

United States Courts  
Southern District of Texas  
FILED

NOV - 6 2013

David J. Bradley, Clerk of Court

**SEALED**  
**IN THE UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF TEXAS**  
**HOUSTON DIVISION**

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to... are  
prohibited... order

**UNITED STATES OF AMERICA** §  
§  
§  
v. §  
§  
**RITA JESSICA MARTINEZ** §  
**(a/k/a JESSICA MARTINEZ),** §  
**GILBERT MARTINEZ, and** §  
**FELIX MARTINEZ** §

**CRIMINAL NO.**

**H 13 - 691**

**UNSEALED  
PER ARREST**

11/13/13

**INDICTMENT**

The United States Grand Jury charges:

**A. INTRODUCTION**

At all times material to this Indictment:

1. Farmers and Merchants Bank of Long Beach (FMB) was a federally-insured financial institution located in Long Beach, California, whose deposits were insured by the FDIC. FMB is a California-based bank, and all of its branches are within the state of California.
2. The Federal Deposit Insurance Corporation (FDIC) was an agency of the United States established to protect depositors by insuring the deposits of member banks against loss up to \$100,000 with the purpose of preventing their collapse and instilling public confidence in the nation's banking institutions. The FDIC insurance fund was backed by the United States government.

3. **JESSICA MARTINEZ** worked as a loan processor at an office in Houston, Texas, that housed Globan Mortgage Company (Globan Mortgage), Casa Milagro, and First Milagro.

4. **JESSICA MARTINEZ** is married to **GILBERT MARTINEZ**. During the period of the Indictment, **GILBERT MARTINEZ** was employed at a car dealership in Houston, Texas, called Fusion Autoplex.

5. In 2006 and 2007, **FELIX MARTINEZ** worked as an independent contractor for a company that he did not own in Houston, Texas.

6. **FELIX MARTINEZ** is **JESSICA MARTINEZ**' brother.

7. **JESSICA MARTINEZ** and **GILBERT MARTINEZ** maintained a joint checking account at Premier America Credit Union (PACU) in Houston, Texas.

8. **FELIX MARTINEZ** maintained a checking account at Texas Bay Area Credit Union in the Houston, Texas area.

**COUNT ONE**  
(Conspiracy, 18 U.S.C. §1349)

**A. THE CONSPIRACY AND ITS OBJECTS**

1. From in or about October, 2007, through in or about July, 2008, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ,  
GILBERT MARTINEZ,  
and**

**FELIX MARTINEZ**

defendants herein, did knowingly combine, conspire, confederate, and agree with others known and unknown to commit the following offense against the United States: To knowingly execute and attempt to execute a scheme and artifice to defraud FMB, and to obtain moneys, funds, and credits owned by and under the custody and control of FMB, by means of material false and fraudulent pretenses, representations, and promises, in violation of Title 18, United States Code, Section 1344.

**B. THE MANNER AND MEANS OF THE CONSPIRACY**

It was a part of the conspiracy that:

2. The conspirators would and did prepare or cause to be prepared loan applications that contained false and fraudulent information about income to obtain loans from FMB.
3. The conspirators would and did prepare or cause to be prepared false and fraudulent documents such as W2s, pay stubs, and income tax returns to obtain loans from FMB.
4. The conspirators would and did fax and email fraudulent loan applications to obtain loans from FMB.
5. The conspirators would and did email false and fraudulent documents such as W2s, pay stubs, and income tax returns to obtain loans from FMB.

6. The conspirators would and did direct that fraudulently obtained loan funds be deposited into designated bank accounts via wire transfer and cashier's check.

7. The conspirators would and did use the fraudulent loan funds to obtain cash and goods for their own benefit and the benefit of others.

**C. ACTS IN FURTHERANCE OF THE CONSPIRACY**

8. In furtherance of the conspiracy, and to effect the objects thereof, defendants performed and caused to be performed, among others, the acts set forth in Counts Two through Eleven of this Indictment, hereby re-alleged and incorporated as if fully set forth in this Count of the Indictment.

