

State of Minnesota
County of Dakota

District Court
1st Judicial District

Prosecutor File No. CA-2024-00075
Court File No. 19HA-CR-24-893

State of Minnesota,

Plaintiff,

vs.

CLAUDIA IVETH GUTIERREZ MENDEZ DOB: 12/13/1983

739 Skillman Ave E
Maplewood, MN 55117

Defendant.

COMPLAINT

Summons

The Complainant submits this complaint to the Court and states that there is probable cause to believe Defendant committed the following offense(s):

COUNT I

Charge: Filing a False or Fraudulent Tax Return

Minnesota Statute: 289A.63.2(a)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2018 to 03/20/2019

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2018 - March 20, 2019, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did file with the commissioner a return, report, or other document, known by the person to be fraudulent or false concerning a material matter related to tax periods March 2018 through February 2019.

COUNT II

Charge: Filing a False or Fraudulent Tax Return

Minnesota Statute: 289A.63.2(a)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2019 to 03/20/2020

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2019 - March 20, 2020, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did file with the commissioner a return, report, or other document, known by the person to be fraudulent or false concerning a material matter related to tax periods March 2019 through February 2020.

COUNT III

Charge: Filing a False or Fraudulent Tax Return

Minnesota Statute: 289A.63.2(a)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2020 to 03/20/2021

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2020 - March 20, 2021, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did file with the commissioner a return, report, or other document, known by the person to be fraudulent or false concerning a material matter related to tax periods March 2020 through February 2021.

COUNT IV**Charge: Filing a False or Fraudulent Tax Return**

Minnesota Statute: 289A.63.2(a)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2021 to 03/20/2022

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2021 - March 20, 2022, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did file with the commissioner a return, report, or other document, known by the person to be fraudulent or false concerning a material matter related to tax periods March 2021 through February 2022.

COUNT V**Charge: Filing a False or Fraudulent Tax Return**

Minnesota Statute: 289A.63.2(a)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2022 to 12/20/2022

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2022 - December 20, 2022, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did file with the commissioner a return, report, or other document, known by the person to be fraudulent or false concerning a material matter related to tax periods March 2022 through November 2022.

COUNT VI**Charge: Failure to File Tax Return (Willful Evasion)**

Minnesota Statute: 289A.63.1(a)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 01/20/2023 to 03/20/2023

Control #(ICR#): 20000249

Charge Description: On or about January 20, 2023 - March 20, 2023, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did being a person required to file a return, report, or other

document with the commissioner, willfully attempt in any manner to evade or defeat a tax by failing to file it when required.

5/6/2024

COUNT VII

Charge: Failure to Pay Taxes (Willful Evasion)

Minnesota Statute: 289A.63.1(b)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2018 to 03/20/2019

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2018 - March 20, 2019, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did being a person required to pay or to collect and remit a tax, willfully attempt to evade or defeat a tax law by failing to do so when required.

COUNT VIII

Charge: Failure to Pay Taxes (Willful Evasion)

Minnesota Statute: 289A.63.1(b)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2019 to 03/20/2020

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2019 - March 20, 2020, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did being a person required to pay or to collect and remit a tax, willfully attempt to evade or defeat a tax law by failing to do so when required.

COUNT IX

Charge: Failure to Pay Taxes (Willful Evasion)

Minnesota Statute: 289A.63.1(b)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2020 to 03/20/2021

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2020 - March 20, 2021, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did being a person required to pay or to collect and remit a tax, willfully attempt to evade or defeat a tax law by failing to do so when required.

COUNT X

Charge: Failure to Pay Taxes (Willful Evasion)

Minnesota Statute: 289A.63.1(b)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2021 to 03/20/2022

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2021 - March 20, 2022, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did being a person required to pay or to collect and remit a tax, willfully attempt to evade or defeat a tax law by failing to do so when required.

COUNT XI

Charge: Failure to Pay Taxes (Willful Evasion)

Minnesota Statute: 289A.63.1(b)

Maximum Sentence: 0-5 Years and/or \$3,000.00 - \$10,000.00

Offense Level: Felony

Offense Date (on or about): 04/20/2022 to 03/20/2023

Control #(ICR#): 20000249

Charge Description: On or about April 20, 2022 - March 20, 2023, in the County of Dakota, Minnesota, CLAUDIA IVETH GUTIERREZ MENDEZ, did being a person required to pay or to collect and remit a tax, willfully attempt to evade or defeat a tax law by failing to do so when required.

