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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. CR 03 - _____
)	
Plaintiff,)	<u>I N F O R M A T I O N</u>
)	
v.)	[18 U.S.C. § 371: Conspiracy
)	to Commit Securities Fraud and
KENNETH D'ANGELO,)	Wire Fraud; 18 U.S.C. § 1343:
)	Wire Fraud]
Defendant.)	
)	
)	
)	

The United States Attorney charges:

COUNT ONE

[18 U.S.C. § 371]

(Conspiracy)

I. INTRODUCTION

1. Between in or about August 1999 and continuing to on or about September 25, 2001, defendant KENNETH D'ANGELO and his co-conspirators perpetrated, and conspired to perpetrate, a multi-million dollar fraudulent scheme involving the stock of GenesisIntermedia, Inc. ("GENI"), a Southern California marketing company. The scheme involved the fraudulent manipulation of GENI stock to artificially inflate its value, while at the same time

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1 using the artificially inflated stock as collateral to obtain
2 loans from various securities broker-dealers. In connection with
3 the fraudulent scheme, defendant KENNETH D'ANGELO and his co-
4 conspirators netted over \$130 million in cash and other valuable
5 collateral from these fraudulent loans. When the conspirators
6 were no longer able to manipulate the price of GENI stock and
7 thereby keep its price artificially inflated, the fraudulent
8 scheme collapsed and caused the loss of hundreds of millions of
9 dollars to various unsuspecting broker-dealers and the investing
10 public. The fraudulent scheme ultimately resulted in the
11 bankruptcy of two brokerage houses, Native Nations Securities,
12 Inc. and MJK Clearing Inc., and the largest bailout in history of
13 a brokerage house by the United States Securities Investor
14 Protection Corporation ("SIPC").

15 The Parties

16 2. At all times relevant to this information:

17 a. Defendant KENNETH D'ANGELO was the President and
18 Secretary of RBF International, Inc. ("RBF"), a company located
19 in Edison, New Jersey. Defendant D'ANGELO and RBF were "finders"
20 in the stock lending industry who set up and arranged stock
21 lending transactions between brokerage firms in exchange for a
22 fee.

23 b. GENI was a publicly traded Delaware corporation
24 with its principal office in Van Nuys, California, within the
25 Central District of California. GENI's stock was traded on the
26 Nasdaq National Market System from in or about June 1999 until on
27 or about September 25, 2001, when Nasdaq halted trading. GENI
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1 had shareholders located throughout the United States, including
2 in the Central District of California. GENI was purportedly in
3 the business of marketing and selling various products through
4 network and cable television channels, and was attempting to
5 develop internet kiosks in shopping malls.

6 c. Ultimate Holdings, Ltd. ("Ultimate") was a holding
7 company organized under the laws of Bermuda with no known
8 operations. Ultimate was controlled by two of defendant
9 D'ANGELO's co-conspirators. One of the co-conspirators was a
10 high-ranking officer and substantial shareholder of GENI (the
11 "GENI co-conspirator"), who resided in Los Angeles, California.
12 The other co-conspirator, a Saudi Arabian national, was
13 purportedly a wealthy international arms dealer and financier
14 (the "Saudi Arabian co-conspirator"). In its incorporation
15 documents filed in September 1997, Ultimate was described as "a
16 personal investment/holding company" for the GENI co-conspirator.
17 In November 2000, the GENI co-conspirator's interest in Ultimate
18 was transferred to the Saudi Arabian co-conspirator.

19 d. Native Nations Securities, Inc. ("Native
20 Nations"), formerly known as Freeman Securities Company, had its
21 principal place of business in Jersey City, New Jersey, and was
22 registered with the Securities and Exchange Commission ("SEC")
23 and the National Association of Securities Dealers ("NASD") as a
24 securities broker-dealer. Native Nations actively participated
25 in the securities lending industry and employed one of defendant
26 D'ANGELO's conspirators as an officer in its securities lending
27 department (the "Native Nations co-conspirator"). The Native
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1 Nations co-conspirator, who was also a long-time friend and
2 business associate of defendant D'ANGELO, had authority to enter
3 into securities lending transactions on behalf of Native Nations.