In violation of Title 18, United States Code, Section 1349.

**COUNT TWO**

(Bank Fraud, 18 U.S.C. §1344 and 2)

**A. THE SCHEME TO DEFRAUD**

1. Beginning in or about October, 2007, and continuing through in or about July, 2008, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ  
and  
FELIX MARTINEZ**

the defendants, aided and abetted by each other and by others known and unknown to the grand jury, did knowingly execute and attempt to execute a scheme and artifice to defraud FMB, and to obtain moneys, funds, and credits owned by and under the

custody and control of FMB, by means of material false and fraudulent pretenses, representations, and promises.

**B. THE MANNER AND MEANS**

2. Among the manner and means by which the defendants sought to accomplish and did accomplish the purpose of the scheme to defraud were the acts set forth in paragraphs Two through Seven of Count One of the Indictment, hereby re-alleged and incorporated by the grand jury as if fully set forth in this Count of the Indictment.

**C. EXECUTION OF THE SCHEME**

3. On or about October 24, 2007, within the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ  
and  
FELIX MARTINEZ,**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud FMB and to obtain money, funds, and credits owned by and under the control of FMB, by means of material false and fraudulent pretenses, representations, and promises by submitting a loan application which contained false and fraudulent information about **FELIX MARTINEZ'** annual income.

4. On or about October 24, 2007, defendant **FELIX MARTINEZ**

signed or caused to be signed the loan application containing the false and fraudulent income information.

5. On or about October 24, 2007, defendant **JESSICA MARTINEZ** emailed the false and fraudulent loan application to FMB, causing FMB to fund the loan via a wire of \$25,000 to defendant **FELIX MARTINEZ**' Texas Bay Area Credit Union account.

In violation of Title 18, United States Code, Sections 1344 and 2.

**COUNT THREE**

(False Statement, 18 U.S.C. §1014 and 2)

1. On or about October 24, 2007, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ**  
**and**  
**FELIX MARTINEZ**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, made and caused to be made a material false and fraudulent statement that **FELIX MARTINEZ**' had annual income of \$130,000 for the purpose of influencing the actions of FMB, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, in connection with an application for a loan of \$25,000.

In violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT FOUR**

(Bank Fraud, 18 U.S.C. §1344 and 2)

**A. THE SCHEME TO DEFRAUD**

1. Beginning in or about October, 2007, and continuing through in or about July, 2008, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ  
and  
GILBERT MARTINEZ**

the defendants, aided and abetted by each other and by others known and unknown to the grand jury, did knowingly execute and attempt to execute a scheme and artifice to defraud FMB, and to obtain moneys, funds, and credits owned by and under the custody and control of FMB, by means of material false and fraudulent pretenses, representations, and promises.

**B. THE MANNER AND MEANS OF THE SCHEME TO DEFRAUD**

2. Among the manner and means by which the defendants sought to accomplish and did accomplish the purpose of the scheme to defraud were the acts set forth in paragraphs Two through Seven of Count One of the Indictment, hereby re-alleged and incorporated by the grand jury as if fully set forth in this Count of the Indictment.

**C. EXECUTION OF THE SCHEME**

3. On or about October 23, 2007, within the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ  
and  
GILBERT MARTINEZ**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud FMB and to obtain money, funds, and credits owned by and under the control of FMB, by means of material false and fraudulent pretenses, representations, and promises by submitting a loan application which contained false and fraudulent information about **GILBERT MARTINEZ**' annual income.

4. On or about October 23, 2007, defendant **GILBERT MARTINEZ** signed or caused to be signed the loan application containing the false and fraudulent income information.

5. On or about October 24, 2007, defendant **JESSICA MARTINEZ** emailed the false and fraudulent loan application to FMB, which caused FMB to issue a cashier's check for \$25,000 to **GILBERT MARTINEZ**.

In violation of Title 18, United States Code, Sections 1344 and 2.

