

United States District Court  
Southern District of Texas  
FILED

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JUN 10 2009

*Michael N. Milby, Clerk*

**UNITED STATES OF AMERICA,**

v.

**FERNANDO MAYA BASURTO,**  
Defendant.

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§

**CRIMINAL NO. H-09-**

**H 09**

**325**

**Violations**

**18 U.S.C. § 371 (Conspiracy)**

**31 U.S.C. § 5324(a)(3) and (d)**

**INDICTMENT**

The Grand Jury charges that at all times relevant to this Indictment:

**COUNT ONE**

**Conspiracy  
(18 U.S.C. § 371)**

**Introduction**

1. Title 31, United States Code, Section 5313(a), and Title 31, Code of Federal Regulations, Section 103.22, requires that domestic financial institutions file a Currency Transaction Report (“CTR”) for each transaction of currency, including deposits and withdrawals, of more than \$10,000. Knowingly and purposefully evading those requirements by structuring transactions with domestic financial institutions is a crime under Title 31, United States Code, Section 5324(a)(3) and (d) and Title 31, Code of Federal Regulations, Section 103.11(gg). Under Title 31, Code of Federal Regulations, Section 103.11(gg), a person structures a transaction if that person, acting alone, or in conjunction with, or on

behalf of, other persons, conducts or attempts to conduct one or more transactions in currency in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading the CTR reporting requirements.

Relevant Persons, Entities, and Banking Information

2. The defendant **FERNANDO MAYA BASURTO** was a citizen of Mexico. He maintained U.S. bank accounts over which he had signatory authority at financial institutions including Bank of America and Wells Fargo. They included accounts ending xx414, xx519, xx772, xx010, and xx766.

3. Co-conspirator A was a citizen of Mexico and was defendant **BASURTO**'s step mother. She maintained U.S. bank accounts over which she had signatory authority at financial institutions including Bank of America, JP Morgan Chase (also known as Chase Manhattan), and Wells Fargo. They included accounts ending xx513, xx543, xx569, xx955, xx065, and xx565.

4. Co-conspirator B was a citizen of Mexico and was defendant **BASURTO**'s father. He maintained U.S. bank accounts over which he had signatory authority along with Co-conspirator A, including accounts xx513 and xx955.

5. Family Members 1 through 4 were all citizens of Mexico and were related to **BASURTO**, Co-conspirator A, and Co-conspirator B. Family Member 1

had signatory authority over accounts xx519 and xx772, along with **BASURTO**. Family Member 2 had signatory authority over account xx543, along with Co-conspirator A. Family Member 3 had signatory authority over account xx569, along with Co-conspirator A. Family Member 4 had signatory authority over account xx065 along with Co-conspirator A. Collectively, accounts xx414, xx519, xx772, xx010, xx766, xx513, xx543, xx569, xx955, xx065, and xx565 are referred to as the “Personal Accounts.”

6. Bank of America, JP Morgan Chase, and Wells Fargo were domestic financial institutions within the meaning of Title 31, United States Code, Section 5312, and Title 31, Code of Federal Regulations, Section 103.11(n) that were required to file CTRs under Title 31, Code of Federal Regulations, Section 103.22(b).

7. Corporation A was a corporation headquartered and incorporated in Switzerland. Subsidiary A was a subsidiary of Corporation A and was incorporated under the laws of the State of Delaware. Texas Business A was a business unit of Subsidiary A and had its principal place of business in Sugar Land, Texas. Texas Business A’s primary purpose was to provide products and services to electrical utilities for network management in power generation, transmission, distribution, and consumption. Many of Texas Business A’s clients were foreign

governmental utilities. Texas Business A conducted business in a number of its foreign markets through sales representatives.

8. General Manager A was the head of Texas Business A and oversaw its operations. Among General Manager A's responsibilities was approving the payment of sales representatives.

9. Comisión Federal de Electricidad ("CFE") was a Mexican state-owned electrical utility company responsible for supplying electricity to all of Mexico other than Mexico City. CFE contracted with Mexican and foreign companies for goods and services to help it perform its mission.

10. Official A and Official B were Sub-Directors at CFE and had influence over decisions concerning Texas Business A's contracts.

11. Mexican Company A was a Mexican company headquartered in Mexico City, Mexico. Mexican Company A maintained a corporate bank account in Mexico. **BASURTO** and his father were principals of and operated Mexican Company A.

