

ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA

v.

JOSEPH GARZA (01)  
KEVIN MCDONNELL (02)  
JAMES RICHARDSON (03)  
CRAIG FENTON (04)

NO. 3:22-CR-390-S

**(Supersedes the Indictment filed on  
October 18, 2022)**

SUPERSEDING INDICTMENT

The Grand Jury charges:

At all times material to this Superseding Indictment:

INTRODUCTION

1. Between 2012 and 2021, the exact dates being unknown to the Grand Jury, defendants **Joseph Garza, Kevin McDonnell, James Richardson, and Craig Fenton**, within the Northern District of Texas and elsewhere, engaged in a scheme to defraud the United States through the promotion, use, and facilitation of a fraudulent tax shelter that allowed wealthy individuals (clients) to illegally reduce taxes on substantial amounts of business income.

2. At the direction of **Garza, McDonnell, Richardson, Fenton** and others, clients, mainly high-net-worth business owners, used the tax shelter to create a circular flow of funds to illegally reduce paying taxes. To effect the circular flow of funds, **Garza, McDonnell, Richardson, Fenton**, and others created shell companies, including a shell “Services” company and a shell “Investments” company. The only purpose of the “Services” and “Investments” companies was to fraudulently move money—concealing

the real purpose of the movement—before returning the funds to the clients, untaxed, for their own personal use. **Garza, McDonnell, Richardson, and Fenton** further concealed the circular flow of funds by manufacturing fake invoices for false business expenses, commissioning fake business valuation reports, and creating sham contractual agreements.

3. **Garza** directed clients to use hand-picked certified public accountants (“CPAs”) and other tax professionals, including **McDonnell, Richardson, and Fenton**, who aided and assisted **Garza** in the scheme by preparing and filing false and fraudulent tax returns for (1) the operating business that originally generated the business income, (2) the shell “Services” company, (3) the shell “Investments” company, and (4) the client’s individual income tax return. This resulted in approximately one billion dollars in unreported income and over \$200 million in loss to the United States Treasury in the form of unpaid taxes.

4. **Garza, McDonnell, Richardson, and Fenton** unlawfully and unjustly enriched themselves through fees and other compensation earned by promoting the shelter, preparing false tax returns, and by providing advice and assistance to the clients who participated in the tax shelter.

#### PERSONS AND ENTITIES

5. Defendant **Garza** was a licensed attorney in the state of Texas since approximately 1969 and was the majority partner in Garza & Harris, Ltd., a law firm with a principal place of business in Dallas, Texas.

6. Defendant **McDonnell** was a licensed CPA in the state of Texas since approximately August 2000 and a licensed attorney in the state of Texas since approximately September 2001.

7. Defendant **Richardson** was a licensed CPA in the state of Texas since approximately May 1996.

8. Defendants **McDonnell** and **Richardson** owned and operated McDonnell Richardson, P.C. (“McDonnell Richardson”), a business located in Waxahachie, Texas, that provided tax preparation, accounting, and legal services to clients.

9. Defendant **Fenton** was a tax manager at McDonnell Richardson.

10. The Internal Revenue Service (IRS) was an agency of the U.S. Department of the Treasury responsible for administration of the internal revenue laws of the United States.

#### TAX RETURNS

11. An IRS form 1065 is a U.S. Return of Partnership Income.

12. An IRS form 1120S is a U.S. Income Tax Return for an S Corporation.

13. An IRS form 1040 is a U.S. Individual Income Tax Return.

14. An IRS form 1040X is an Amended U.S. Individual Income Tax Return.

#### THE SCHEME TO DEFRAUD

15. As part of the scheme, **Garza, McDonnell, Richardson, or Fenton** committed one or more of the following acts:

- (a) Advised wealthy clients on how to shelter large amounts of otherwise taxable income through participation in an illegal shelter as described more particularly herein;