**COUNT FIVE**

(False Statement, 18 U.S.C. §1014 and 2)

1. On or about October 23, 2007, in the Houston Division of the Southern



District of Texas and elsewhere,

**JESSICA MARTINEZ**  
**and**  
**GILBERT MARTINEZ**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, made and caused to be made a material false and fraudulent statement that **GILBERT MARTINEZ** had annual income of \$144,000 for the purpose of influencing the actions of FMB, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, in connection with an application for a loan of \$25,000.

In violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT SIX**  
(Bank Fraud, 18 U.S.C. §1344 and 2)

**A. THE SCHEME TO DEFRAUD**

1. Beginning in or about October, 2007, and continuing through in or about July, 2008, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ**  
**and**  
**GILBERT MARTINEZ**

the defendants, aided and abetted by each other and by others known and unknown to the grand jury, did knowingly execute and attempt to execute a scheme and artifice to defraud FMB, and to obtain moneys, funds, and credits owned by and under the

custody and control of FMB, by means of material false and fraudulent pretenses, representations, and promises.

**B. THE MANNER AND MEANS OF THE SCHEME TO DEFRAUD**

2. Among the manner and means by which the defendants sought to accomplish and did accomplish the purpose of the scheme to defraud were the acts set forth in paragraphs Two through Seven of Count One of the Indictment, hereby re-alleged and incorporated by the grand jury as if fully set forth in this Count of the Indictment.

**C. EXECUTION OF THE SCHEME TO DEFRAUD**

3. On or about December 27, 2007, within the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ  
and  
GILBERT MARTINEZ**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud FMB and to obtain money, funds, and credits owned by and under the control of FMB, by means of material false and fraudulent pretenses, representations, and promises by submitting a loan application which contained false and fraudulent information about **GILBERT MARTINEZ**' annual income.

4. On or about December 27, 2007, defendant **GILBERT MARTINEZ**

signed or caused to be signed the loan application containing the false and fraudulent income information.

5. On or about December 27, 2007, defendants **JESSICA MARTINEZ** and **GILBERT MARTINEZ** prepared or caused to be prepared a false and fraudulent pay stub from Fusion Autoplex showing alleged year-to-date income of \$142,548.

6. On or about December 27, 2007, defendant **JESSICA MARTINEZ** emailed the false and fraudulent loan application, Fusion Autoplex paystub, and a blank check from defendant **JESSICA MARTINEZ**' and **GILBERT MARTINEZ**' joint PACU account to FMB, which caused FMB to send two wires totaling \$20,000 to **JESSICA MARTINEZ**' and **GILBERT MARTINEZ**' joint PACU checking account.

In violation of Title 18, United States Code, Sections 1344 and 2.

**COUNT SEVEN**

(False Statement, 18 U.S.C. §1014 and 2)

1. On or about December 27, 2007, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ**  
**and**  
**GILBERT MARTINEZ**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, made and caused to be made a material false and fraudulent statement that **GILBERT MARTINEZ** had annual income of \$144,000 for the purpose of influencing the actions of FMB, a financial institution whose deposits were

insured by the Federal Deposit Insurance Corporation, in connection with an application for a loan of \$20,000.

In violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT EIGHT**

Bank Fraud (18 U.S.C. §1344 and 2)

**A. THE SCHEME TO DEFRAUD**

1. Beginning in or about October, 2007, and continuing through in or about July, 2008, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ,  
GILBERT MARTINEZ, and  
FELIX MARTINEZ**

the defendants, aided and abetted by each other and by others known and unknown to the grand jury, did knowingly execute and attempt to execute a scheme and artifice to defraud FMB, and to obtain moneys, funds, and credits owned by and under the custody and control of FMB, by means of material false and fraudulent pretenses, representations, and promises.

**B. THE MANNER AND MEANS OF THE SCHEME TO DEFRAUD**

2. Among the manner and means by which the defendants sought to accomplish and did accomplish the purpose of the scheme to defraud were the acts set forth in paragraphs Two through Seven of Count One of the Indictment, hereby re-

alleged and incorporated by the grand jury as if fully set forth in this Count of the Indictment.