12. Texas Business A and Mexican Company A entered into multiple commission agreements in which Texas Business A agreed to pay Mexican Company A a percentage of the revenue generated from business with Mexican governmental utilities, including CFE. Texas Business A obtained multiple

contracts with CFE for goods and services related to CFE's networks while using Mexican Company A as its sales representative.

The Conspiracy and Its Object

13. From in or around February 2002, through in or around November 2004, in the Southern District of Texas, and elsewhere, defendant,

**FERNANDO MAYA BASURTO,**

did knowingly and willfully conspire and agree with other persons, including Co-conspirators A and B, and others known and unknown to the Grand Jury, to commit an offense against the United States, that is to knowingly and for the purpose of evading the reporting requirements of Title 31, Section 5313(a) of the United States Code, and the regulations promulgated thereunder, in particular Title 31, Code of Federal Regulations, Section 103.22, structure and assist in structuring transactions with domestic financial institutions.

Purpose of the Conspiracy

14. The purpose of the conspiracy was to illicitly avoid the filing of CTRs that would report to the federal government large withdrawals of cash.

Manner and Means of the Conspiracy

15. **BASURTO**, Co-conspirator A, Co-conspirator B, and others used the following manner and means, among others, to accomplish the object and purpose

of the conspiracy:

*Manner of the Transfers*

- a. **BASURTO**, in conjunction with Co-conspirator B, would direct that payments due under the agreements between Texas Business A and Mexican Company A be split and paid as follows. **BASURTO** would direct that a portion of the payments be made in the name of Mexican Company A and wired to Mexican Company A's corporate account in Mexico. However, **BASURTO** would also direct that another portion of the funds due to Mexican Company A be paid in the name of six individuals—**BASURTO**, Co-conspirator A, and Family Members 1 through 4—and paid to accounts among the Personal Accounts.
- b. **BASURTO** and Co-conspirator B would make, use, and email charts and spreadsheets that reflected how they wished the payments to Mexican Company A to be split.
- c. During the period of February 2002 to October 2004, Texas Business A would wire a total of over one million dollars to nine of the Personal Accounts, all of which were under the signatory control of either **BASURTO** or Co-conspirator A. Excluding the transfers between and among the accounts, Texas Business A's wires represented over 90% of the funds coming into the Personal Accounts.

*Purpose of the Transfers*

d. **BASURTO** and Co-conspirator B would refer to some of these payments to the Personal Accounts in a variety of coded ways, obscuring the true purpose of the transfers.

e. **BASURTO** and Co-conspirator B would create false invoices claiming payment for various services. **BASURTO** would direct that payment for one of these false invoices be made to one of the Personal Accounts.

*Withdrawals from the Personal Accounts*

f. During the period of February 2002 to November 2004, **BASURTO**, Co-conspirator A, Co-conspirator B, and others known and unknown to the Grand Jury would make a total of over \$490,000 dollars in cash withdrawals from the Personal Accounts, including from branches in Houston, Texas.

g. During the period of February 2002 to November 2004, **BASURTO**, Co-conspirator A, Co-conspirator B, and others would make over 90 withdrawals of currency under the CRT reporting threshold. Of those withdrawals, **BASURTO** would make at least 54 withdrawals of currency from five of the Personal Accounts, 53 of which were for \$10,000 or less, and Co-conspirator A would make at least 15 withdrawals of currency from six of the Personal Accounts, all of which were \$10,000 or less.

h. **BASURTO** and Co-conspirator A would evade the CTR reporting requirement and would withdraw more than \$10,000 in currency in a single day during this period by making multiple currency withdrawals of \$10,000 or less from multiple accounts and multiple banks and/or branches of banks. The withdrawals would often be close in time to one another and would sometimes require traveling to different banking locations.

i. **BASURTO** and Co-conspirator A would also evade the CTR requirement by making currency withdrawals on consecutive days. At times **BASURTO** and Co-conspirator A would withdraw a large amount of cash from one of the Personal Accounts and then the next day would withdraw another large amount of cash from the same account as the previous withdrawal, ensuring that each transaction was for \$10,000 or less and therefore was less than the CTR reporting threshold.