4 e. Deutsche Bank Canada was a Canadian corporation
5 with its principal place of business in Toronto, Canada. Among
6 other things, Deutsche Bank Canada was engaged in the business of
7 borrowing and lending securities issued by U.S. corporations.
8 The securities lending activities of Deutsche Bank Canada were
9 managed by and controlled in large part by Deutsche Bank
10 Securities, a Delaware corporation with its principal place of
11 business in New York, New York. (The Deutsche Bank entities are
12 collectively referred to herein as "Deutsche Bank"). Deutsche
13 Bank employed one of defendant D'ANGELO's co-conspirators as an
14 officer in the securities lending department of its Canadian
15 branch (the "Deutsche Bank co-conspirator"). The Deutsche Bank
16 co-conspirator, who was a long-time friend and business associate
17 of defendant D'ANGELO, had authority to enter into securities
18 lending transactions on behalf of Deutsche Bank.

19 f. MJK Clearing, Inc. ("MJK") was a Minnesota
20 corporation with its principal place of business in Minneapolis,
21 Minnesota. MJK was registered with the SEC and NASD as a
22 securities broker-dealer and actively participated in the
23 securities lending industry. MJK had in place a Master Stock
24 Loan Agreement with Native Nations pursuant to which these
25 broker-dealers engaged in securities lending transactions.

26 Securities Lending

27 3. Securities lending, which includes the lending of
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1 shares of stock of a corporation, is a common practice between
2 legitimate broker-dealers in the securities industry that is
3 governed by explicit rules and regulations to protect the
4 integrity of the securities market and its participants. In a
5 typical stock loan transaction, a broker-dealer lends stock to
6 another broker-dealer in exchange for cash equivalent to the
7 market value of the stock (the "cash collateral").

8 4. A stock loan transaction provides the lending broker-
9 dealer with a temporary source of financing, i.e., the cash
10 collateral exchanged for the loan of stock. With respect to such
11 financing, the lending broker-dealer typically receives cash
12 collateral at 100% of the market value of the stock lent, which
13 is far more favorable than, for example, lending transactions
14 between broker-dealers and retail clients (such as a margin loan)
15 in which the clients usually receive only a percentage of the
16 market value of the stock. In exchange for the temporary
17 financing secured by the loan of stock, the lending broker-dealer
18 also pays the borrowing broker-dealer an interest rate on the
19 cash collateral, also known as a "rebate."

20 5. A stock loan transaction also provides the borrowing
21 broker-dealer temporary use of stock to fulfill more immediate
22 obligations to complete certain securities transactions, e.g., to
23 deliver stock that a broker-dealer's customer has been "shorting"
24 (i.e., selling stock in advance of purchase in anticipation of
25 profit based on a decline in market price between the date of
26 sale and the subsequent date of purchase).

27 6. A broker-dealer may also borrow stock from one broker-
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1 dealer and thereafter "on-lend" some or all of that stock to
2 another broker-dealer. Such an "on-lend" of stock is known as a
3 "conduit" transaction, and the intermediary broker-dealer earns
4 money on the difference between the rebate received from the
5 lending broker-dealer and the rebate provided to the subsequent
6 borrowing broker-dealer. A series of lending transactions
7 between or among broker-dealers consisting of the initial lender
8 of a particular stock, the intermediary broker-dealers who borrow
9 and on-lend that stock, and the end borrower of the stock is
10 commonly referred to as a "stock lending chain."

