

IN THE
SUPERIOR COURT OF MARION COUNTY
CRIMINAL DIVISION

NINETEENTH JUDICIAL CIRCUIT
STATE OF INDIANA

CAUSE No.

STATE OF INDIANA,

Plaintiff,

v.

MARIA ESTHER BARBER,
“aka” MARIA ESTHER TAPIA CUEVAS,
“dba” THE MEXICAN CIVIC
ASSOCIATION

Defendant.

COUNT I – 2005 BARBER

EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT II – 2006 BARBER

EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT III – 2007 BARBER

EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT IV – 2008 BARBER

EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT V – 2009 BARBER

EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT VI – 2005 BARBER “DBA”

MEXICAN CIVIC ASSOCIATION INC.
EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT VII – 2006 BARBER “DBA”

MEXICAN CIVIC ASSOCIATION INC.
EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT VIII – 2007 BARBER “DBA”

MEXICAN CIVIC ASSOCIATION INC.
EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT IX – 2008 BARBER “DBA”

MEXICAN CIVIC ASSOCIATION INC.

EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

**COUNT X – 2009 BARBER “DBA”
MEXICAN CIVIC ASSOCIATION INC.**
EVASION OF INCOME TAX, D FELONY
I.C. § 6-3-6-11(a)

COUNT XI - BARBER
PRACTICING LAW WITHOUT A LICENSE,
B MISDEMEANOR
IC 33-43-2-1

On this date, the undersigned came before the Attorney General of the State of Indiana and, being duly sworn (or having affirmed), stated that in Marion County, Indiana.

COUNT I

M. Esther Barber, as an individual, failed to file for the 2005 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT II

M. Esther Barber, as an individual, failed to file for the 2006 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT III

M. Esther Barber, as an individual, failed to file for the 2007 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT IV

M. Esther Barber, as an individual, failed to file for the 2008 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT V

M. Esther Barber, as an individual, failed to file for the 2009 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT VI

M. Esther Barber doing business as The Mexican Civic Association, Inc., failed to file for the 2005 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT VII

M. Esther Barber doing business as The Mexican Civic Association, Inc., failed to file for the 2006 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT VIII

M. Esther Barber doing business as The Mexican Civic Association, Inc., failed to file for the 2007 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT IX

M. Esther Barber doing business as The Mexican Civic Association, Inc., failed to file for the 2008 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax;

COUNT X

M. Esther Barber doing business as The Mexican Civic Association, Inc., failed to file for the 2009 tax year an income tax return to the Indiana Department of Revenue, which is located in Marion County, Indiana, with the intent to defraud the State or to evade the payment of tax; and

COUNT XI

M. Esther Barber on or about July 30, 2010 did engage in the business of practicing as a lawyer without first having been admitted as an attorney by the Supreme Court of Indiana by selecting and filling out immigration forms for Edith Riley-Garcia and/or Marco Garcia.

All of which is contrary to statute and against the peace and dignity of the State of Indiana.

I swear or affirm under penalty of perjury as specified by IC. 35-44-2-1 that the foregoing representations are true.

Affiant

Date

GREGORY F. ZOELLER
ATTORNEY GENERAL OF INDIANA
Atty. No. 1958-98

By and through his Deputy:

Matthew Whitmire Atty. No. 25866-55
DEPUTY ATTORNEY GENERAL

Dated this _____ day of _____, 2011.

IN THE
SUPERIOR COURT OF MARION COUNTY
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STATE OF INDIANA

STATE OF INDIANA,

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v.

CAUSE NO.

MARIA ESTHER BARBER,
“aka” MARIA ESTHER TAPIA CUEVAS,
“dba” THE MEXICAN CIVIC
ASSOCIATION

Defendant.

I, Jennifer Galeziewski, swear or affirm that the information that is set forth below is either information known personally to me, information that I obtained from other law enforcement sources, information obtained from public records, or information from a source otherwise identified in this affidavit:

1. I am a Special Investigator for the Indiana Attorney General, Gregory F. Zoeller. The Indiana Attorney General (OAG) is authorized to investigate and prosecute the violations of law suspected herein.
2. I am currently assigned as a Special Investigator for the OAG and have been so assigned since 2006. In connection with my official duties, I have been involved in many investigations, including investigations for violations of Indiana tax laws. I successfully completed the Indiana Law Enforcement Academy’s course for OAG investigators and have received training in conducting interviews and in financial investigation techniques. I hold a bachelor’s degree in Criminal Justice and Criminology from Ball State University.
3. This investigation commenced when a consumer complaint was filed with the Consumer Protection division of the OAG regarding Maria Esther Barber and the Mexican Civic Association, Inc. The matter was then referred to the Investigations division of the OAG. In the course of the investigation the Indiana Department of Revenue (IDOR) was contacted regarding tax filings of Maria Esther Barber and the Mexican Civic Association, Inc. The IDOR indicated Barber and the Mexican Civic Association had not filed tax returns nor paid taxes since 1999. The following information was discovered through the investigation.