*Other Methods of Concealment Within the Personal Accounts*

j. **BASURTO** and Co-conspirator A would also conceal the final destination of the funds wired from Texas Business A to the Personal Accounts in other ways.

i. **BASURTO** and Co-conspirator A would use the funds received from Texas Business A to make over \$100,000 of payments back to General

Manager A of Texas Business A in a concealed way. **BASURTO** and Co-conspirator A would make these payments by writing checks to multiple payees, including General Manager A, his wife, his two daughters, a friend, and American Express to pay General Manager A's credit card bills. To further conceal the payments to General Manager A, **BASURTO** and Co-conspirator A would use four different accounts among the Personal Accounts to make these payments.

ii. **BASURTO** and Co-conspirator A would make another concealed use the funds received from Texas Business A by transferring over \$150,000 to a brokerage account controlled by a third party using five different accounts among the Personal Accounts. This third party would then wire a portion of the wire transfers received from the Personal Accounts to the son-in-law of Official B. The son-in-law of Official B would receive over \$90,000 in this manner.

#### Overt Acts

##### *Manner of the Transfers*

16. On or about the following dates, Texas Business A wired the following amounts to various Personal Accounts on behalf of Mexican Company A:

	Date	Amount	To	Bank	Account
a.	February 1, 2002	\$30,593	<b>BASURTO</b>	Wells Fargo	xx766

b.	February 1, 2002	\$30,000	Co-Conspirator A	Bank of America	xx513
c.	January 6, 2003	\$10,000	Co-Conspirator A	Bank of America	xx513
d.	January 6, 2003	\$35,000	Family Member 1	Bank of America	xx772
e.	January 6, 2003	\$35,000	Family Member 1	Bank of America	xx519
f.	January 6, 2003	\$15,333	<b>BASURTO</b>	Wells Fargo	xx766
g.	November 12, 2003	\$40,000	Family Member 1	Bank of America	xx772
h.	November 12, 2003	\$40,000	<b>BASURTO</b>	Wells Fargo	xx766
i.	November 14, 2003	\$40,000	Co-conspirator A	Bank of America	xx513
j.	January 8, 2004	\$50,000	Family Member 2	Bank of America	xx543
k.	January 8, 2004	\$50,000	Family Member 3	Bank of America	xx569
l.	January 8, 2004	\$50,000	Co-conspirator A	Bank of America	xx513
m.	January 8, 2004	\$50,000	Family Member 1	Bank of America	xx519
n.	January 8, 2004	\$50,000	<b>BASURTO</b>	Wells Fargo	xx766
o.	January 8, 2004	\$50,000	Family Member 2	JP Morgan Chase	xx065
p.	February 17, 2004	\$30,000	Family Member 2	Bank of America	xx543

q.	February 17, 2004	\$30,000	Family Member 3	Bank of America	xx569
r.	February 17, 2004	\$30,000	<b>BASURTO</b>	Wells Fargo	xx010
s.	February 17, 2004	\$30,000	Family Member 4	JP Morgan Chase	xx065
t.	February 17, 2004	\$30,000	Family Member 1	Bank of America	xx519
u.	February 17, 2004	\$31,750	<b>BASURTO</b>	Bank of America	xx414
v.	May 13, 2004	\$42,343	Family Member 1	Bank of America	xx772
w.	May 27, 2004	\$48,500	Co-conspirator A	Bank of America	xx513
x.	May 27, 2004	\$50,000	Family Member 1	Bank of America	xx519
y.	August 11, 2004	\$25,000	Family Member 1	Bank of America	xx772
z.	September 27, 2004	\$42,342	Family Member 1	Bank of America	xx772
aa.	October 6, 2004	\$35,943	Family Member 1	Wells Fargo	xx766

*Purpose of the Transfers*

17. On February 1, 2004, Co-conspirator B sent an email to General Manager A, copying his son **BASURTO**, that read, in part, "Regarding the spreadsheet, the Doctor is telling me that it is ready but we want to hand carry it next time we meet as a bookmark for the Kamasutra book."

18. On February 2, 2004, **BASURTO** sent an email to General Manager A referring to payments from Texas Business A to Mexican Company A that read, in part, “We still think it is better to hand you the new table in person next time we meet” and, referring to transfers to the Personal Accounts, “This is the transfer arrangement for the bonus portion we are handling. It is the same amount shown in the table you have, the first two figures under the Good Guys column.”

19. On May 7, 2004, **BASURTO** sent an email to General Manager A discussing another transfer from Texas Business A that read, in part, “We have already informed [a CFE employee and Official B] that you are not coming the 11th. . . . Regarding the numbers we handle for them, we will need a transfer of US\$42,344.”

20. On May 11, 2004, **BASURTO** sent an email to General Manager A discussing a \$42,344 transfer to one of the Personal Accounts that read, in part, “This 42k is for the extra we handle for our friends.”