11 7. When a party to a stock loan transaction seeks to
12 "unwind" or terminate the transaction, the party returns the
13 borrowed stock or cash collateral to its counter-party to the
14 transaction and receives back the cash collateral or stock it
15 originally advanced. If a borrowing broker-dealer fails to
16 return the stock, the lender may use the cash collateral it is
17 holding to purchase the stock on the open market. Conversely, if
18 a lending broker-dealer fails to return the cash collateral, the
19 borrower may keep the stock or sell it on the open market to
20 recover its cash. To maintain parity in the respective values of
21 the cash collateral and the loaned stock, the amount of cash
22 collateral is periodically adjusted to reflect the fluctuating
23 market price of the stock. Thus, if the market price of the
24 stock on loan increases, the lender is entitled to receive
25 additional cash collateral from the borrower. Likewise, if the
26 market price of the stock decreases, the borrower is entitled to
27 the return of cash collateral. The process of adjusting the

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1 amount of cash collateral to reflect the market price of the
2 stock is known as "marking to market."

3 II. THE OBJECTS OF THE CONSPIRACY

4 8. Beginning in or about August 1999, and continuing to on
5 or about September 25, 2001, within the Central District of
6 California and elsewhere, defendant KENNETH D'ANGELO, together
7 with others known and unknown, knowingly combined, conspired, and
8 agreed to commit the following offenses against the United
9 States:

10 a. securities fraud, by employing a device, scheme
11 and artifice to defraud in connection with the purchase and sale
12 of GENI securities, using the means and instrumentalities of
13 interstate commerce, in violation of Title 15, United States
14 Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal
15 Regulations, Section 240.10b-5; and

16 b. wire fraud, by knowingly and with intent to
17 defraud executing a scheme to defraud investors in GENI
18 securities and broker-dealers engaged in stock loan transactions
19 involving GENI securities as to material matters by means of
20 interstate wire communications, in violation of Title 18, United
21 States Code, Section 1343.

22 III. MANNER AND MEANS OF THE CONSPIRACY

23 The objects of the conspiracy were carried out, in part, as
24 follows:

25 Overview

26 9. Beginning in or about August 1999 and continuing to on
27 or about September 25, 2001, defendant KENNETH D'ANGELO, together
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1 with others known and unknown, fraudulently arranged for and
2 executed stock loan transactions for GENI stock owned by Ultimate
3 and the GENI co-conspirator, thereby causing the transfer of
4 substantial cash collateral to Ultimate and the GENI co-
5 conspirator in exchange for their GENI stock. Simultaneously, to
6 maintain and increase the amount of cash collateral flowing to
7 Ultimate and the GENI co-conspirator through the fraudulent GENI
8 stock loan transactions, defendant D'ANGELO, together with others
9 known and unknown, manipulated the market price of shares of GENI
10 by, among other things: (1) secretly compensating a financial
11 commentator to falsely "tout" GENI stock on widely televised
12 financial programs in order to hype demand for GENI stock; (2)
13 engaging in manipulative trading of GENI stock in numerous
14 brokerage accounts in order to boost the trading volume of GENI
15 stock and support its price; (3) "parking" substantial amounts of
16 GENI stock in order to limit the supply of GENI stock available
17 for purchase in the open market, thereby driving up and
18 supporting its price; and (4) promoting a "short squeeze" to
19 additionally reduce the amount of GENI stock available and force
20 investors who were "shorting" GENI stock to make purchases of the
21 stock at inflated prices.

22 10. The fraudulent GENI stock loan and market manipulation
23 scheme resulted in the transfer of well over \$130 million to
24 defendant D'ANGELO and his co-conspirators through the exchange
25 of cash collateral and marks to market. Once the fraudulent
26 scheme collapsed, however, the share price of GENI stock
27 plummeted, Ultimate and the GENI co-conspirator did not return
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1 the cash collateral they had received, and the investing public
2 and broker-dealers in the GENI stock lending chains were left
3 holding relatively worthless GENI stock. Among other things, as
4 a result of the fraudulent scheme, on or about September 27,
5 2001, pursuant to an application by the SIPC, liquidation
6 proceedings were commenced against MJK.

7 The Fraudulent GENI Stock Loan Transactions

8 11. In or about August 1999, the GENI co-conspirator
9 approached defendant D'ANGELO about setting up stock loans for
10 GENI stock owned by Ultimate and the GENI co-conspirator in order
11 to obtain money.