4. The consumer complaint was filed with the OAG on September 10, 2009, against the Mexican Civic Association of Indiana, Inc. The complaint was filed by Maria Barocio. Ms. Barocio swore in her complaint that Maria Esther Barber was assisting her and her husband, Alexander Vazquez Cueto in obtaining citizenship. In a letter dated September 28, 2009, Maria Esther Barber sent the OAG a response to the complaint that was filed against her. In this letter Ms. Barber stated that she helped Ms. Barocio with her own request for United States citizenship. She stated that her application was prepared based on information that Ms. Barocio provided her and that Ms. Barocio received her U.S. Citizenship on June 30, 2008. Ms. Barber also admitted to helping Mrs. Barocio's husband, Alexander Vazquez Cueto. She stated that she helped prepare and complete federal government promulgated forms with information provided by the applicant in order to seek permanent United States legal residence for him. Ms. Barber stated that these forms were completed on March 30, 2009. Ms. Barocio provided our office with copies of the receipts that she received from Ms. Barber. One receipt was for Alexander Vazquez Cueto in the amount of \$150.00 for services. The other receipt was for Maria Barocio in the amount of \$500.00 for services.

5. The Indiana Secretary of State (SOS) is charged with the duty of collecting and maintaining registrations of businesses as required by law. Charles Williams with the SOS conducted a search for the Mexican Civic Association of Indiana, Inc., on May 13, 2010, and again on February 8, 2011. Mr. Williams found that the Mexican Civic Association was incorporated on October 25, 1999, and on July 24, 2003, pursuant to the provisions set forth in Indiana Code Title 23, the entity was administratively dissolved and the certificate of authority was revoked. Esther Barber was an incorporator for the Mexican Civic Association of Indiana. Esther Barber is also listed as the registered agent in the articles of incorporation. The Mexican Civic Association of Indiana, Inc. was listed as a for-profit domestic corporation.

6. On April 28, 2010, at approximately 2:45 p.m., OAG Investigators Galeziewski and Michael Smith conducted surveillance of 2226 Shelby Street, Indianapolis, Indiana. This is the location of the Mexican Civic Association of Indiana, Inc. This information was verified by two different signs. One of the signs on the front window of the business was a large Mexican flag that had a seal on which contained the State of Indiana and the following wording around the seal: "Asociacion Civica Mexicana De Indiana, Inc." The second sign was located on the front door of the business and was a large seal that contained the same seal and information on it as the sign in the window. There was an "OPEN" sign on the door as well as an "OPEN Come In" sign on the window. There was also an ad or poster on the front window that stated "Envialo Express" ("Send it Express"). Two phone numbers were also listed on the main window of the business, 788-6978 and 965-9852. Per an Accurant search, a national database maintained through LexisNexis, I learned that 317-788-6978 is the phone number listed for the Mexican Civic Association of Indiana. Also found during a search on Accurant, it appears that 317-965-9852 is a cellular phone number that appears to be registered to Maria Barber. From 2:45 p.m. to 3:55 p.m. eleven individuals were seen entering and exiting the business.

7. On February 8, 2011, OAG Investigators Galeziewski, Michael Smith, and Michael Ward conducted surveillance at 2226 Shelby Street, Indianapolis, Indiana. "Open signs" were displayed on the business. During the course of this surveillance an individual was seen exiting the business.

8. Advertisements recovered from central Indiana Hispanic newspapers at local restaurants and internet searches of those newspapers (La Voz de Indiana, January 26, 2011 and February 26, 2011 issues, <http://www.lavozdeindiana.com/images/periodicos/Volume10-Number263.pdf>) as recent as February 26, 2011, indicate “La Asociacion Civica Mexicana Sirviendo a la Comunidad Hipana desde 1999” (“Mexican Civic Association Serving the Community since 1999”). The advertisement indicates the address of the business as 2226 S. Shelby St. Indianapolis, Indiana and phone number as (317) 788-6978. (Number and address matches that provide in paragraph 6). The services provided include “Llenado de formas de Migracion” (“Migration form filling”), “Traducciones” (“Translations”), “Permisos para Viaje de Menres” (“NSRF [National Strategic Reference Framework] Travel Permits”), “Informacion gratuita de como iniciar un negocio” (“Free information on how to start a business”), “Tambien le ayudamos a abrir su negocio, transferencia de negocios sacar su licencia de alchol para negocio o mesero (a), Transferencia de negocios.” (“Also help you open your business, get business transfer your license of alcohol for business or waiter, Transfer of business”), “Servicios de Notario (No somos notarios como en Mexico)” (“Notary Services (We are not notaries as in Mexico)”), “Servicio de fax y Fotocopias” (“Fax and Photocopies”).