21. On June 8, 2004, **BASURTO** and Co-conspirator B sent an email to General Manager A that read, in part, “We will see [Official A] tomorrow and press for his letter. Hard to believe, but he just send [sic] us his itinerary for the trip we told you about recently. We are attaching it for your review, and we are comparing prices to see if they are in a normal range. He is suggesting we use his

travel agency, which would be desirable to avoid calls from them in case anything goes wrong, like getting the wrong cabin or if he is left stranded in [sic] an island!!”

22. On July 23, 2004, **BASURTO** sent an email to General Manager A about Mexican Company A’s commissions that read, in part, “Commission 3 is the extra bonus for our friends that we handle.”

23. On August 5, 2004, **BASURTO** sent an email to General Manager A that read, in part, “Also, I am sending you a sample invoice for the boat trip, for your review and comments,” which contained an attached false invoice for \$25,000 for purported services including, “Local assistance for new customs law crossing of Historian Server shipment,” “Consulting for obtaining proper receipt stamps for Historian servers delivery,” and “Logistical planning to expedite historian deliveries at 17 sites.”

*Method of the Withdrawals*

24. On or about the following dates, **BASURTO** caused the following withdrawals of currency in Houston, Texas:

	Date	Amount	Bank	Account
a.	April 10, 2002	\$5,000	Wells Fargo	xx766
b.	April 10, 2002	\$5,000	Bank of America	xx772

c.	April 11, 2002	\$5,000	Bank of America	xx772
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25. On or about the following dates, **BASURTO** caused the following withdrawals of currency in Houston, Texas:

	Date	Amount	Bank	Account
a.	May 16, 2002	\$6,000	Bank of America	xx772
b.	May 17, 2002	\$6,000	Bank of America	xx772

26. On or about the following dates, **BASURTO** caused the following withdrawals of currency in La Jolla, California:

	Date	Amount	Bank	Account
a.	December 31, 2002	\$6,000	Bank of America	xx519
b.	December 31, 2002	\$5,000	Wells Fargo	xx766
c.	January 2, 2003	\$5,000	Wells Fargo	xx766
d.	January 2, 2003	\$5,000	Bank of America	xx519
e.	January 2, 2003	\$5,000	Bank of America	xx772
f.	January 3, 2003	\$10,000	Bank of America	xx772

27. On or about the following dates, Co-conspirator A caused the following withdrawals of currency in La Jolla, California:

	Date	Amount	Bank	Account
a.	January 7, 2003	\$7,000	Bank of America	xx955
b.	January 7, 2003	\$2,000	Bank of America	xx513
c.	January 8, 2003	\$8,000	Bank of America	xx955

28. On or about the following dates, **BASURTO** caused the following withdrawals of currency in Houston, Texas:

	Date	Amount	Bank	Account
a.	February 14, 2003	\$2,000	Wells Fargo	xx766
b.	February 14, 2003	\$10,000	Bank of America	xx772
c.	February 14, 2003	\$10,000	Bank of America	xx772

29. On or about the following dates, Co-conspirator A and Co-Conspirator B caused the following withdrawals of currency in La Jolla, California:

	Date	Amount	Bank	Account
a.	July 7, 2003	\$4,000	Bank of America	xx513
b.	July 7, 2003	\$1,000	Bank of America	xx772
c.	July 7, 2003	\$4,000	Bank of America	xx569
d.	July 7, 2003	\$3,000	Bank of America	xx513

30. On or about the following dates, **BASURTO** caused the following withdrawals of currency in La Jolla, California:

	Date	Amount	Bank	Account
a.	December 26, 2003	\$7,000	Bank of America	xx772
b.	December 26, 2003	\$3,500	Wells Fargo	xx766

31. On or about the following dates, **BASURTO** and Co-conspirator A

caused the following withdrawals of currency in Houston, Texas:

	Date	Amount	Bank	Account
a.	February 5, 2004	\$9,000	Bank of America	xx519
b.	February 5, 2004	\$9,000	Wells Fargo	xx766
c.	February 6, 2004	\$9,000	Bank of America	xx414
d.	February 6, 2004	\$7,000	Bank of America	xx513

32. On or about the following dates, **BASURTO** caused the following withdrawals of currency in Houston, Texas:

	Date	Amount	Bank	Account
a.	March 31, 2004	\$9,500	Wells Fargo	xx010
b.	March 31, 2004	\$5,000	Bank of America	xx414