12 12. Defendant D'ANGELO thereafter approached the Deutsche
13 Bank co-conspirator, who agreed on behalf of Deutsche Bank to
14 borrow GENI stock from Ultimate and the GENI co-conspirator so
15 long as (1) Deutsche Bank received a favorable rebate or interest
16 rate on the cash collateral exchanged for the GENI stock and (2)
17 Deutsche Bank's counter-party to the transaction (i.e., the
18 direct lender of GENI stock) was an actual creditworthy broker-
19 dealer instead of Ultimate and the GENI co-conspirator.

20 13. Defendant D'ANGELO also approached the Native Nations
21 co-conspirator, who agreed to accept delivery of GENI stock owned
22 by Ultimate and the GENI co-conspirator (even though they were
23 not broker-dealers) and then re-loan the GENI stock to Deutsche
24 Bank through Native Nations.

25 14. On or about October 8, 1999, the first of several GENI
26 stock loan transactions pursuant to this agreement occurred. On
27 that day, the GENI co-conspirator, through his company Global
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1 Leisure, loaned 1 million GENI shares to Deutsche Bank through
2 Native Nations and received in exchange approximately \$4 million
3 in cash collateral. Thereafter, during the course of the
4 fraudulent scheme, Ultimate and the GENI co-conspirator, through
5 Native Nations and various conduit broker-dealers, loaned
6 millions of GENI shares in exchange for millions of dollars in
7 additional cash collateral from Deutsche Bank, all of which had
8 been arranged by defendant D'ANGELO and his company RBF for
9 substantial fees.

10 15. As the amount of the GENI stock loans grew (due to the
11 fact that more shares were being loaned and the fact that GENI's
12 stock price was increasing dramatically), Deutsche Bank could no
13 longer use Native Nations exclusively as its direct counter-party
14 in the GENI stock loan chains because Native Nations had reached
15 its credit limit with Deutsche Bank. Accordingly, defendant
16 D'ANGELO, together with others known and unknown, arranged for
17 more highly capitalized broker-dealers, including MJK, to be
18 inserted as intermediaries in the GENI stock lending chains
19 between Native Nations and Deutsche Bank. As a result, well over
20 a dozen different intermediary broker-dealers were interposed in
21 various GENI stock lending chains as conduits that loaned and re-
22 loaned GENI stock that originated from Ultimate and the GENI co-
23 conspirator, and ended up with Deutsche Bank.

24 16. In order to set up and maintain the GENI stock lending
25 chains, the Native Nations co-conspirator and Deutsche Bank co-
26 conspirator lied to their counter-parties in the lending chains
27 about the true source of the GENI stock, misled their supervisors
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1 about the true nature of the stock loan arrangements, and
2 willfully violated regulations governing the securities industry.
3 Among other things, for example, the Native Nations co-
4 conspirator caused the receipt of GENI stock from Ultimate and
5 the GENI co-conspirator to be falsely recorded on the books at
6 Native Nations as stock loans coming from actual broker-dealers,
7 thereby concealing the improper stock loans with Ultimate and the
8 GENI co-conspirator, which, if discovered, may have led to the
9 early cessation and unwinding of the GENI stock loan transactions
10 and collapse of the fraudulent scheme.

11 17. To further sustain the fraudulent stock lending scheme,
12 the Native Nations co-conspirator, the Deutsche Bank co-
13 conspirator, and others known and unknown caused Deutsche Bank to
14 make significant wire transfers of cash to Native Nations in an
15 effort to temporarily inflate Native Nation's month-end net
16 capital positions. The rules of the SEC and the NASD require
17 that broker-dealers file monthly calculations setting forth their
18 net capital position and that the broker-dealers maintain minimum
19 net capital requirements at all times. If a broker-dealer does
20 not maintain the required net capital, it must immediately cease
21 business operations and notify securities regulators. Thus, from
22 on or about October 29, 1999, and continuing to on or about June
23 18, 2001, the Deutsche Bank co-conspirator caused the transfer of
24 cash (as much as \$4.95 million in one instance) to Native Nations
25 at or near the end of the month and then retrieved that cash a
26 few days later at the beginning of the next month. These cash
27 transfers were made, in substantial part, to falsely influence

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1 Native Nations' books and records and present the false
2 appearance to regulators and others that Native Nations had
3 adequate net capital to continue doing business. Without these
4 temporary cash transfers, Native Nations's month-end net capital
5 positions would have been significantly lower, making it more
6 likely that regulators would have scrutinized Native Nations,
7 shut it down, and caused the early collapse of the GENI stock
8 loan scheme.