**C. EXECUTION OF THE SCHEME TO DEFRAUD**

3. On or about March 4, 2008, within the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ,  
GILBERT MARTINEZ, and  
FELIX MARTINEZ,**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud FMB and to obtain money, funds, and credits owned by and under the control of FMB, by means of material false and fraudulent pretenses, representations, and promises by submitting a loan application which contained false and fraudulent information about **FELIX MARTINEZ'** annual income.

4. On or about March 4, 2008, defendant **FELIX MARTINEZ** signed or caused to be signed a loan application for a business loan of \$75,000 for a company called "FM Fleet Service" falsely claiming that he owned a business with a total household income of \$300,000.

5. On or about March 5, 2008, defendants **JESSICA MARTINEZ** and **FELIX MARTINEZ** prepared or caused to be prepared false and fraudulent bank statements

from Texas Bay Area Credit Union to show income that did not exist to support **FELIX MARTINEZ**' application to FMB for \$75,000.

6. On or about March 5, 2008, defendant **JESSICA MARTINEZ** emailed the false and fraudulent loan application and bank statements to FMB.

7. On or about March 6, 2008, defendants **JESSICA MARTINEZ** and **FELIX MARTINEZ** prepared or caused to be prepared false and fraudulent income tax returns to support **FELIX MARTINEZ**' application to FMB for \$75,000.

8. On or about March 6, 2008, defendant **JESSICA MARTINEZ** emailed the false and fraudulent income tax returns to FMB, causing FMB to fund the loan via a \$75,000 wire to **FELIX MARTINEZ**' bank account at Texas Bay Area Credit Union.

In violation of Title 18, United States Code, Sections 1344 and 2.

**COUNT NINE**

(False Statement, 18 U.S.C. §1014 and 2)

1. On or about March 4, 2008, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ,  
GILBERT MARTINEZ  
and  
FELIX MARTINEZ**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, made and caused to be made a material false and fraudulent statement that **FELIX MARTINEZ** and his business had annual income of

\$300,000 for the purpose of influencing the actions of FMB, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, in connection with an application for a business loan of \$75,000.

In violation of Title 18, United States Code, Sections 1014 and 2.

**COUNT TEN**

(Bank Fraud, 18 U.S.C. §1344 and 2)

**A. THE SCHEME TO DEFRAUD**

1. From in or about October, 2007, and continuing through in or about July, 2008, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ,  
GILBERT MARTINEZ, and  
FELIX MARTINEZ**

the defendants, aided and abetted by each other and by others known and unknown to the grand jury, did knowingly execute and attempt to execute a scheme and artifice to defraud FMB, and to obtain moneys, funds, and credits owned by and under the custody and control of FMB, by means of material false and fraudulent pretenses, representations, and promises.

**B. THE MANNER AND MEANS OF THE SCHEME TO DEFRAUD**

2. Among the manner and means by which the defendants sought to

accomplish and did accomplish the purpose of the scheme to defraud were the acts set forth in paragraphs Two through Seven of Count One of the Indictment, hereby re-alleged and incorporated by the grand jury as if fully set forth in this Count of the Indictment.

**C. EXECUTION OF THE SCHEME TO DEFRAUD**

3. On or about March 6, 2008, within the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ,  
GILBERT MARTINEZ, and  
FELIX MARTINEZ**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, knowingly executed and attempted to execute the aforesaid scheme and artifice to defraud FMB and to obtain money, funds, and credits owned by and under the control of FMB, by means of material false and fraudulent pretenses, representations, and promises by submitting a loan application for \$51,000 for “Gilbert Martinez—G&M Wholesale Services—New Business Application.” (G&M) The loan application contained false and fraudulent information about the annual income of G&M.

4. On or about March 6, 2008, the exact date being unknown to the grand jury, defendant **GILBERT MARTINEZ** signed or caused to be signed the loan application containing the false and fraudulent income information.



