Building ("Apartment-2").

d. Between on or about May 2020 and on or about October 2020, at least approximately seventy-five other UIB claims (the "Fraudulent Applications") were filed with NYS DOL from the IP Address. The Fraudulent Applications were submitted using names and personal identifying information of different individuals, many of whom reside in Puerto Rico, and not the continental United States. However, all of the Fraudulent Applications listed a home address in either New York, Connecticut, or Pennsylvania, and at least ten of the UIB claims listed the Building, including Apartment-1 and Apartment-2, as the home address for the claimant.

e. At least four of the Fraudulent Applications listed a matching personal phone number ("Phone Number-1"). NOLASCO listed Phone Number-1 as his personal phone number in his own UIB claim. At least four of the Fraudulent Applications listed another matching personal phone number ("Phone Number-2"). BELLANILDA listed Phone Number-2 as her personal phone number in her own UIB claim. At least two of the Fraudulent Applications listed the same personal phone number ("Phone Number-3"). MARILUZ listed Phone Number-3 as her personal phone number in her own UIB claim.

f. Further, several of the Fraudulent Applications included falsified identification cards. For example, I have learned, among other things, that one of the Fraudulent Applications was filed in the name of a victim ("Victim-1"). Several forms of identification, including a New York State driver's license and a social security card, were submitted along with Victim-1's claim. Based on my conversations with an employee from the Social Security Administration and NYS DOL, I have learned that the social security card and driver's license provided as part of Victim-1's claim were fraudulent.

g. Between on or about May 2020 and on or about October 2020, the IP Address was used to log into UIB claims – including the Fraudulent Applications – at least approximately nine hundred times. Further, the MARILUZ UIB claim was logged into using the IP Address approximately nine times; the BELLANILDA UIB claim was logged into using the IP Address approximately fourteen times; and the NOLASCO UIB claim was logged into using the IP Address approximately twenty-five times.

h. NYS DOL gives applicants an option to receive UIB payments through a prepaid debit card that is mailed to the applicant. One provider of those prepaid debit cards is a company called KeyBank. Many of the Fraudulent Applications requested that any approved funds be deposited onto KeyBank cards. Based on my training and experience and my participation in this investigation, I know that individuals attempting to fraudulently receive UIB funds frequently request that UIB funds be deposited onto KeyBank cards in order to be able to withdraw the funds in cash from an ATM machine and thereby evade detection.

i. The intended loss amount of the Fraudulent Applications from the NYS DOL was at least approximately $1,319,328, and the actual loss amount was at least approximately $687,314.

The Mariluz Phone

8. On or about October 19, 2020, MARILUZ FERMIN, the defendant, flew from the Dominican Republic to the United States. Officers from the United States Customs and Border Protection conducted a routine border examination of MARILUZ upon her arrival. During the examination, MARILUZ willingly provided the officers with a cellphone (the "Mariluz Phone") that was in her possession. Subsequently, law enforcement forensically imaged the Mariluz Phone and obtained a judicially authorized search warrant to review the device.

9. Based on my review of the Mariluz Phone, I have learned, among other things, the following:[1]

a. The Mariluz Phone includes Whatsapp messages and images that contain personal-identifying information – such as driver's licenses and social-security cards – for hundreds of different individuals. The Mariluz Phone also includes KeyBank cards in other persons names; handwritten and typed ledgers of personal identifying information, including names, social security numbers, and birthdates; and images of computer screens with UIB applications for several states.

b. Several of the Whatsapp messages found on the Mariluz Phone contain the personal-identifying information – including names, email accounts, and dates of birth – used in the Fraudulent Applications. MARILUZ FERMIN, the defendant, sent these communications to, among others, BELLANILDA FERMIN and JUAN NOLASCO, the defendants. Those communications included, among other things, the following:[2]

i. On or about July 27, 2020, BELLANILDA forwarded the name of two victims ("Victim-2" and "Victim-3"), as well as Victim-2 and Victim-3's phone numbers, social security numbers, and dates of birth to MARILUZ. The Fraudulent Applications included UIB claims for Victim-2 and Victim-3 – including the same personal identifying information – resulting in an intended loss amount of at least approximately $34,596 and an actual loss amount of at least approximately $9,930.

ii. On or about August 20, 2020, BELLANILDA forwarded MARILUZ the name of three victims ("Victim-4" through "Victim-6")

[1] The communications described below were predominantly in Spanish, and I have reviewed draft translations of these communications.