9 18. Over the course of the GENI stock loan scheme, Deutsche
10 Bank made approximately \$7 million in rebates from the
11 transactions. As an employee whose compensation and position in
12 the bank was tied in part to the amount of revenues generated
13 through securities lending transactions, the Deutsche Bank co-
14 conspirator received substantial benefits from his employer
15 during that period. Similarly, the rebates generated by the
16 stock loan department at Native Nations constituted one of the
17 largest revenue streams for the brokerage firm over the course of
18 the scheme. Consequently, the Native Nations co-conspirator also
19 received substantial benefits from his employer during that
20 period.

21 19. Defendant D'ANGELO and his company RBF also profited
22 considerably through the receipt of fees for arranging the GENI
23 stock loan transactions. At times, RBF's monthly income receipts
24 for the GENI stock loan transactions exceeded \$300,000.

25 The Market Manipulation of the GENI Stock Price

26 20. Once the GENI stock lending chains were put in place as
27 a means to funnel cash to Ultimate and the co-conspirators who
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1 controlled Ultimate, defendant D'ANGELO, together with others
2 known and unknown, engaged in a series of deceptive acts to
3 manipulate the price of GENI's stock. The concerted efforts to
4 artificially set the price of GENI stock enabled defendant
5 D'ANGELO and his co-conspirators to control the market
6 on the GENI stock loan transactions and obtain additional cash,
7 which was used, among other things, to finance the market
8 manipulation efforts.

9 21. In just over two years, defendant D'ANGELO, together
10 with others known and unknown, successfully manipulated the price
11 of GENI stock and drove the market price from a low of \$1.67 per
12 share (split-adjusted) on September 1, 1999, to a high of \$25 per
13 share on June 29, 2001. Despite this approximately 1,400%
14 increase in GENI's stock price, there was no material change in
15 GENI's underlying financial performance or prospects during that
16 period. In fact, in GENI's filings with the SEC, for fiscal year
17 1999 GENI reported net losses of \$8,296,550, and for fiscal year
18 2000 GENI reported net losses of \$33,530,627. For 2001, GENI
19 reported a loss of approximately \$119 million for the nine-month
20 period between January 2001 and September 2001, when the
21 fraudulent scheme collapsed.

22 22. Touting the Stock. In order to increase demand for
23 GENI stock, the GENI co-conspirator arranged to secretly pay a
24 well-known financial commentator in exchange for his touting GENI
25 to the investing public. Beginning in or about December 1999 and
26 continuing to in or about March 2001, the financial commentator
27 recommended GENI stock to the investing public at least 18 times
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1 while appearing as a guest on various financial television
2 programs, thereby increasing or sustaining the GENI stock at
3 artificially inflated prices. In exchange for touting GENI, the
4 financial commentator received approximately \$100,000 plus 69,000
5 shares of GENI stock (valued at \$1 million at the time) from the
6 GENI co-conspirator. Neither the conspirators nor the financial
7 commentator disclosed this secret compensation for touting GENI
8 stock to the investing public.