STATEMENT OF PROBABLE CAUSE

In March 2020, the Minnesota Department of Revenue began investigating CLAUDIA IVETH GUTIERREZ MENDEZ (DOB: 12/13/1983) for failing to remit to the state sales and use taxes collected by her businesses. GUTIERREZ MENDEZ, a resident of the City of South Saint Paul, County of Dakota, State of Minnesota, was determined to be the owner and operator of six restaurants operating in Dakota County, Hennepin County, and Ramsey County.

Under Minnesota law, restaurants are required to collect and remit sales taxes to the state for service provided to customers. Sales and use taxes for Minnesota businesses are filed with and paid to the Department of Revenue either annually, quarterly, or monthly, depending on the average amount of tax collected. Sales tax returns and taxes are due to the Department of Revenue on the 20th day of the month following the end of the taxable period. Based on information available to investigators, GUTIERREZ MENDEZ's sales at each location required the filing and remittance of sales taxes on a monthly basis.

As part of their investigation, investigators collected GUTIERREZ MENDEZ's business state and federal tax returns, financial records, third-party delivery service records, and point of sale records for the businesses' point of sale systems. During a review of those records, investigators learned that for tax periods of March 2018 through November 2022, GUTIERREZ MENDEZ had filed sales tax returns with the Department of Revenue that underreported the sales conducted and sales taxes owed by the businesses. Investigators determined this was done by failing to include all cash sales and sales taxes received from third-party delivery services on the sales tax returns. Investigators further determined that for the tax periods December 2022 through February 2023, GUTIERREZ MENDEZ did not file any sales tax returns with the Department of Revenue despite the businesses continuing to conduct sales and continuing to collect sales tax from customers. By comparing the sales tax reported and remitted by GUTIERREZ MENDEZ compared to her businesses' actual revenues, investigators also determined that GUTIERREZ MENDEZ failed to remit, and instead retained for her own benefit, sales taxes due to the state for all tax periods between March 2018 and February 2023.

GUTIERREZ MENDEZ was interviewed by investigators in June 2023. During that interview, GUTIERREZ MENDEZ admitted that three of her restaurants were still operating and collecting sales taxes at the time of the interview. GUTIERREZ MENDEZ admitted to investigators that all of the third-party

delivery services that work with her businesses send her businesses the sales tax so that it is her responsibility to ultimately remit those taxes to the state. GUTIERREZ MENDEZ further acknowledged she was aware that failing to file returns, filing false returns, and failing to pay taxes were crimes.

In September 2023, GUTIERREZ MENDEZ provided another statement to investigators. During that statement, investigators showed GUTIERREZ MENDEZ that the sales reported on the federal tax returns did not match the sales reported on the sales tax returns. Investigators also showed GUTIERREZ MENDEZ that the sales reported on the sales tax returns were lower in some tax periods than even the total credit card sales reported for the same period. When asked to explain those discrepancies, GUTIERREZ MENDEZ could not do so. GUTIERREZ MENDEZ told investigators she made a lot of different mistakes in different areas when operating her businesses.

Investigators requested a tax deficiency estimate be completed on GUTIERREZ MENDEZ's business records to determine the total amount of sales tax owed against the sales taxes previously paid by GUTIERREZ MENDEZ. That audit determined the total estimated outstanding sales tax obligation, before interest and penalties, for GUTIERREZ MENDEZ is over \$260,000.

SIGNATURES AND APPROVALS

Complainant requests that Defendant, subject to bail or conditions of release, be:
(1) arrested or that other lawful steps be taken to obtain Defendant's appearance in court; or
(2) detained, if already in custody, pending further proceedings; and that said Defendant otherwise be dealt with according to law.

Complainant declares under penalty of perjury that everything stated in this document is true and correct. Minn. Stat. § 358.116; Minn. R. Crim. P. 2.01, subds. 1, 2.

Complainant

Justin Humenik
Revenue Special Investigator
600 Robert Street N
St. Paul, MN 55146-6590
Badge: 13