9. In an Indianapolis phone book dated November 2010, the Mexican Civic Association of Indiana is listed under the business section. The address listed is 2226 Shelby Street, Indianapolis, Indiana with a phone number of (317)788-6978. (Number and address matches those provide in paragraph 6 and 8).

10. According to Major Robin Poindexter of the Indiana State Excise Police, Esther Barber is a certified trainer for alcohol servers through the State of Indiana. The list of trainers maintained by the Indiana Alcohol Tobacco Commission states that Esther Barber can be reached at the following phone number (317) 788-6978. (Number matches those provide in paragraph 6, 8, and 9). On February 3, 2011, I called (317) 788-6978 to inquire about server training. A female answered the phone speaking Spanish. I asked if I could please speak with Esther Barber and the female replied, “This is she.” I told Ms. Barber that I found her name and phone number on the certified trainers list and was hoping to complete my alcohol server training. Ms. Barber informed me that she only does the program in Spanish. I then asked Ms. Barber how much she charges for the certification and she told me \$20.00.

11. According to Major Robin Poindexter of the Indiana State Excise Police, Esther Barber is a registered preparer with the Indiana Alcohol Tobacco Commission for the completion of applications for alcoholic beverage permits. A brief review of records of the Indiana Alcohol Tobacco Commission shows Esther Barber prepared at least two renewal applications in 2010. The first on April 8, 2010, and the second on September 21, 2010.

12. Cathy Henninger, Custodian of the Records of the IDOR examined the department’s records and found the following information on March 3, 20011:

- Maria Esther Barber SSN: XXX-XX-6418 has not filed an Indiana tax return for the inclusive period of 2005 to 2010.

- The Mexican Civic Association of Indiana, Inc. was not found in the IDOR's system.
- The Internal Revenue Service has no information on file regarding The Mexican Civic Association of Indiana, Inc.
- The Internal Revenue Service has no information on file for Maria Esther Barber SSN XXX-XX-6418.

Cathy Henninger is credible and reliable because she is the custodian of the records of the IDOR and she has provided accurate information to the OAG in the past.

13. On March 9, 2011, myself, investigators from the OAG, and officers of Indianapolis Metropolitan Police Department conducted a search pursuant to a search warrant (49G03-1103-MC-000556) at 2226 Shelby Street, Indianapolis, Indiana (business) and 79 Schiller Street, Indianapolis, Indiana (Barber's home) seizing records. The records seized included transaction receipts, customer files for different services offered by Esther Barber, bank information, and a ledger dating to 2005. Specific documents seized show that Esther Barber was preparing immigration forms, assisting in setting up businesses, applying for liquor licenses, and conducting alcohol server training.

14. During the execution of the search warrant at Barber's home, Esther Barber was sitting in the room as officers were searching for evidence and made the statement to Matthew Broadwell, OAG Investigator, that she had not paid her taxes.

15. During the service of the search warrant at the business, Esther Barber in the presence of her attorney, Thomas Landwerlen, opened a safe for the officers. In the safe was \$1,600.00 in U.S. currency. Esther Barber indicated the money was for the El Chile Poblano Mexican Restaurant #5 in Greensburg, Indiana. One of the forms in the safe was for a request for an renewal extension and the form lists a \$50.00 fee for an extension. There was also an application for renewal of an alcoholic beverage permit.

16. A review of the ledger recovered from the business by OAG personal showed the following payments received by Esther Barber in aggregation for separate transactions by separately identified sources:

- 2005 - \$5200
- 2006 - \$8025
- 2007 - \$9034
- 2008 - \$9034
- 2009 - \$25475
- 2010 - \$17620

17. Bank receipts from Banorte Bank in Cancun were found in Esther Barber's safe at the business. A total of sixteen (16) bank deposit receipts were found from Banorte Bank from the years 2008-2009. The receipts showed cash deposits made by Maria Ester Tapia Cuevas totaling \$62,877.32. Other deposit receipts were also taken from the safe that appear to be from banks in Mexico which include Banamex, Santander, and HSBC Mexico S.A.

18. OAG personal also identified specific documents seized regarding setting up businesses and liquor licenses applications showing income to Esther Barber or/ and the Mexican Civic Association not included in the seized ledger.

19. Edith Riley-Garcia contacted the public relations office of the OAG on March 10, 2011, regarding files seized from the business. Garcia indicated that Barber was assisting her since July of 2010 in obtaining the paperwork needed to permit her husband, Marco Garcia, so he can legally enter the U.S. from Mexico. Barber charged Garcia twelve hundred dollars (\$1200) for the service. Garcia paid Barber eight hundred dollars (\$800) and still owed Barber four hundred dollars (\$400) at the time of the search.

FURTHER AFFIANT SAITH NOT.

I swear of affirm under the penalties for perjury that the foregoing in true this 24 day of March, 2011:

Jennifer Galeziewski
Special Investigator
Office of the Attorney General

PROBABLE CAUSE FOUND:

Hon.
Judge, Marion Superior Court,
Criminal Division, Room

Date