

UNFILED

JUL 07 2004

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

JUL 07 2004

MARTIN C. ASHMAN
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT

UNITED STATES OF AMERICA

JUDGE SHADUR

) MAGISTRATE JUDGE MASON

v.

) **04CR0633**

HATEM FARIZ

) Violations: Title 18,
) United States Code,
) Sections 1343, 1956
) and 2.

COUNT ONE

The SPECIAL MARCH 2004 GRAND JURY charges:

1. At times relevant to this indictment:

a. The United States Department of Agriculture ("USDA"), Food and Nutrition Service

("FNS"), was a federal agency responsible for the administration and implementation of the Food Stamp Program throughout the United States. The Food Stamp Program ("FSP") provided assistance to needy individuals in the form of food stamp coupons, and later through Electronic Benefit Transfers ("EBT"). The FSP participants received an EBT card, also known as a "Link card," which was used to purchase approved food products at participating stores.

b. The Link card system was developed to enable government agencies to deliver FSP benefits to recipients through the use of electronic transfers, much like debit and credit cards, to eliminate actual, hard copy food stamp coupons. The redemption aspect of the Illinois Link card system was operated under contract by Company A and its affiliates located in Austin, Texas.

c. To become eligible to participate in the FSP, candidate store owners in the Chicago area were required to complete, sign, and submit to the Chicago Field Office of the USDA-FNS an FSP Application for Stores, known as form FNS 252. Upon completion of the application process,

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MICHAEL W. CORRINS
CLERK, U.S. DISTRICT COURT

if the store and its owner(s) qualified, the store was authorized to participate in the program and to redeem food stamp benefits from USDA.

d. Authorized store owners were required to report to the USDA changes from the initial application in food sales, inventory, stock, size of the store, change of location, change of name, and change in ownership.

e. Authorized stores could lawfully only accept Link card benefits in exchange for eligible food items. Authorized stores were prohibited from accepting Link card benefits in exchange for items such as alcoholic beverages, tobacco, hot foods, ready-to-eat foods, lunch counter items, vitamins, medicines, or pet foods.

f. Authorized stores were prohibited from accepting Link card benefits in exchange for cash and were prohibited from accepting Link card benefits presented for redemption at another store.

g. Prior to receiving authorization to participate in the FSP, the applicant store owner or his/her representative was required to participate in an interview conducted by the USDA. During the interview, the applicant store owner was informed of the prohibitions against accepting Link card benefits in exchange for cash and ineligible items.

h. Through the Link card system, FSP benefits were automatically credited to the Illinois recipient's Link card each month. In order for recipients to access their electronic benefits to purchase eligible food items, they were required to present their Link card to a retailer authorized by USDA. Unauthorized retailers could not accept Link cards. The Link cards could only be processed by a specially-provided and manufactured point-of-sale terminal designed to accept Link

cards (hereinafter the "Link card machine"). After manually entering the information or "swiping" the Link card through the Link card machine, the food stamp recipient entered a personal identification number ("PIN") into the machine's keypad to complete the transaction. The Link card machine recorded the Link card account number, the date and time of the transaction, and the amount debited from the recipient's Link card.

i. Once the necessary information was received by the Link card machine, it automatically called a 1-800 telephone number, which allowed the Link card machine to dial into Company A's computer system located in Austin, Texas. Through this contact, the Link card transaction was either approved or rejected, and the result was then communicated to the Link card machine, again via the open phone line. If the Link card transaction was approved, Company A would transfer or cause to be transferred funds from each redemption into the bank account of the authorized retailer to whom the Link card machine was registered. The transfer of funds into an account identified by the authorized retailer normally took place the next business day following the approved Link card transaction.

j. Defendant Hatem FARIZ owned and operated T & T Foods, a neighborhood grocery store located at 2738 W. North Avenue, Chicago, Illinois.

k. On or about March 9, 1999, defendant FARIZ caused to be prepared and submitted to USDA an FSP Application for Stores ("Program Application") on behalf of T & T Foods. On the application, defendant FARIZ represented to the USDA, among other things, that: 1) the store was owned by a privately-held corporation; 2) defendant FARIZ was the corporation's president; 3) defendant FARIZ was the store's on-site manager; 4) the store's annual eligible food sales estimate

was \$149,000; 5) the store's bank account would be held at LaSalle Bank; and 6) the store carried eligible staple foods.

