

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 18-20530-CR-UNGARO(s)(s)

18 U.S.C. § 1349

18 U.S.C. § 1343

18 U.S.C. § 1001

18 U.S.C. § 1512(b)(3)

18 U.S.C. § 982(a)(1)(C)

UNITED STATES OF AMERICA

vs.

**JAVIER ESTEPA and
DIEGO ALEJANDRO ESTEPA VASQUEZ,**

Defendants.

SECOND SUPERSEDING INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times material to this Second Superseding Indictment:

1. Miami-Dade Public Housing and Community Development (PHCD) was a public housing agency in Miami-Dade County that managed over 9,200 units of public and mixed income housing in family and elderly housing developments. The programs run by PHCD were funded in part by the Department of Housing and Urban Development (HUD).

2. Competitive procurements for construction work on PHCD public housing units were secured through invitation of sealed bids or by requesting competitive proposals. Contracts

were awarded to the bidder whose bid, conforming with all material terms and conditions of the invitation for bids, was the lowest price.

3. PHCD issued "Requests for Price Quotes" (RPQs), also known as bids, for the renovation and repair of public housing units. PHCD also issued "Invitation for Bids" (IFB), which were comprised of a package of information necessary for potential bidders to submit a bid. The IFB included a description of the supplies or services being purchased, any unique technical information, time and place of bid opening, time and place of site inspections or pre-bid conferences, a form for stating the bid price, and other required forms, including Form HUD-5370, titled "General Conditions of the Contract for Construction."

4. When PHCD notified a contractor that it had been recommended for an award in reference to a bid, the contractor was required to review and complete a number of documents, including Form HUD-5370. A Form HUD-5370 notified the contractor about its legal and contractual obligations to comply with all federal labor laws.

5. Contractors and subcontractors were required to submit Periodic or Final Estimate for Payment packets, which contained, among other things, certified weekly payroll records that accurately stated the names of all employees and their trades, Social Security account numbers (SSNs), wages, and benefits, accompanied by a sworn Statement of Compliance (U.S. Department of Labor Form WH-347) certifying that the information was correct and that each person listed on the payroll was being paid the prevailing wage for the project.

6. Aaron Construction Group, Inc. ("Aaron Construction") was a Florida corporation whose principal place of business was 10820 NW 138th Street, in Hialeah Gardens, Florida and was doing business as a general contractor for commercial and residential construction.

7. Defendant **JAVIER ESTEPA** was a resident of Broward County and the President of Aaron Construction.

8. Defendant **DIEGO ALEJANDRO ESTEPA VASQUEZ** was a resident of Broward County and the Vice President of Aaron Construction.

9. Bank of America account number XXXXXXXXX-9359 was a business account opened in the name of Aaron Construction Group, Inc., whose signatories were **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ**.

10. Bank of America account number XXXXXXXXX-3615 was a business account opened in the name of Aaron Construction Group, Inc., whose signatories were **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ**.

COUNT 1
Conspiracy to Commit Wire Fraud
(18 U.S.C. § 1349)

1. The General Allegations section of this Second Superseding Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around June 2014, the exact date being unknown to the Grand Jury, through in or around December 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

JAVIER ESTEPA
and
DIEGO ALEJANDRO ESTEPA VASQUEZ,

did knowingly and willfully, that is, with the intent to further the object of the conspiracy, combine, conspire, confederate, and agree with each other and with other persons known and unknown to the Grand Jury, to knowingly, and with the intent to defraud, devise, and intend to devise, a scheme

and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and, for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, certain writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE CONSPIRACY

3. It was the purpose of the conspiracy for **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ** and their co-conspirators to unlawfully enrich themselves by securing PHCD bid awards and causing PHCD to make payments on those contracts by making materially false and fraudulent representations, and by the concealment and omission of material facts concerning, among other things, their utilization of subcontractors, the number of workers employed on the construction projects, and the status of those workers as full-time employees of Aaron Construction.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ** sought to accomplish the purpose and object of the conspiracy included, among others, the following:

4. **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ** submitted bids to PHCD, on behalf of Aaron Construction, for specific renovation and repair of low-income housing in various locations throughout Miami-Dade County. In the bids, **ESTEPA** and **VASQUEZ** falsely and fraudulently represented (1) the number of workers to be employed on the

projects, (2) that no subcontractors would be utilized in connection with the contract, and (3) that Aaron Construction would obtain workers' compensation insurance, in accordance with state laws.

5. **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ** falsely and fraudulently underreported the number of workers and hours worked on the projects, allowing Aaron Construction to artificially lower company costs, including workers compensation insurance premiums and payroll taxes, thereby enabling **ESTEPA** and **VASQUEZ** to submit false and fraudulent low-ball bids for PHCD work.

6. In order to obtain payment from PHCD, **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ** submitted Periodic or Final Estimate for Payment packets to PHCD containing false and fraudulent certified payroll records which listed fewer workers than were actually employed on the project and falsified the number of hours worked. **ESTEPA** and **VASQUEZ** falsely and fraudulently stated that they had no subcontractors working on the project, falsely characterizing the workers as employees of Aaron Construction, when in fact they were subcontractors and subcontractor employees. In addition, **ESTEPA** and **VASQUEZ** submitted with the Periodic or Final Estimate for Payment packets, sworn statements of compliance that falsely and fraudulently certified that the information submitted was true and correct.

7. As a result of these false and fraudulent submissions, PHCD transferred funds, via wire, as payment on the PHCD for the work performed on contracts awarded to Aaron Construction to the Bank of America accounts ending in 9359 and 3615, controlled by **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ**.

8. **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ** used the

proceeds of the fraud for the benefit of themselves and others.

All in violation of Title 18, United States Code, Section 1349.

COUNTS 2-4
Wire Fraud
(18 U.S.C. § 1343)

From in or around June 2014, the exact date being unknown to the Grand Jury, through in or around December 2016, in Miami-Dade County, in the Southern District of Florida, and elsewhere, the defendants,

JAVIER ESTEPA
and
DIEGO ALEJANDRO ESTEPA VASQUEZ,

did knowingly, and with the intent to defraud, devise, and intend to devise, a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and, for the purpose of executing the scheme and artifice, did knowingly transmit and cause to be transmitted, by means of wire communication in interstate commerce, certain writings, signs, signals, pictures and sounds, in violation of Title 18, United States Code, Section 1343.

PURPOSE OF THE SCHEME AND ARTIFICE

1. It was the purpose of the scheme and artifice for **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ** and their accomplices to unlawfully enrich themselves by securing PHCD bid awards and causing PHCD to make payments on those contracts by making materially false and fraudulent representations, and by the concealment and omission of material facts concerning, among other things, their utilization of subcontractors, the number of workers

employed on the construction projects, and the status of those workers as full-time employees of Aaron Construction.

SCHEME AND ARTIFICE

2. Paragraphs 4 through 8 of the Manner and Means section from Count 1 of this Second Superseding Indictment are re-alleged and incorporated by reference as though fully set forth herein as the description of the scheme and artifice.

USE OF WIRES

3. On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, and elsewhere, **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ**, for the purpose of executing and in furtherance of the aforesaid scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, did knowingly transmit and cause to be transmitted in interstate commerce, by means of wire communication, certain writings, signs, signals, pictures, and sounds, as described below:

Count	Approx. Date	Description of Wire
2	11/13/2014	Transfer in the amount of \$516,366.41 from the Well Fargo account ending in 9012, belonging to PHCD, to the Bank of America account ending in 9359, causing a wire transmission from New York, NY to the Southern District of Florida.
3	9/17/2015	Transfer in the amount of \$194,292.87 from the Well Fargo account ending in 9012, belonging to PHCD, to the Bank of America account ending in 3615, causing a wire transmission from New York, NY to the Southern District of Florida.

Count	Approx. Date	Description of Wire
4	6/16/2016	Transfer in the amount of \$104,018.35 from the Well Fargo account ending in 9012, belonging to PHCD, to the Bank of America account ending in 3615, causing a wire transmission from New York, NY to the Southern District of Florida.

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

COUNTS 5-8
False Statement
(18 U.S.C. § 1001(a)(2))

On or about the dates specified as to each count below, in Miami-Dade County, in the Southern District of Florida, in a matter within the jurisdiction of the Department of Housing and Urban Development, the defendants, as specified in each count below, did knowingly, and willfully make a false, fictitious, and fraudulent statement and representation as to a material fact, in that the defendants represented to the PHCD, acting as an agent, of and implementing a program funded by, the Department of Housing and Urban Development, that the employees listed on the Form-WH347, Certified Payroll, had worked the hours and on the dates specified in the form, when in truth and in fact, and as the defendants then and there well knew, the employees had not worked the hours and the dates provided:

Count	Defendant	Pay Period Ending	Date of False Certification
5	JAVIER ESTEPA	September 7, 2014	October 6, 2014
6	JAVIER ESTEPA	September 14, 2014	October 6, 2014
7	JAVIER ESTEPA	April 12, 2015	April 21, 2015
8	DIEGO ALEJANDRO ESTEPA VASQUEZ	April 12, 2015	May 13, 2015

In violation of Title 18, United States Code, Section 1001(a)(2).

COUNT 9
Tampering With a Witness
(18 U.S.C. § 1512(b)(3))

1. The General Allegations section of this Second Superseding Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. On or about April 24, 2018, in Broward County, in the Southern District of Florida, the defendant,

JAVIER ESTEPA,

did knowingly corruptly persuade another person, Y.B., and attempt to do so, with intent to hinder, delay, and prevent the communication to a federal law enforcement officer of information relating to the commission and possible commission of a federal offense in the Southern District of Florida, specifically, the offense of Conspiracy to Commit Wire Fraud and Wire Fraud, as alleged in Counts One through Four.

All in violation of Title 18, United States Code, Section 1512(b)(3).

FORFEITURE ALLEGATIONS

1. The allegations in this Second Superseding Indictment are re-alleged and by this reference fully incorporated herein for the purpose of alleging criminal forfeiture to the United States of America of certain property in which one or more of the defendants, **JAVIER ESTEPA** and **DIEGO ALEJANDRO ESTEPA VASQUEZ**, have an interest.

2. Upon conviction of a violation of Title 18, United States Code, Section 1343 and/or a conspiracy to commit such violation, as alleged in Counts 1 through 4 of this Second Superseding Indictment, the defendants shall each forfeit to the United States of America all property

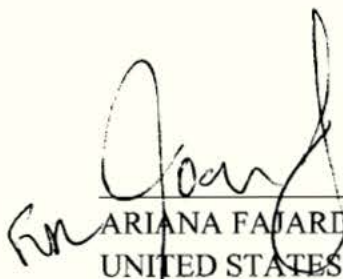
constituting, or derived from, proceeds obtained, directly or indirectly, as the result of such violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), and the procedures set forth at Title 21, United States Code, Section 853, made applicable by Title 28, United States Code, Sections 2461(c).

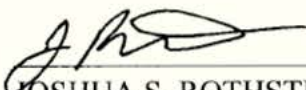
A TRUE BILL



FOREPERSON



ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY



JOSHUA S. ROTHSTEIN
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

UNITED STATES OF AMERICA

CASE NO. 18-20530-CR-UNGARO(s)(s)

v.

CERTIFICATE OF TRIAL ATTORNEY*

JAVIER ESTEPA and DIEGO ALEJANDRO ESTEPA VASQUEZ,

Superseding Case Information:

Defendant.

Court Division: (Select One)

Miami FTL Key West WPB FTP

New defendant(s) Yes No
Number of new defendants
Total number of counts

- 1. I have carefully considered the allegations of the indictment...
2. I am aware that the information supplied on this statement will be relied upon...
3. Interpreter: (Yes or No) Yes
List language and/or dialect Spanish
4. This case will take 3-4 days for the parties to try.
5. Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

- I 0 to 5 days
II 6 to 10 days
III 11 to 20 days
IV 21 to 60 days
V 61 days and over

- Petty
Minor
Misdem.
Felony

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

If yes: Judge UNGARO Case No. 18-20530-CR

(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

7. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to August 9, 2013 (Mag. Judge Alicia O. Valle)? Yes No

8. Does this case originate from a matter pending in the Northern Region U.S. Attorney's Office prior to August 8, 2014 (Mag. Judge Shaniek Maynard)? Yes No

[Signature]

JOSHUA S. ROTHSTEIN
ASSISTANT UNITED STATES ATTORNEY
Court I.D. A5502111

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: JAVIER ESTEPA

Case No: 18-20530-CR-UNGARO(s)(s)

Count #: 1

Conspiracy to Commit Wire Fraud

Title 18, United States Code, Section 1349

*** Max. Penalty:** 20 Years' Imprisonment

Counts #: 2-4

Wire Fraud

Title 18, United States Code, Section 1343

*** Max. Penalty:** 20 Years' Imprisonment

Counts #: 5-7

False Statement to a Federal Agency

Title 18, United States Code, Section 1001

*** Max. Penalty:** 5 Years' Imprisonment

Count #: 9

Tampering With a Witness

Title 18, United States Code, Section 1512(b)(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: DIEGO ALEJANDRO ESTEPA VASQUEZ

Case No: 18-20530-CR-UNGARO(s)(s)

Count #: 1

Conspiracy to Commit Wire Fraud

Title 18, United States Code, Section 1349

*** Max. Penalty:** 20 Years' Imprisonment

Counts #: 2-4

Wire Fraud

Title 18, United States Code, Section 1343

*** Max. Penalty:** 20 Years' Imprisonment

Count #: 8

False Statement to a Federal Agency

Title 18, United States Code, Section 1001

*** Max. Penalty:** 5 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.**