9 23. Manipulative Trading. During 2001, defendant D'ANGELO,
10 together with others known and unknown, collectively used several
11 brokerage accounts with various broker-dealers to execute
12 numerous trades of GENI stock for the purpose of boosting trading
13 volume and maintaining or increasing the share price of GENI
14 stock. The significant amount of trading by the conspirators
15 gave GENI the false appearance of being an actively traded and
16 widely sought security. Moreover, the constant buying and
17 selling of GENI by the conspirators, who were often buying at
18 prices and in amounts greater than what they sold, allowed for
19 the market price of GENI stock to be artificially sustained at
20 levels that did not reflect the true value of GENI. In
21 furtherance of the fraudulent scheme, defendant D'ANGELO and his
22 co-conspirators engaged in the following manipulative trading
23 practices, among others:

24 a. Between in or about April 2001 and continuing to in
25 or about September 2001, defendant D'ANGELO actively engaged in
26 trading of GENI through brokerage accounts he controlled,
27 including brokerage accounts at Liberty Discount Brokers, Inc., a
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1 small brokerage firm owned and operated by one of defendant
2 D'ANGELO's relatives. During this time period, defendant
3 D'ANGELO executed approximately 18,000 trades involving GENI
4 stock, representing a total value of over \$87 million. For
5 example, in August 2001, D'ANGELO alone sold approximately \$27
6 million of GENI stock but also purchased approximately \$30
7 million of GENI stock. Often times, these trades were at the
8 direction of the GENI co-conspirator.

9 b. Ultimate and the GENI co-conspirator also had
10 brokerage accounts with a common financial advisor at First Union
11 Securities through which they actively traded GENI stock.
12 Beginning in or about October 2000 and continuing to in or about
13 June 2001, the trading in the Ultimate accounts constituted a
14 significant percentage of daily trading volume in GENI stock. By
15 year-end 2000, Ultimate had purchased, through its various
16 accounts, more than \$28.9 million of GENI stock.

17 c. Beginning in or about March 2001 and continuing to
18 in or about June 2001, on behalf of Ultimate, the Saudi Arabian
19 co-conspirator executed hundreds of buy and sell transactions
20 involving GENI through a brokerage account at Prudential Bache
21 Securities. On many days, this trading alone was sufficiently
22 large enough to materially affect the GENI trading volume.

23 d. In a series of transactions beginning in or about
24 late August 2001 and continuing to in or about early September
25 2001, on behalf of Ultimate, the Saudi Arabian co-conspirator
26 executed a "free riding" scheme to purchase approximately 1.5
27 million shares of GENI valued at approximately \$21 million with a
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1 margin account at Adolph Komorsky Investments. That is, the
2 Saudi Arabian co-conspirator did not pay for the GENI shares he
3 purchased on margin, and, as a result, Adolph Komorsky
4 Investments was forced out of business and its clearing firm,
5 Fleet Securities, Inc., incurred a \$21 million liability.

6 24. "Parking" Stock to Restrict Supply. In order to
7 restrict the supply of GENI stock for sale in the market and
8 thereby add upward pressure to its share price, the Deutsche Bank
9 co-conspirator caused Deutsche Bank to hold or "park" the
10 millions of GENI shares it had obtained through the fraudulent
11 GENI stock lending chains instead of on-lending the GENI stock to
12 other broker-dealers or making the stock available to Deutsche
13 Bank customers who had need of the GENI stock. The amount of
14 GENI stock "parked" at Deutsche Bank represented a significant
15 percentage of the total public float and seriously restricted the
16 amount of GENI stock available for purchase in the public market.

17 25. In addition, Ultimate and the GENI co-conspirator
18 entered into private sales of their GENI stock with certain
19 resale restrictions to ensure that the GENI stock would remain
20 "parked" with the purchaser. For example, on or about July 6,
21 2001, on behalf of Ultimate, the GENI co-conspirator negotiated
22 the private sale of approximately 500,000 GENI shares to an
23 investment fund known as the Orbitex Fund. Those shares were
24 subject to resale restrictions that would make it difficult for
25 the Orbitex Fund to make any significant amount of the stock
26 available for sale to the public, including a prohibition against
27 selling large blocks of stock and a requirement that the stock
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1 not be sold below a certain price.

2 26. The Short-Squeeze. The GENI co-conspirator, together
3 with others known and unknown, engaged in a concerted effort to
4 cause a "short squeeze," a market maneuver to restrict
5 availability of stock to those who have sold stock they did not
6 own - "short sellers" - so that they are forced to buy
7 increasingly scarce and expensive shares in order to deliver the
8 shares they have sold. In so doing, the GENI co-conspirator,
9 together with others known and unknown, engaged in the following
10 acts, among others:

11 a. Issuing letters to GENI shareholders, asking them
12 to take actions to prevent their shares from being borrowed for
13 short sales; and

14 b. Secretly compensating and causing an ex-
15 stockbroker to issue a report, entitled "The Genie In Genesis
16 Potentially A Major Blow For The Shorts," that was faxed and e-
17 mailed to numerous brokers and investors throughout the United
18 States. Among other things, the report "strongly recommended"
19 GENI because: (1) 90% of the outstanding shares were owned by the
20 GENI co-conspirator, Ultimate, and the Saudi Arabian co-
21 conspirator; (2) there was a large short position in the stock;
22 and (3) buy-ins by short sellers of GENI stock seemed inevitable.
23 Neither the author of the report nor any of the conspirators,
24 however, disclosed that the GENI co-conspirator had caused the
25 author to issue the report or that the shareholders who owned or
26 controlled the public float of GENI shares were conspirators
27 working in concert to manipulate the price of GENI stock for

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1 their personal benefit alone. Following the issuance of the
2 report on May 7, 2001, GENI's share price rose 42% over a one-
3 week period, increasing from about \$11.50 to \$16.25 per share.

4 The Collapse of the GENI Fraud Scheme

5 27. After the September 11th terrorist attacks on the
6 United States, defendant D'ANGELO and his co-conspirators found
7 themselves unable to sustain their activities to support GENI's
8 inflated stock price. As a result, on September 17, 2001, the
9 first trading day after the terrorist attacks, GENI's stock price
10 began to plummet from its September 10th closing price of \$17.03
11 per share. Ultimately, on September 25, 2001, the GENI share
12 price closed at \$5.90, and Nasdaq halted trading in the stock.

13 28. Once GENI's stock price dropped in September 2001, the
14 broker-dealers in the GENI stock lending chains sought to unwind
15 their stock loan transactions. Ultimate and the GENI co-
16 conspirator were then obligated to return the cash collateral
17 they had received from Native Nations so that Native Nations
18 could, in turn, return the cash collateral to the other broker-
19 dealers that had borrowed GENI stock directly from it. Ultimate
20 and the co-conspirators that controlled it failed to repay any of
21 the over \$130 million in cash collateral they had received. As a
22 result, Native Nations quickly exhausted its net capital while
23 attempting to meet its obligations to return cash collateral to
24 its counter-parties in the GENI stock loan chains and was forced
25 out of business. In turn, one of the Native Nations counter-
26 parties, MJK Clearing, Inc., was also forced out of business
27 because it could not secure the return of its cash collateral
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1 from Native Nations to repay the cash collateral it had received
2 from the broker-dealers to which it had loaned GENI stock.
3 Numerous other intermediary broker-dealers that had been
4 interposed in the GENI stock lending chains were similarly unable
5 to secure the return of their cash collateral and consequently
6 suffered losses in the tens of millions of dollars.

7 IV. OVERT ACTS

8 29. In furtherance of the conspiracy, and to accomplish its
9 objects, defendant KENNETH D'ANGELO, together with others known
10 and unknown, committed and caused others to commit the following
11 overt acts, among others, in the Central District of California
12 and elsewhere:

13 Overt Act No. 1: In or about August 1999, while in the
14 Central District of California, the GENI co-conspirator contacted
15 defendant D'ANGELO about setting up stock loan transactions to
16 obtain money for GENI stock owned by Ultimate and the GENI co-
17 conspirator.

18 Overt Act No. 2: In or about early Fall 1999, defendant
19 D'ANGELO and the Deutsche Bank co-conspirator discussed and
20 agreed to cause Deutsche Bank to borrow the GENI stock from
21 Ultimate and the GENI co-conspirator. Among other things, the
22 Deutsche Bank co-conspirator agreed to "park" the borrowed GENI
23 stock and refrain from on-lending any of the GENI stock or making
24 it available to Deutsche Bank customers.