- (b) Directed clients to choose, up front, the amount of money to shelter from taxation;
- (c) Assisted clients with the creation of a shell services company that had no legitimate business purpose other than moving client money, but purported to provide services to the client's business;
- (d) Assisted clients with the creation of a shell investments company that purported to serve as a family investment vehicle;
- (e) Assisted clients with the opening of bank accounts at financial institutions for the services company and the investments company that were used to disguise otherwise taxable income;
- (f) Created and caused to be created documents, such as operating agreements, service agreements, and private annuity agreements, that were designed to give the appearance of legitimacy to the sham services and investments companies and to conceal the scheme from the IRS;
- (g) Created and caused to be created phony invoices concerning the payment of expenses for alleged work performed by the services company when, in truth and fact, no work was performed, in order to offset the income earned by the operating company;
- (h) Created and caused to be created false accounting entries in the books and records of the clients' businesses based on the phony invoices;
- (i) Provided clients with nearly identical opinion letters that contained false and fraudulent representations and statements in support of the purported legality of the tax shelter;
- (j) Assisted clients in obtaining canned valuation reports to justify a predetermined value for the "sale" of the shell services company, which was approximate to the amount the clients sheltered from taxes;

- (k) Prepared a private annuity agreement in which clients allegedly sold their interest in the services company (which they owned) to the investments company (which they also owned) in exchange for a private annuity that provided for a series of payments to the clients;
- (l) Directed clients to cycle the funds through the shell services and investments entities in furtherance of the scheme;
- (m) Assisted clients in the preparation and the electronic filing or mailing of false and fraudulent tax returns, including IRS Forms 1120 and 1120S, for the clients' operating businesses, which were submitted to the IRS, and which falsely deducted fictitious business expenses for services that, in truth and fact, were not actually performed;
- (n) Assisted clients in the preparation and the electronic filing and mailing of false and fraudulent tax returns, including IRS Forms 1065, for the services companies, which were submitted to the IRS, and which falsely reported gross receipts when, in truth and fact, the services companies did not perform any work to earn those receipts;
- (o) Assisted clients in the preparation and the electronic filing and mailing of false and fraudulent tax returns, IRS Forms 1065, for the investments companies, which were submitted to the IRS, and which claimed a false deduction for payments by the investments company to the individual taxpayer that were purportedly for a private annuity;
- (p) Assisted clients in the preparation and the electronic filing or mailing of false and fraudulent tax returns, including IRS Forms 1040 and 1040X for individual taxpayers, which were submitted to the IRS, and which underreported the individual taxpayer's income; and
- (q) Charged clients a percentage of the predetermined amount of money the clients had chosen to shelter from taxes through the scheme to defraud.

Counts One through Eighteen  
Wire Fraud  
(Violation of 18 U.S.C. §§ 1343 and 2)

16. The Grand Jury realleges and incorporates by reference the allegations contained in Paragraphs 1 through 15 of this Superseding Indictment as if fully set forth herein.

17. Between in or about 2012 and in or about 2021, within the Northern District of Texas and elsewhere, defendant **Joseph Garza**, with intent to defraud, devised and intended to devise the aforesaid scheme and artifice to defraud the Internal Revenue Service, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises, as alleged in Paragraphs 1 through 15 of this Superseding Indictment, which are incorporated as if fully set forth herein.

18. For the purpose of executing and attempting to execute the above-described scheme and artifice, defendant **Joseph Garza**, aided and abetted by others known and unknown to the Grand Jury, knowingly transmitted or caused to be transmitted by means of wire and radio communication in interstate commerce, certain writings, signs, signals, pictures and sounds, to wit:

Count	Date (On or About)	Transaction
1	12/18/17	A check in the amount of \$20,000 for payment of valuations from BBVA Compass account ending in 2020 to SouthWest Bank account ending in 1625, causing an interstate wire transmission via out-of-state financial institution servers
2	1/9/18	IRS Form 1065 for Client, R.F., filed electronically with the IRS containing a false statement on Line 1a
3	2/14/18	A wire transfer in the amount of \$30,000 for payment of fees from JPMorgan Chase Bank account ending in 8720 to BBVA Compass account ending in 6173 via out-of-state financial institution servers

Count	Date (On or About)	Transaction
4	2/15/18	A check in the amount of \$440,000 for payment of fees from State National Bank of Big Spring account ending in 7034 to BBVA Compass account ending in 6173, causing an interstate wire transmission via out-of-state financial institution servers
5	4/17/18	IRS Form 1040 for Client, D.H., filed electronically with the IRS containing false statements on Lines 17 and 18
6	4/17/18	IRS Form 1120S for Client, D.H., filed electronically with the IRS containing a false statement on Line 5
7	4/17/18	IRS Form 1065 for Client, D.H., filed electronically with the IRS containing a false statement on Line 20
8	4/17/18	IRS Form 1065 for Client, D.H., filed electronically with the IRS containing a false statement on Line 1a
9	12/12/18	A remote deposit in the amount of \$100,000 for payment of fees from BBVA Compass account ending in 6173 to First United Bank account ending in 1612, causing an interstate wire transmission via out-of-state financial institution servers
10	2/13/19	A remote deposit in the amount of \$120,000 for payment of fees from BBVA Compass account ending in 6173 to First United Bank account ending in 1612, causing an interstate wire transmission via out-of-state financial institution servers
11	4/12/19	IRS Form 1120S for Client, D.H., filed electronically with the IRS containing a false statement in Line 5
12	4/12/19	IRS Form 1065 for Client, D.H., filed electronically with the IRS containing a false statement on Line 20
13	4/12/19	IRS Form 1065 for Client, D.H. filed electronically with the IRS containing a false statement on Line 1a
14	4/13/19	IRS Form 1040 for Client, D.H., filed electronically with the IRS containing a false statement on Line 6
15	7/14/20	IRS Form 1040 for Client, D.H., filed electronically with the IRS containing a false statement on Lines 7a
16	7/14/20	IRS Form 1120S for Client, D.H., filed electronically with the IRS containing a false statement on Line 5
17	7/14/20	IRS Form 1065 for Client, D.H., filed electronically with the IRS containing a false statement on Line 20

Count	Date (On or About)	Transaction
18	7/14/20	IRS Form 1065 for Client, D.H., filed electronically with the IRS containing a false statement on Line 1a

Each in violation of 18 U.S.C. §§ 1343 and 2.



Count Nineteen  
Conspiracy to Commit Wire Fraud  
(Violation of 18 U.S.C. § 1349 (18 U.S.C. § 1343))

19. The Grand Jury realleges and incorporates by reference the allegations contained in Paragraphs 1 through 15 of this Superseding Indictment as if fully set forth herein.

20. Between in or about 2012 and in or about 2021, the exact dates being unknown to the Grand Jury, in the Northern District of Texas, and elsewhere, defendants **Joseph Garza, Kevin McDonnell, James Richardson, and Craig Fenton** did unlawfully and knowingly combine, conspire, confederate, and agree with each other and others known and unknown to the Grand Jury, to commit wire fraud, in violation of 18 U.S.C. § 1343.

OBJECTS OF THE CONSPIRACY

21. It was an object and purpose of the conspiracy for defendants **Garza, McDonnell, Richardson, and Fenton** to assist individual taxpayers with setting up a tax shelter to allow the taxpayers to illegally reduce taxes on a substantial amount of otherwise taxable income.

22. It was a further object and purpose of the conspiracy for defendants **Garza, McDonnell, Richardson, and Fenton** to conceal the scheme from the IRS through the creation of false and fraudulent documents.

23. It was a further object and purpose of the conspiracy for defendants **Garza**, **McDonnell**, **Richardson**, and **Fenton** to unlawfully and unjustly enrich themselves through fees and other compensation by providing advice and assistance to individual taxpayers who participated in the tax shelter.

MANNER AND MEANS OF THE CONSPIRACY

24. The manner and means of the conspiracy to commit wire fraud included the conduct of defendants **Garza**, **McDonnell**, **Richardson**, and **Fenton** described in Paragraphs 1 through 15 above and Counts One through Eighteen of this Superseding Indictment.

All in violation of 18 U.S.C. § 1349 (18 U.S.C. § 1343)).

Counts Twenty through Forty-One  
Aiding and Assisting in the Preparation and Presentation of  
False and Fraudulent Income Tax Returns  
(Violation of 26 U.S.C. § 7206(2))

25. The Grand Jury realleges and incorporates by reference the allegations contained in Paragraphs 1 through 15 of this Superseding Indictment as if fully set forth herein.

26. On or about the dates set forth below, within the Northern District of Texas, defendant **Joseph Garza** did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service of Individual, Corporate, and Partnership Income Tax Returns for the taxpayers and calendar years set forth below, each of which was false and fraudulent as to a material matter, in the following means, among others: (1) that it represented that the taxpayers were entitled, under the provisions of the Internal Revenue Laws, to claim exemptions and deductions that the defendant knew the taxpayers were not entitled to claim, (2) falsely claimed gross receipts and sales, and (3) failed to report substantial taxable income that had been passed through a fake “Services” company and an “Investments” company and returned to the taxpayer disguised as payments on a private annuity:

Count	Date	Taxpayer/Client	Tax Year	Form	Line
20	10/8/2017	A.J.	2016	1040	Line 17 - Income from partnerships
21	9/14/2017	Hudson Primary Care Medical PC	2016	1120S	Line 19 - Other deductions
22	9/14/2017	Williston Park Services LLC	2016	1065	Line 1a - Gross receipts
23	9/14/2017	Williston Park LLC	2016	1065	Line 20 - Other deductions

Count	Date	Taxpayer/Client	Tax Year	Form	Line
24	10/13/2017	T.P.	2016	1040	Line 17 - Income from partnerships
25	9/12/2017	Raveena Medical PC	2016	1120S	Line 19 - Other deductions
26	9/12/2017	Rego Park Services LLC	2016	1065	Line 1a - Gross receipts
27	9/12/2017	Rego Park Investments LLC	2016	1065	Line 20 - Other deductions
28	4/17/2018	D.H.	2017	1040	Line 17 - Income from partnerships; Line 18 - Farm Income
29	4/17/2018	D.H.	2017	1120S	Line 5 - Other income
30	4/17/2018	D.H.	2017	1065	Line 20 - Other deductions
31	4/17/2018	D.H.	2017	1065	Line 1a - Gross receipts
32	4/13/2019	D.H.	2018	1040	Line 6 - Total income
33	4/12/2019	D.H.	2018	1120S	Line 5 - Other income
34	4/12/2019	D.H.	2018	1065	Line 20 - Other deductions
35	4/12/2019	D.H.	2018	1065	Line 1a - Gross receipts
36	7/14/2020	D.H.	2019	1040	Line 7a - Other income from Schedule 1
37	7/14/2020	D.H.	2019	1120S	Line 5 - Other income
38	7/14/2020	D.H.	2019	1065	Line 20 - Other deductions
39	7/14/2020	D.H.	2019	1065	Line 1a - Gross receipts
40	1/9/2018	218 Services LLC	2016	1065	Line 1a - Gross receipts
41	10/13/2017	D.K.	2016	1040	Line 17 - Income from partnerships

Each in violation of 26 U.S.C. § 7206(2).

Counts Forty-Two through Forty-Six  
Aiding and Assisting in the Preparation and Presentation of  
False and Fraudulent Income Tax Returns  
(Violation of 26 U.S.C. § 7206(2))

27. The Grand Jury realleges and incorporates by reference the allegations contained in Paragraphs 1 through 15 of this Superseding Indictment as if fully set forth herein.

28. On or about the dates set forth below, within the Northern District of Texas, defendants **Kevin McDonnell**, **James Richardson**, and **Craig Fenton** did willfully aid and assist in, and procure, counsel, and advise the preparation and presentation to the Internal Revenue Service of Individual, Corporate, and Partnership Income Tax Returns for the taxpayers and calendar years set forth below, each of which was false and fraudulent as to a material matter, in the following ways, among others: (1) that it represented that the taxpayers were entitled, under the provisions of the Internal Revenue Laws, to claim exemptions and deductions that the defendant knew the taxpayers were not entitled to claim, (2) falsely claimed gross receipts and sales, and (3) failed to report substantial taxable income that had been passed through a fake “Services” company and an “Investments” company and returned to the taxpayer disguised as payments on a private annuity:

Count	Date	Taxpayer/Client	Tax Year	Form	Line
42	12/27/2016	M.C.	2015	1040X	Line 1c - Corrected Adjusted Gross Income
43	10/13/2017	D.K.	2016	1040	Line 17 – Income from partnerships
44	01/09/2018	218 Services LLC	2016	1065	Line 1a – Gross receipts

<b>Count</b>	<b>Date</b>	<b>Taxpayer/Client</b>	<b>Tax Year</b>	<b>Form</b>	<b>Line</b>
45	06/01/2018	Medstar Alliance LLC	2015	1120S	Line 19 – Other deductions
46	01/04/2019	S.H.	2016	1040X	Line 1c – Corrected Adjusted Gross Income

Each in violation of 26 U.S.C. § 7206(2).

Count Forty-Seven  
Conspiracy to Defraud the United States  
(Violation of 18 U.S.C. § 371)

29. The Grand Jury realleges and incorporates by reference the allegations contained in Paragraphs 1 through 15 of this Superseding Indictment as if fully set forth herein.

30. Between in and around 2012 to in or around 2021, the exact dates being unknown to the Grand Jury, defendants **Joseph Garza**, **Kevin McDonnell**, **James Richardson**, and **Craig Fenton**, within the Northern District of Texas and elsewhere, did knowingly conspire, confederate, and agree with each other, and others known and unknown to the Grand Jury, to defraud the United States by impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment, and collection of federal income taxes.

Overt Acts in Furtherance of the Conspiracy

31. In furtherance of the conspiracy and to bring about its purpose, the following overt acts, among others, were committed in the Northern District of Texas and elsewhere, by at least one conspirator:

- (a) In or about August 2012, D.K., a party known to the Grand Jury, who was participating in the tax shelter through **Garza**, was directed to **McDonnell** to have tax returns prepared. D.K. spoke with **McDonnell**, and **McDonnell** vouched for the validity and legality of the tax shelter.
- (b) On or about September 5, 2013, **Fenton** emailed **Garza**, copying **Richardson**, and advised that D.K.'s service company "ha[d] deposits of 5,999,948.00 that are income" and stated he needed invoices to match that amount.

- (c) On or about September 5, 2013, **Fenton** sent an email to D.K.'s office manager and wrote: "We Really Need To Put Them To The Type Of expense account that is on the invoices because it is a lot of money and it will look more tax deductible if it is split into new expense accounts that match the invoices. It is always best not to send a tax return with a giant expense number in it when it can be broken out into individual accounts."
- (d) On or about August 1, 2015, the defendants prepared, caused to be prepared, and assisted in the preparation and the filing of a U.S. Return of Partnership Income (IRS Form 1065) for D.K.'s services company for tax year 2014. The return indicates it was prepared by **Richardson**.
- (e) On or about August 1, 2015, the defendants prepared, caused to be prepared, and assisted in the preparation and the filing of a U.S. Return of Partnership Income (IRS Form 1065) for D.K.'s investments company for tax year 2014. The return indicates it was prepared by **Richardson**.
- (f) On or about August 1, 2015, the defendants prepared, caused to be prepared, and assisted in the preparation and the filing of a U.S. Income Tax Return for an S Corporation (IRS form 1120S) for tax year 2014 for D.K.'s operating company. The return indicates it was prepared by **Richardson**.
- (g) On or about October 7, 2015, the defendants prepared, caused to be prepared, and assisted in the preparation and the filing of a U.S. Individual Income Tax Return (IRS form 1040) for tax year 2014 for D.K. The return indicates it was prepared by **Richardson**.
- (h) On or about August 30, 2017, the defendants prepared, caused to be prepared, and assisted in the preparation and the filing of a U.S. Return of Partnership Income (IRS Form 1065) for D.K.'s services company for tax year 2016. The return indicates it was prepared by **Richardson**.
- (i) On or about August 30, 2017, the defendants prepared, caused to be prepared, and assisted in the preparation and the filing of a U.S. Return of Partnership Income (IRS Form 1065) for D.K.'s investment company for tax year 2016. The return indicates it was prepared by **Richardson**.



- (j) On or about October 13, 2017, the defendants prepared, caused to be prepared, and assisted in the preparation and the filing of a U.S. Individual Income Tax Return (IRS form 1040) for tax year 2016 for D.K. The return indicates it was prepared by **Richardson**.
  
- (k) On or about January 4, 2019, the defendants prepared, caused to be prepared, and assisted in the preparation and the filing of an Amended U.S. Individual Income Tax Return (IRS form 1040X) for tax year 2016 for S.H. The return indicates it was prepared by **Richardson**.

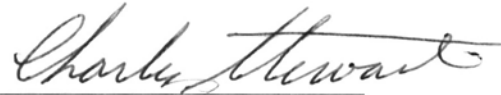
All in violation of 18 U.S.C. § 371.

Notice of Forfeiture  
(18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c))

Upon conviction of the offenses charged in Counts One through Nineteen of this Superseding Indictment, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), the defendants, **Joseph Garza, Kevin McDonnell, James Richardson, and Craig Fenton** shall forfeit to the United States any property, real or personal, which constitutes or is derived from, whether directly or indirectly, proceeds traceable to the respective offense. This property includes, but is not limited to, the following: the total proceeds derived from the offense, commonly referred to as a “money judgment.”

Pursuant to 21 U.S.C. § 853(p), as incorporated by 18 U.S.C. § 982(b), if any of the above property subject to forfeiture, as a result of any act or omission of the defendant, cannot be located upon the exercise of due diligence; has been transferred or sold to, or deposited with, a third person; has been placed beyond the jurisdiction of the Court; has been substantially diminished in value; or has been commingled with other property which cannot be subdivided without difficulty, it is the intent of the United States of America to seek forfeiture of any other property of the defendant up to the value of the above described property subject to forfeiture.

A TRUE BILL



FOREPERSON

CHAD E. MEACHAM  
UNITED STATES ATTORNEY



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RENEE M. HUNTER  
Assistant United States Attorney  
Texas State Bar No. 24072942  
KATHERINE MILLER  
Assistant United States Attorney  
Texas State Bar No. 00789107  
MARTY BASU  
Assistant United States Attorney  
Illinois State Bar No. 6302360  
ROBERT A. KEMINS  
Massachusetts Bar No. 267330  
Trial Attorney  
U.S. Dept. of Justice, Tax Division  
1100 Commerce Street, Third Floor  
Dallas, Texas 75242-1699  
Telephone: 214-659-8600  
Facsimile: 214-659-8809  
Katherine.Miller@usdoj.gov  
Renee.Hunter@usdoj.gov  
Marty.Basu@usdoj.gov  
Robert.A.Kemins@usdoj.gov

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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THE UNITED STATES OF AMERICA

v.

JOSEPH GARZA (01)  
KEVIN MCDONNELL (02)  
JAMES RICHARDSON (03)  
CRAIG FENTON (04)

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SUPERSEDING INDICTMENT

18 U.S.C. §§ 1343 and 2  
Wire Fraud  
(Counts 1 through 18)

18 U.S.C. § 1349 (18 U.S.C. § 1343)  
Conspiracy to Commit Wire Fraud  
(Count 19)

26 U.S.C. § 7206(2)  
Aiding and Assisting in the Preparation and Presentation of  
False and Fraudulent Income Tax Returns  
(Counts 20 through 41)

26 U.S.C. § 7206(2)  
Aiding and Assisting in the Preparation and Presentation of  
False and Fraudulent Income Tax Returns  
(Counts 42 through 46)

18 U.S.C. § 371  
Conspiracy to Defraud the United States  
(Count 47)

18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)  
Forfeiture Notice

47 Counts

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A true bill rendered

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DALLAS

*Charles Stewart*

FOREPERSON

Filed in open court this 15 day of November, 2022.

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**Warrant to be Issued**

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*[Signature]*  
UNITED STATES MAGISTRATE JUDGE  
Criminal Case Pending: 3:22-CR-390-S