33. On or about the following dates, **BASURTO** caused the following withdrawals of currency in Houston, Texas:

	Date	Amount	Bank	Account
a.	May 24, 2004	\$3,000	Bank of America	xx414
b.	May 24, 2004	\$10,000	Bank of America	xx772
c.	May 24, 2004	\$3,000	Wells Fargo	xx766
d.	May 24, 2004	\$3,000	Wells Fargo	xx010

34. On or about the following dates, **BASURTO** caused the following withdrawals of currency in Houston, Texas:

	Date	Amount	Bank	Account
a.	November 29, 2004	\$9,000	Bank of America	xx519
b.	November 29, 2004	\$8,500	Wells Fargo	xx766

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

**COUNTS TWO THROUGH FOUR**  
**Currency Transaction Structuring**  
**(31 U.S.C. § 5324(a)(3) and (d))**

35. On or about the dates set forth below, in the Southern District of Texas, and elsewhere, defendant,

**FERNANDO MAYA BASURTO,**

did knowingly and for the purpose of evading the reporting requirements of Title 31, Section 5313(a) of the United States Code, and the regulations promulgated thereunder, in particular Title 31 Code of Federal Regulations Section 103.22, structure and assist in structuring transactions with domestic financial institutions.

36.	Count Two	Date	Currency Withdrawal Amount	Bank	Account
		March 31, 2004	\$9,500	Wells Fargo, Houston, TX	xx010
		March 31, 2004	\$5,000	Bank of America, Houston, TX	xx414

37.	Count Three	Date	Currency Withdrawal Amount	Bank	Account
		May 24, 2004	\$3,000	Bank of America, Houston, TX	xx414
		May 24, 2004	\$10,000	Bank of America, Houston, TX	xx772
		May 24, 2004	\$3,000	Wells Fargo, Houston, TX	xx766
		May 24, 2004	\$3,000	Wells Fargo, Houston, TX	xx010

38.	Count Four	Date	Currency Withdrawal Amount	Bank	Account
		November 29, 2004	\$9,000	Bank of America, Houston, TX	xx519
		November 29, 2004	\$8,500	Wells Fargo, Houston, TX	xx766

All in violation of Title 31, United States Code, Sections 31 U.S.C. § 5324(a)(3) and (d) and Title 18, United States Code, Section 2.

### NOTICE OF FORFEITURE

39. Pursuant to Title 31, United States Code, Section 5317(c)(1) and in accordance with the procedures set forth in Fed. R. Crim. P. 32.2, upon conviction of **FERNANDO MAYA BASURTO** for the offense charged in Count One of this Indictment, the defendant shall forfeit to the United States any property, real or

personal, involved in the Title 18, United States Code, Section 371 conspiracy to commit currency structuring in violation of Title 31 United States Code, Section 5324(a)(1), (a)(3) and (d), which is \$497,823.49 in United States currency.

40. Pursuant to Title 31, United States Code, Section 5317(c)(1) and in accordance with the procedures set forth in Fed. R. Crim. P. 32.2, upon conviction of **BASURTO** for the offenses charged in Counts Two through Four of this Indictment, the defendant shall forfeit to the United States any property, real or personal, involved in the Title 31 United States Code, Section 5324(a)(3) and (d) violations, which constitute \$14,500 for Count Two, \$19,000 for Count Three, and \$17,500 for Count Four, all in United States currency.

*Substitute Assets Provision*

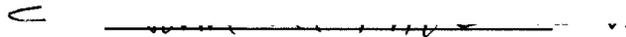
41. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (i) cannot be located upon the exercise of due diligence;
- (ii) has been transferred or sold to, or deposited with, a third party;
- (iii) has been placed beyond the jurisdiction of the court;
- (iv) has been substantially diminished in value; or
- (v) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States pursuant to Title 21, United States Code, Section 853(p) as incorporated by Title 31, United States Code, Section 5317(c)(1)(B) to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

A TRUE BILL

ORIGINAL SIGNATURE ON FILE

A handwritten signature in black ink, appearing to read "Tim Johnson", is written over a horizontal line.

FOREPERSON

TIM JOHNSON  
UNITED STATES ATTORNEY

STEVEN A. TYRRELL, CHIEF  
MARK F. MENDELSON, DEPUTY CHIEF  
FRAUD SECTION, CRIMINAL DIVISION  
U.S. DEPARTMENT OF JUSTICE

  
By: Nicola J. Mrazek  
Trial Attorney