[2] Based on my review of these communications, I believe that MARILUZ used the Whatsapp username "Jeffrey Jose," which based on my training and experience and involvement in this investigation, I know to be the name of MARILUZ's son; NOLASCO used the Whatsapp username "Socio," which based on my training and experience and involvement in this investigation, I know to be a nickname for NOLASCO; and BELLANILDA used the Whatsapp username "Yula," which also appears to be a nickname. Specifically, based on these identifiers, the content of the communications, and the fact that these communications were recorded on the Mariluz Phone, I believe that these usernames were utilized by MARILUZ, NOLASCO, and BELLANILDA, respectively.

and inquired, in sum and substance, whether another coconspirator ("CC-1") had received that information. The Fraudulent Applications included UIB claims for Victim-4 through Victim-6 – including the same names and email accounts – resulting in an intended loss amount of at least approximately $51,894 and an actual loss amount of at least approximately $21,606.

iii. On or about September 8, 2020, BELLANILDA sent MARILUZ the name of a victim ("Victim-7"), along with an email account. The Fraudulent Applications included a UIB claim for Victim-7 – including the same name and email account - resulting in an intended loss amount of at least approximately $17,298 and an actual loss amount of at least approximately $782.

Bank Surveillance Footage

10. Based on my review of bank surveillance footage (the "Surveillance Footage"), I know that between on or about June 2020 and on or about August 2020, a male individual subsequently identified as JUAN NOLASCO, the defendant, as discussed below, visited several ATM machines in the Bronx, New York for the purpose of withdrawing funds from KeyBank cards issued as a result of the Fraudulent Applications. Specifically, I have learned, among other things, the following:

a. On or about June 26, 2020, a male individual withdrew funds from an ATM machine in the name of Victim-6 and two other victims ("Victim-8" and "Victim-9"), whose UIB claims were submitted with the Fraudulent Applications. Based on my comparison of the male individual depicted in the Surveillance Footage with post-arrest images (the "Images") of NOLASCO taken in connection with another unrelated arrest in or about November 2021, I have learned that the male individual depicted in the Surveillance Footage resembles NOLASCO.

b. On or about June 30, 2020, NOLASCO withdrew funds from an ATM machine in the name of Victim-8 and another victim ("Victim-10"), whose UIB claims were submitted with the Fraudulent Applications. Based on my comparison of the male individual depicted in the Surveillance Footage with the Images, I have learned that the male individual depicted in the Surveillance Footage resembles NOLASCO.

c. On or about July 3, 2020, NOLASCO withdrew funds from an ATM machine in the name of Victim-8 and another victim ("Victim-11"), whose UIB claims were submitted with the Fraudulent Applications. Based on my comparison of the male individual

depicted in the Surveillance Footage with the Images, I have learned that the male individual depicted in the Surveillance Footage resembles NOLASCO.

d. On or about July 9, 2020, NOLASCO withdrew funds from an ATM machine in the name of Victim-5, Victim-8, and Victim-9, whose UIB claims were submitted with the Fraudulent Applications. Based on my comparison of the male individual depicted in the Surveillance Footage with the Images, I have learned that the male individual depicted in the Surveillance Footage resembles NOLASCO.

e. On or about July 13, 2020, NOLASCO withdrew funds from an ATM machine in the name of a victim ("Victim-12"), whose UIB claim was submitted with the Fraudulent Applications. Based on my comparison of the male individual depicted in the Surveillance Footage with the Images, I have learned that the male individual depicted in the Surveillance Footage resembles NOLASCO.

f. On or about July 14, 2020, NOLASCO withdrew funds from an ATM machine in the name of Victim-12 and another victim ("Victim-13"), whose UIB claims were submitted with the Fraudulent Applications. Based on my comparison of the male individual depicted in the Surveillance Footage with the Images, I have learned that the male individual depicted in the Surveillance Footage resembles NOLASCO.

g. On or about July 28, 2020, NOLASCO withdrew funds from two ATM machines in the name of Victim-5, Victim 12, and Victim-13, and four other victims ("Victim-14" through "Victim-17"), whose UIB claims were submitted with the Fraudulent Applications. Based on my comparison of the male individual depicted in the Surveillance Footage with the Images, I have learned that the male individual depicted in the Surveillance Footage and the Images are one and the same person, namely, NOLASCO.

h. On or about August 16, 2020, NOLASCO withdrew funds from an ATM machine in the name of Victim-14 and two other victims ("Victim-18" and "Victim-19"), whose UIB claims were submitted with the Fraudulent Applications. Based on my comparison of the male individual depicted in the Surveillance Footage with the Images, I have learned that the male individual depicted in the Surveillance Footage and the Images are one and the same person, namely, NOLASCO.

WHEREFORE, I respectfully request that a warrant be issued for the arrest of MARILUZ FERMIN, BELLANILDA FERMIN, and JUAN NOLASCO, the defendants, and that they be imprisoned or bailed, as the case may be.

/s/ David Eidam with permission
DAVID EIDAM
Special Agent
Department of Labor
Office of the Inspector General

Sworn to me through the transmission of this Complaint by reliable electronic means, pursuant to Federal Rules of Criminal Procedure 41(d)(3) and 4.1, this 10th day of December, 2021

JAMES L. COTT
United States Magistrate Judge