5. On or about March 6, 2008, defendants **JESSICA MARTINEZ** and **GILBERT MARTINEZ** prepared or caused to be prepared false and fraudulent bank statements showing income that did not exist.

6. On or about March 6, 2008, defendant **JESSICA MARTINEZ** emailed the false and fraudulent loan application and bank statements to FMB.

7. On or about March 10, 2008, defendants **JESSICA MARTINEZ** and **GILBERT MARTINEZ** prepared or caused to be prepared a false and fraudulent income tax return showing income from G&M.

8. On or about March 10, 2008, defendant **JESSICA MARTINEZ** emailed the false and fraudulent income tax return to FMB, which caused FMB to fund the loan.

9. On or about March 11, 2008, FMB wired the \$51,000 loan proceeds to **JESSICA MARTINEZ**' and **GILBERT MARTINEZ**' joint PACU checking account.

10. On or about March 12, 2008, the \$51,000 FMB loan proceeds in **JESSICA MARTINEZ**' and **GILBERT MARTINEZ**' joint PACU checking account was converted into a cashier's check payable to **FELIX MARTINEZ**. The check was deposited into **FELIX MARTINEZ**' Texas Bay Area Credit Union account.

11. On or about March 14, 2008, **FELIX MARTINEZ** used the combined loan proceeds from the \$51,000 G&M loan and the \$75,000 FM Fleet Service loan referenced in Counts Eight and Nine to buy a cashier's check for \$121,461.95, which

**FELIX MARTINEZ** used that same day to purchase, mortgage-free, a residential property located at 26778 Burning Tree in New Caney, Texas.

In violation of Title 18, United States Code, Sections 1344 and 2.

**COUNT ELEVEN**

(False Statement, 18 U.S.C. §1014 and 2)

1. On or about March 6, 2008, in the Houston Division of the Southern District of Texas and elsewhere,

**JESSICA MARTINEZ,  
GILBERT MARTINEZ,  
and  
FELIX MARTINEZ**

defendants herein, aided and abetted by each other and by others known and unknown to the grand jury, made and caused to be made a material false and fraudulent statement that **GILBERT MARTINEZ** and his business had annual income of \$438,000 for the purpose of influencing the actions of FMB, a financial institution whose deposits were insured by the Federal Deposit Insurance Corporation, in connection with an application for a loan of \$51,000.

In violation of Title 18, United States Code, Sections 1014 and 2.

**NOTICE OF FORFEITURE**

18 U.S.C. § 982(a)(2)

Pursuant to Title 18, United States Code, Section 982(a)(2), the United States gives notice to the Defendants

**JESSICA MARTINEZ (Counts 1-11)**

**GILBERT MARTINEZ (Counts 1, 4-11)**  
**and**  
**FELIX MARTINEZ (Counts 1-3, 8-11)**

that in the event of conviction of any of the offenses charged in Counts 1 through 11 of this Indictment, the United States intends to seek forfeiture of all property constituting or derived from proceeds obtained, directly or indirectly, as the result of such offenses.

**Money Judgment**

The Defendants are notified that upon conviction, a money judgment may be imposed equal to the total value of the property subject to forfeiture, for which the Defendants may be jointly and severally liable.

**Property Subject to Forfeiture**

The Defendants are notified that the property subject to forfeiture includes, but is not limited to, real property known as 26778 Burning Tree, New Caney, Texas, together with all improvements, buildings, structures and appurtenances, with a legal description of PEACH CREEK FOREST 05, LOT 819.

**Substitute Assets**

The Defendants are notified that in the event that property subject to forfeiture, as a result of any act or omission of a 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 that cannot be divided without difficulty,


it is the intent of the United States to seek forfeiture of any other property of the Defendants up to the total value of such property pursuant to Title 21, United States Code, Section 853(p), incorporated by reference in Title 18, United States Code, Sections 982(b).

A TRUE BILL

Original Signature on File

FOREPERSON OF THE GRAND JURY

KENNETH MAGIDSON  
United States Attorney

By:   
Belinda Beek  
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(713)567-9721