l. On or about March 9, 1999, an FNS FSP Specialist completed a Pre-Authorization Visit Report regarding T & T Foods. During the visit, the FNS Program Specialist interviewed defendant FARIZ, who identified himself as the owner of T & T Foods. The Program Specialist reviewed with defendant FARIZ many FSP regulations, including the regulations regarding food stamp benefit trafficking and the selling of ineligible items for food stamp benefits and the penalties for those violations.

m. On or about March 9, 1999, defendant FARIZ signed a Retailer Training Acknowledgment on behalf of T & T Foods, which stated, in part, that: 1) he had attended retailer orientation held by FNS and that the FSP rules and regulations had been thoroughly reviewed; 2) he understood that exchanging cash for food stamp benefits was illegal and could result in permanent disqualification from the FSP as well as criminal prosecution; and 3) it was his responsibility to ensure that all full-time and part-time employees were properly instructed regarding the FSP regulations.

n. On or about March 9, 1999, defendant FARIZ also signed an EBT Retailer Agreement on behalf of T & T Foods which stated, in part, that: 1) he agreed that only eligible food items would be exchanged for food stamp benefits; 2) he accepted responsibility on behalf of the firm to prevent violations of the FSP, including but not limited to trading cash for food stamp benefits or accepting benefits from people not authorized to use them; and 3) he understood that accepting food stamp

benefits in exchange for anything other than eligible food items was a violation of federal criminal and civil law.

o. On or about March 24, 1999, a visit was made by a representative of the USDA to T & T Foods to determine if the store was eligible to participate in the FSP. The FNS Survey Report indicated that the store was: 1) a convenience store located in a residential/commercial area; 2) had one cash registers/check out stands; 3) did not have any shopping carts or baskets available; 4) had no optical scanners to expedite the check-out of food items by scanning their bar codes; and 5) had no EBT point-of-sale (POS) terminal to facilitate quicker transactions.

p. On or about April 15, 1999, T & T Foods was authorized to accept USDA food stamp benefits, and designated FNS authorization number 3713954. Defendant FARIZ used a LaSalle Bank account, opened on March 1, 1999, to accept wire transfers associated with Link card transactions.

q. A review of FNS food stamp and electronic benefit redemptions for T & T Foods revealed that the store redeemed approximately \$1,662,354.01 in USDA electronic food stamp benefits during the period May 1999 through December 2000, despite the store's reported estimated annual food sales of \$149,000.

2. Beginning in or about May 1999 and continuing until in or about December 2000, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

HATEM FARIZ

defendant herein, knowingly devised, intended to devise and participated in a scheme to defraud and to obtain money and property from the USDA by means of materially false and fraudulent pretenses, representations, and promises, which scheme is further described below.

3. It was part of the scheme that beginning in or about May 1999 and continuing until in or about December 2000, defendant FARIZ, and others known and unknown to the grand jury, used T & T Foods' authorized Link card machine to process fraudulent Link card transactions in which defendant FARIZ accepted and caused to be accepted Link card benefits in exchange for ineligible food items and discounted amounts of cash knowing that such exchanges were prohibited under the FSP.

4. It was further part of the scheme that defendant FARIZ fraudulently caused Company A affiliates to wire transfer approximately \$1,662,354.01 to the T & T Foods' account at LaSalle Bank as reimbursement for Link card benefits redeemed.

5. It was further part of the scheme that beginning in or about May 1999 and continuing until in or about December 2000, defendant FARIZ withdrew substantial sums of money from the T & T Foods account he controlled at LaSalle Bank. Defendant FARIZ used, and caused to be used, the money he withdrew from LaSalle Bank to purchase Link card benefits, and to pay others associated with this venture and himself, and converted portions to cash, among other things.

6. It was further part of the scheme that on multiple occasions between in or about May 1999 and December 2000, defendant FARIZ knowingly redeemed benefits from Link cards in exchange for the payment of U.S. currency to the card holder and defendant FARIZ knowingly allowed others known and unknown to the grand jury to redeem benefits from Link cards in exchange for the payment of discounted amounts of U.S. currency using the T & T Link card machine.

7. It was further part of the scheme that on or about January 13, 2000, defendant FARIZ knowingly redeemed benefits from a Link card in the amount of \$135.20 in exchange for the payment by defendant FARIZ of \$100.00 in U. S. currency to card-holder 1.

8. It was further part of the scheme that on or about January 25, 2000, a transaction that occurred at "Store A," a store not authorized to exchange benefits, was processed using the T & T Link card machine whereby Link card benefits in the amount of \$299.98 were exchanged for the payment of \$210.00 in U.S. currency to card-holder 2.

9. It was further part of the scheme that on or about April 4, 2000, an individual working at T & T Foods redeemed benefits from a Link card in the amount of \$70.85 in exchange for the payment of \$35.00 in U.S. currency to card-holder 3.

10. It was further part of the scheme that on or about April 11, 2000, an individual working at T & T Foods redeemed benefits from a Link card in the amount of \$201.33 in return for the payment of \$100.00 in U. S. currency to card-holder 4.

11. It was further part of the scheme that defendant FARIZ misrepresented and concealed and caused to be misrepresented and concealed the purposes of, and the acts done in furtherance of, the scheme in order to avoid detection of the scheme.

12. On or about January 13, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

HATEM FARIZ,

defendant herein, for the purpose of executing the above-described scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce from Chicago, Illinois, to Austin, Texas, certain signs, signals and sounds, namely: a point of sale LINK card transaction requesting authorization to purchase Electronic Benefit Transfer food stamp benefits having a face value of approximately \$135.20;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT TWO

The SPECIAL MARCH 2004 Grand Jury further charges:

1. The Grand Jury incorporates paragraphs One through Eleven of Count One as though fully set forth herein.
2. On or about January 25, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

HATEM FARIZ,

defendant herein, for the purpose of executing the above-described scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce from Chicago, Illinois, to Austin, Texas, certain signs, signals and sounds, namely: a point of sale LINK card transaction requesting authorization to purchase Electronic Benefit Transfer food stamp benefits having a face value of approximately \$299.98;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT THREE

The SPECIAL MARCH 2004 Grand Jury further charges:

1. The Grand Jury incorporates paragraphs One through Eleven of Count One as though fully set forth herein.
2. On or about April 4, 2000, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

HATEM FARIZ

defendant herein, for the purpose of executing the above-described scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce from Chicago, Illinois, to Austin, Texas, certain signs, signals and sounds, namely: a point of sale LINK card transaction requesting authorization to purchase Electronic Benefit Transfer food stamp benefits having a face value of approximately \$70.35;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT FOUR

The SPECIAL MARCH 2004 Grand Jury further charges:

1. The Grand Jury incorporates paragraphs One through Eleven of Count One as though fully set forth herein.
2. On or about April 11, 2000, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

HATEM FARIZ

defendant herein, for the purpose of executing the above-described scheme, knowingly caused to be transmitted by means of a wire communication in interstate commerce from Chicago, Illinois, to Austin, Texas, certain signs, signals and sounds, namely: a point of sale LINK card transaction requesting authorization to purchase Electronic Benefit Transfer food stamp benefits having a face value of approximately \$201.33;

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT FIVE

The SPECIAL MARCH 2004 Grand Jury further charges that:

On or about July 24, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

HATEM FARIZ,

defendant herein, did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, namely the payment of \$7,000 to Individual A by a check drawn on the T & T Foods account at LaSalle Bank, which involved the proceeds of a specified unlawful activity, namely wire fraud in violation of Title 18, United States Code Section 1343, with the intent to promote the carrying on of that specified unlawful activity, and while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is \$7,000, represented the proceeds of some form of unlawful activity;

In violation of Title 18, United States Code, Section 1956 (a)(1)(A)(i).

COUNT SIX

The SPECIAL MARCH 2004 Grand Jury further charges that:

On or about October 13, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

HATEM FARIZ,

defendant herein, did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, namely the payment of \$3,400 to Individual A by a check drawn on the T & T Foods account at LaSalle Bank, which involved the proceeds of a specified unlawful activity, namely wire fraud in violation of Title 18, United States Code Section 1343, with the intent to promote the carrying on of that specified unlawful activity, and while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is \$3,400, represented the proceeds of some form of unlawful activity;

In violation of Title 18, United States Code, Section 1956 (a)(1)(A)(i).

COUNT SEVEN

The SPECIAL MARCH 2004 Grand Jury further charges that:

On or about November 7, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

HATEM FARIZ,

defendant herein, did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, namely the payment of \$4,500 to Individual A by a check drawn on the T & T Foods account at LaSalle Bank, which involved the proceeds of a specified unlawful activity, namely wire fraud in violation of Title 18, United States Code Section 1343, with the intent to promote the carrying on of that specified unlawful activity, and while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is \$4,500, represented the proceeds of some form of unlawful activity;

In violation of Title 18, United States Code, Section 1956 (a)(1)(A)(i).

COUNT EIGHT

The SPECIAL MARCH 2004 GRAND JURY further charges:

On or about September 20, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

HATEM FARIZ,

defendant herein, did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, namely the withdrawal of \$9,600 from the T & T Foods account at LaSalle Bank, which involved the proceeds of a specified unlawful activity, namely wire fraud in violation of Title 18, United States Code Section 1343, knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the specified unlawful activity, and while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is \$9,600, represented the proceeds of some form of unlawful activity;

In violation of Title 18, United States Code, Section 1956 (a)(1)(B)(i).

COUNT NINE

The SPECIAL MARCH 2004 GRAND JURY further charges:

On or about September 21, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

HATEM FARIZ,

defendant herein, did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, namely the withdrawal of \$9,400 from the T & T Foods account at LaSalle Bank, which involved the proceeds of a specified unlawful activity, namely wire fraud in violation of Title 18, United States Code Section 1343, knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the specified unlawful activity, and while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is \$9,400, represented the proceeds of some form of unlawful activity;

In violation of Title 18, United States Code, Section 1956 (a)(1)(B)(i).

COUNT TEN

The SPECIAL MARCH 2004 GRAND JURY further charges:

On or about September 22, 2000, at Chicago, in the Northern District of Illinois, Eastern Division,

HATEM FARIZ,

defendant herein, did knowingly conduct and attempt to conduct a financial transaction affecting interstate commerce, namely the withdrawal of \$9,500 from the T & T Foods account at LaSalle Bank, which involved the proceeds of a specified unlawful activity, namely wire fraud in violation of Title 18, United States Code Section 1343, knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of the specified unlawful activity, and while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is \$9,500, represented the proceeds of some form of unlawful activity;

In violation of Title 18, United States Code, Section 1956 (a)(1)(B)(i).

FORFEITURE ALLEGATION ONE

The SPECIAL MARCH 2004 Grand Jury further charges that:

1. The allegations of Counts One through Four are re-alleged and fully incorporated herein for the purpose of alleging forfeiture to the United States pursuant to Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 981(a)(1)(C).

2. As a result of the violations as alleged in Counts One through Four of the foregoing indictment,

HATEM FARIZ,

defendant herein, shall forfeit to the United States any and all right, title, and interest he may have in any property, real and personal, which constitutes and is derived from proceeds traceable to the offenses as charged in Counts One through Four.

3. The interests of the defendant subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(c) as incorporated by Title 28, United States Code, Section 2461(c), include but are not limited to approximately \$1,662,354.01 in U.S. currency.

4. If any of the forfeitable property described above, as a result of any act or omission by the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

All pursuant to Title 28, United States Code, Section 2461(c) and Title 18, United States Code, Section 981(a)(1)(C).

FORFEITURE ALLEGATION TWO

The SPECIAL MARCH 2004 Grand Jury further charges that:

1. The allegations of Count Five through Ten are re-alleged and fully incorporated herein for the purpose of alleging forfeiture to the United States pursuant to Title 18, United States Code, Section 982.

2. As a result of the violations of Title 18, United States Code, Section 1956 of the foregoing indictment,

HATEM FARIZ,

defendant herein, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), any and all right, title, and interest he may have in any property, real and personal, involved in such offenses and traceable to the offenses as charged in Counts Five through Ten.

3. The interests of the defendant subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 982(a)(1), include but are not limited to the following: approximately \$43,400.

4. If any of the forfeitable property described above, as a result of any act or omission by the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b)(1).

All pursuant to Title 18, United States Code, Section 982.

A TRUE BILL:

Karen Aja
FOREPERSON

Patrick J. Fitzgerald
UNITED STATES ATTORNEY

No.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA

vs.

HATEM FARIZ

INFORMATION

In violation of:

Title 18 U.S.C. §1343
Title 18 U.S.C. §1956 and §2

A true bill.

Karen Giza
Foreman

Filed in open court this 7th day

of July A.D. 2004

MICHAEL W. DOBBINS

By: *Shirley Saccamato* Clerk

Bail, \$ _____
