

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

IN THE UNITED STATES DISTRICT COURT

JUL 14 2010

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

VINCENT J. GARCIA,)

DAVID GARCIA and)

DEREK BARNHILL,)

Defendants.)

MATTHEW J. DYKMAN

CLERK

CRIMINAL NO. 10-1727 JB

Counts 1-7:18 U.S.C. §§ 1344(2)
and 2; Bank Fraud;

Counts 8- 12: 18 U.S.C. §§
1956(a)(1)(B)(i) and 2; Money
Laundering;

Counts 13-19:18 U.S.C. §§ 1957
and 2; Laundering of Monetary
Instruments.

SUPERCEDING INDICTMENT

The Grand Jury charges:

Counts One Through Seven

1. Between December 2006 and May 2008, both dates being approximate and inclusive, in the District of New Mexico, in Bernalillo County, and elsewhere, the defendants **VINCENT J. GARCIA, DAVID GARCIA** and **DEREK BARNHILL** devised a scheme and artifice to obtain moneys, funds, credits, assets, securities and other property owned by and under the custody and control of one or more financial institutions, namely, Columbian Bank and Trust ("CBT"), an insured depository institution, and First Financial Credit Union ("FFCU"), a credit union with accounts insured by the National Credit Union Administration, by means of false and fraudulent pretenses, representations and promises.

2. It was a part of the scheme and artifice that the defendants would enter into and maintain loan agreements with CBT and FFCU for funding three real estate development projects, to wit: Anasazi Downtown LLC, Copper Square Condominium LLC, and Lockhaven Estates LLC (collectively hereinafter the "Development Projects").

3. It was a further part of the scheme and artifice that the defendants would create and cause to be created false and fraudulent documentation of expenses supposedly incurred upon the Development Projects.

4. It was a further part of the scheme and artifice that the defendants would incorporate false and fraudulent claims of expenses supposedly incurred by the Development Projects into draw requests to be submitted to CBT and FFCU.

5. It was a further part of the scheme and artifice that the defendants would submit false and fraudulent draw requests to CBT and FFCU, predicated in whole or part upon false claims of incurred costs, for disbursement of funds in support of the Development Projects.

6. It was a further part of the scheme and artifice that the defendants would not spend the proceeds of the false and fraudulent draw requests as specified in such draw requests, but would share such proceeds amongst themselves, or spend them on such unrelated projects as the construction of a private residence for defendant **DAVID GARCIA**, or the purchase of an ownership interest in a gambling casino by defendant **VINCENT J. GARCIA**.

7. On or about each of the dates set out below, in the District of New Mexico and elsewhere, the defendants executed the scheme and artifice as set forth above, in that such defendants submitted the draw requests described herein.

<u>Count</u>	<u>Defendants</u>	<u>Date</u>	<u>Description</u>
1	VINCENT J. GARCIA DEREK BARNHILL	12/20/06	Lockhaven Estates LLC Draw #12 submitted to CBT in the amount of \$110,926.28 incorporating fraudulent claim of Qwest Communications expense
2	VINCENT J. GARCIA DEREK BARNHILL	01/23/07	Lockhaven Estates LLC Draw #13 submitted to CBT in the amount of \$83,526.11 incorporating forged invoice from Cox Communications
3	VINCENT J. GARCIA DEREK BARNHILL	02/12/07	Anasazi Downtown LLC Draw #13 submitted to CBT in the amount of \$365,677.00 incorporating forged DevCorp invoice
4	VINCENT J. GARCIA DAVID GARCIA	07/30/07	Copper Square Condominium LLC Draw #2 submitted to CBT in the amount of \$167,717.31 fraudulently incorporating expenditures on DAVID GARCIA's personal residence
5	VINCENT J. GARCIA	08/15/07	Copper Square Condominium LLC Draw #6 submitted to CBT in the amount of \$144,478.80 incorporating fraudulent invoice from R&D Perfection Cleaning
6	VINCENT J. GARCIA DAVID GARCIA	09/27/07	Copper Square Condominium LLC Draw #5 submitted to CBT in the amount of at least \$174,453.62 fraudulently incorporating expenditures on DAVID GARCIA's personal residence

7	VINCENT J. GARCIA DAVID GARCIA	05/15/08	Copper Square Condominium LLC Draw #2 submitted to FFCU in the amount of \$213,471.25 incorporating fraudulent invoice from Jay Lial A/C
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In violation of Title 18, United States Code, Sections 1344(2) and 2.

Counts Eight Through Twelve

On or about each of the dates listed below, in the State and District of New Mexico, the defendants **VINCENT J. GARCIA** and **DEREK BARNHILL** did knowingly conduct and attempt to conduct financial transactions affecting interstate and foreign commerce, to wit: transfer and receive funds via check as described below, which transactions involved the proceeds of specified unlawful activity, namely, Bank Fraud, knowing that the transaction was designed in whole or in part to conceal and disguise the nature, the location, the source, the ownership and the control of the proceeds of specified unlawful activity and, while conducting and attempting to conduct such financial transactions, knew that the property involved in the financial transactions represented the proceeds of some form of unlawful activity.

<u>Count</u>	<u>Defendants</u>	<u>Date</u>	<u>Description</u>
8	VINCENT J. GARCIA DEREK BARNHILL	12/27/06	Transfer of \$29,516.06 from Lockhaven Estates LLC to Downtown ABQ Partners LLC
9	VINCENT J. GARCIA DEREK BARNHILL	01/29/07	Transfer of \$26,793.41 from Lockhaven Estates LLC to Downtown ABQ Partners LLC

10	VINCENT J. GARCIA DEREK BARNHILL	02/13/07	Purchase of cashier's check for transfer of \$360,000.00 from Anasazi Downtown LLC to Downtown ABQ Partners LLC
11	VINCENT J. GARCIA	08/17/07	Wire transfer of \$144,400.00 from Anasazi Downtown LLC to Downtown ABQ Partners LLC
12	VINCENT J. GARCIA	05/20/08	Wire transfer of \$80,000.00 from Blue Dot Corporation to Downtown ABQ Partners LLC

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2.

Counts Thirteen Through Nineteen

On or about the dates specified below, in the State and District of New Mexico, the defendants **VINCENT J. GARCIA**, **DAVID GARCIA** and **DEREK BARNHILL** did knowingly engage and attempt to engage in monetary transactions by through or to a financial institution, affecting interstate or foreign commerce, in criminally derived property of a value greater than \$10,000, that is, transfers of funds, such property having been derived from a specified unlawful activity, namely, Bank Fraud.

<u>Count</u>	<u>Defendants</u>	<u>Date</u>	<u>Description</u>
13	VINCENT J. GARCIA DEREK BARNHILL	12/22/06	Transfer of \$10,580.00 from Lockhaven Estates LLC, via check drawn on New Mexico Bank and Trust, to DEREK BARNHILL
14	VINCENT J. GARCIA	02/13/07	Purchase of ownership interest in J&J Casino Investments LLC for \$360,000.00 via cashier's check drawn on Compass Bank, payable to Jack Duncan and J.D.'s Dragon, Inc.
15	VINCENT J. GARCIA DAVID GARCIA	08/03/07	Payment of \$11,707.31 via check drawn on New Mexico Bank and Trust, to the order of Piñon Window and Door, Inc.