25 Overt Act No. 3: In or about early Fall 1999, defendant
26 D'ANGELO and the Native Nations co-conspirator discussed and
27 agreed to cause Native Nations to accept the improper loan of
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1 GENI stock owned by Ultimate and the GENI co-conspirators.

2 Overt Act No. 4: On or about October 8, 1999, in the first
3 in a series of stock loans from Ultimate and the GENI co-
4 conspirator to Deutsche Bank that passed through Native Nations
5 and other intermediary broker-dealers, the GENI co-conspirator,
6 through his company Global Leisure, loaned 1 million shares of
7 GENI to Deutsche Bank through Native Nations in exchange for
8 approximately \$4 million cash collateral.

9 Overt Act No. 5: On or about October 8, 1999, to conceal
10 the unlawful nature of the transaction, the Native Nations co-
11 conspirator falsely recorded on the Native Nations books the loan
12 of 1 million GENI shares from the GENI co-conspirator as a
13 legitimate stock loan from a broker-dealer.

14 Overt Act No. 6: On or about February 28, 2000, in exchange
15 for the public touting of GENI stock by a financial commentator,
16 the GENI co-conspirator caused the wire transfer of \$100,000 to
17 the bank account of the girlfriend of that financial commentator.

18 Overt Act No. 7: On or about February 29, 2000, the
19 Deutsche Bank co-conspirator caused Deutsche Bank to wire
20 transfer \$4.5 million to Native Nations, which was returned to
21 Deutsche Bank one day later, in order to falsely inflate the net
22 capital position of Native Nations.

23 Overt Act No. 8: In or about April 2001, defendant D'ANGELO
24 began actively trading GENI through accounts he controlled at
25 Liberty Discount Broker, Inc.

26 Overt Act No. 9: On or about April 25, 2001, the GENI co-
27 conspirator authored a letter published in the Wall Street
28

1 Journal urging GENI shareholders to take actions to prevent short
2 selling of their GENI stock.

3 Overt Act No. 10: On or about July 6, 2001, the GENI co-
4 conspirator, on behalf of Ultimate, sold 500,000 GENI shares to
5 the Orbitex Fund with substantial restrictions on the resale of
6 that stock.

7 Overt Act No. 11: On or about September 18, 2001, the Saudi
8 Arabian co-conspirator purchased 460,000 GENI shares for
9 approximately \$7.9 million through the Ultimate margin account at
10 Adolph Komorsky Investments.

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COUNT TWO

[18 U.S.C. § 1343]

(Wire Fraud)

I. THE SCHEME TO DEFRAUD

30. Beginning in or about August 1999, and continuing to on or about September 25, 2001, within the Central District of California and elsewhere, defendant KENNETH D'ANGELO, together with others known and unknown, knowingly and with intent to defraud, devised, participated in, and executed a scheme to defraud investors in GENI stock and broker-dealers engaged in stock loan transactions involving GENI stock as to a material matter, and to obtain money or property from these investors and broker-dealers by means of material false and fraudulent pretenses, representations, and promises, and the concealment of material facts.

31. The scheme to defraud operated as set forth in paragraphs one through seven and nine through twenty-nine above, which are hereby re-alleged and incorporated herein.

II. THE USE OF THE WIRES

32. On or about May 31, 2001, defendant KENNETH D'ANGELO, for the purpose of executing the above-described scheme to defraud, caused and aided and abetted the transmission of, the following by means of wire communication in interstate and foreign commerce: A letter from defendant D'ANGELO on behalf of RBF International sent by facsimile from Edison, New Jersey, to

1 Ultimate Holdings, Ltd. in Bermuda, requesting payment of
2 interest and fees in the amount of \$440,679.65 in connection with
3 a stock loan of 12,075,000 shares of GENI.

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5 DEBRA W. YANG
6 United States Attorney

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8 JACQUELINE CHOOLJIAN
9 Assistant United States Attorney
10 Acting Chief, Criminal Division

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12 CURTIS A. KIN
13 Assistant United States Attorney
14 Major Frauds Section

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