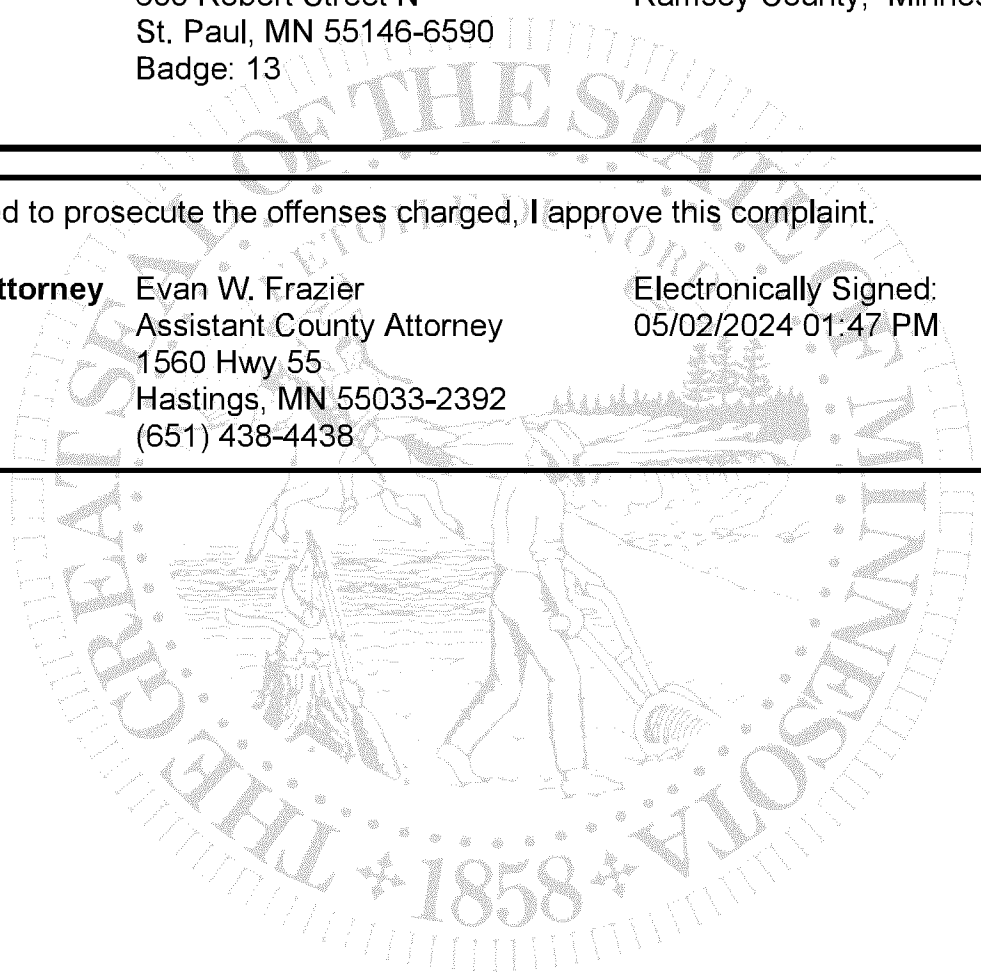
Electronically Signed:
05/02/2024 02:44 PM
Ramsey County, Minnesota

Being authorized to prosecute the offenses charged, I approve this complaint.

Prosecuting Attorney

Evan W. Frazier
Assistant County Attorney
1560 Hwy 55
Hastings, MN 55033-2392
(651) 438-4438

Electronically Signed:
05/02/2024 01:47 PM



FINDING OF PROBABLE CAUSE

From the above sworn facts, and any supporting affidavits or supplemental sworn testimony, I, the Issuing Officer, have determined that probable cause exists to support, subject to bail or conditions of release where applicable, Defendant's arrest or other lawful steps be taken to obtain Defendant's appearance in court, or Defendant's detention, if already in custody, pending further proceedings. Defendant is therefore charged with the above-stated offense(s).

SUMMONS

THEREFORE YOU, THE DEFENDANT, ARE SUMMONED to appear as directed in the Notice of Hearing before the above-named court to answer this complaint.

IF YOU FAIL TO APPEAR in response to this SUMMONS, a WARRANT FOR YOUR ARREST shall be issued.

WARRANT

To the Sheriff of the above-named county; or other person authorized to execute this warrant: I order, in the name of the State of Minnesota, that the Defendant be apprehended and arrested without delay and brought promptly before the court (if in session), and if not, before a Judge or Judicial Officer of such court without unnecessary delay, and in any event not later than 36 hours after the arrest or as soon as such Judge or Judicial Officer is available to be dealt with according to law.

Execute in MN Only

Execute Nationwide

Execute in Border States

ORDER OF DETENTION

Since the Defendant is already in custody, I order, subject to bail or conditions of release, that the Defendant continue to be detained pending further proceedings.

Bail: \$
Conditions of Release:

This complaint, duly subscribed and sworn to or signed under penalty of perjury, is issued by the undersigned Judicial Officer as of the following date: May 2, 2024.

Judicial Officer

Stacey Sorensen Green

Electronically Signed: 05/02/2024 03:11 PM

Sworn testimony has been given before the Judicial Officer by the following witnesses:

**COUNTY OF DAKOTA
STATE OF MINNESOTA**

State of Minnesota

Plaintiff

vs.

Claudia Iveth Gutierrez Mendez

Defendant

LAW ENFORCEMENT OFFICER RETURN OF SERVICE

*I hereby Certify and Return that I have served a copy of this
Summons upon the Defendant herein named.*

Signature of Authorized Service Agent: