

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No. 08-
	:	
v.	:	18 U.S.C. §§ 1349, 1343, 1341, 1344,
	:	1028A; and 18 U.S.C. § 2
SIAMAK SALEKI,	:	
JAN LUDVIK (a/k/a	:	
THOMAS PALMER),	:	
ROBERT SACKS,	:	
SCOTT SALOMON,	:	
SHAUN ROSIERE,	:	<u>INDICTMENT</u>
DIEGO HERNANDEZ,	:	
JOHN HILEY,	:	
BRIGETTE FREYERMUTH and	:	
JOSEPH FUERTE	:	

The Grand Jury in and for the District of New Jersey, sitting at Trenton, charges:

COUNT ONE

(Conspiracy to Commit Mail and Wire Fraud)

Overview of the Scheme to Defraud

1. Beginning as early as in or about July, 2004, the Defendants SIAMAK SALEKI, JAN LUDVIK (a/k/a THOMAS PALMER), ROBERT SACKS, SCOTT SALOMON, SHAUN ROSIERE, DIEGO HERNANDEZ, JOHN HILEY, BRIGETTE FREYERMUTH and JOSEPH FUERTE and other co-conspirators, under the fraudulent pretext of operating a telemarketing business, engaged in an elaborate scheme to defraud and attempt to defraud financial institutions and their account holders out of over \$20 million by debiting or attempting to debit tens of thousands of bank accounts throughout the United States without authorization.

## Background

### **I. The Defendants**

1. At all times relevant to this Indictment:

a. Defendant SIAMAK SALEKI resided in Montreal, Canada. Defendant SALEKI, under the guise of engaging in a telemarketing business, provided or caused to be provided lists of individuals' bank account information (otherwise known as "full data" customer account lists) to his co-conspirators to be processed for payment in the United States, knowing that the individuals whose account information was included on these lists did not order a product associated with this debit, or authorize this debit from their accounts. Defendant SALEKI received proceeds from the false and fraudulent debit of these bank accounts, either directly or from the account of one of his co-conspirators.

b. Defendant JAN LUDVIK (a/k/a THOMAS PALMER) resided in Montreal, Canada. Defendant LUDVIK, under the guise of engaging in a telemarketing business, provided or caused to be provided lists of individuals' bank account information to his co-conspirators to be processed for payment in the United States knowing that the individuals whose account information was included on these lists did not order a product associated with this debit, or authorize this debit from their accounts. Defendant LUDVIK received proceeds from the false and fraudulent debit of these bank accounts, either directly or from the account of one of his co-conspirators.

c. Defendant ROBERT SACKS was a U.S. citizen residing in Dade County, Florida. Defendant SACKS incorporated or caused to be incorporated corporations or used or caused to be used existing corporations that were used to open bank accounts into which

Defendant SACKS deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which Defendant SACKS transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

d. Defendant SCOTT SALOMON was a U.S. citizen residing in Broward County, Florida. Defendant SALOMON incorporated or caused to be incorporated corporations that were used to open bank accounts into which Defendant SALOMON deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which Defendant SALOMON transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

e. Defendant SHAUN ROSIERE was a U.S citizen residing in Jefferson County, Colorado. Defendant ROSIERE incorporated or caused to be incorporated corporations that were used to open bank accounts into which Defendant ROSIERE deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which Defendant ROSIERE transferred or caused to be transferred ill-gotten proceeds to himself.

f. Defendant DIEGO HERNANDEZ was a Venezuelan citizen residing in Dade County, Florida. Defendant HERNANDEZ incorporated or caused to be incorporated corporations that were used to open bank accounts into which Defendant HERNANDEZ deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which Defendant HERNANDEZ transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

g. Defendant JOHN HILEY was a U.S. citizen residing in Seminole County, Florida. Defendant HILEY was employed by Universal Lending during 2005, a mortgage

brokerage firm in which Defendant SACKS was a principal investor. Defendant HILEY used existing corporations to open bank accounts into which Defendant HILEY deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which Defendant HILEY transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

h. Defendant BRIGETTE FREYERMUTH was a U.S. citizen residing in Broward County, Florida. Defendant FREYERMUTH incorporated or caused to be incorporated corporations that were used to open bank accounts into which Defendant FREYERMUTH deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which Defendant FREYERMUTH transferred or caused to be transferred ill-gotten proceeds to herself and other co-conspirators.

i. Defendant JOSEPH FUERTE was a U.S. citizen residing in Broward County, Florida. Defendant FUERTE incorporated or caused to be incorporated corporations that were used to open bank accounts into which Defendant FUERTE deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which Defendant FUERTE transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

## **II. Co-Conspirators**

2. At all times relevant to this Indictment:

a. CO-CONSPIRATOR 1 ("CC-1") was a U.S. citizen residing in Sarasota County, Florida. CC-1 incorporated or caused to be incorporated corporations or used or caused to be used existing corporations that were used to open bank accounts into which CC-1 deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which CC-1 transferred or caused to be transferred ill-gotten proceeds to herself and other co-conspirators. CC-1 also received full data customer account lists from Defendants SALEKI, LUDVIK and others, which CC-1 used to print "facsimile checks" for deposit into a bank account, or format the list for electronic debiting by a payment processor.

b. CO-CONSPIRATOR 2 ("CC-2") was a U.S. citizen residing in Palm Beach County, Florida. CC-2 was a long-standing friend of Defendant SACKS. For several months in early 2005, CC-2 worked at Universal Lending, a mortgage brokerage firm operated by CC-5, in which Defendant SACKS invested. CC-2 incorporated or caused to be incorporated corporations that were used to open bank accounts into which CC-2 deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which CC-2 transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

c. CO-CONSPIRATOR 3 ("CC-3") was a U.S. citizen residing in Monmouth County, New Jersey. CC-3 was a long-standing friend of CC-2, who recruited CC-3 to participate with Defendant SACKS and other co-conspirators in the scheme to defraud banks and their account holders. CC-3 incorporated or caused to be incorporated corporations that were used to open bank accounts into which CC-3 deposited or caused to be deposited false and

fraudulent checks or electronic debits, and out of which CC-3 transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators, and recruited others to do the same.

d. CO-CONSPIRATOR 4 ("CC-4") was a U.S. citizen residing in Oakland County, Michigan. CC-4 was a long-standing friend of CC-2, who recruited CC-4 to participate with Defendant SACKS and other co-conspirators in the scheme to defraud banks and their account holders. CC-4 incorporated or caused to be incorporated corporations that were used to open bank accounts into which CC-4 deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which CC-4 transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

e. CO-CONSPIRATOR 5 ("CC-5") was a U.S. citizen residing in Broward County, Florida, who opened and operated Universal Lending from in or about January, 2005 until in or about September, 2005. CC-5 incorporated or caused to be incorporated corporations or used or caused to be used existing corporations that were used to open bank accounts into which CC-5 deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which CC-5 transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

f. CO-CONSPIRATOR 6 ("CC-6") was a U.S. citizen residing in Broward County, Florida. CC-6 was employed by Universal Lending in 2005. CC-6 used preexisting corporations that were used to open bank accounts into which false and fraudulent checks or electronic debits were deposited, and out of which ill-gotten proceeds were transferred to himself and other co-conspirators.

g. CO-CONSPIRATOR 7 ("CC-7") was a U.S. citizen residing in Broward County, Florida, who was employed by Universal Lending during 2005. CC-7 used preexisting corporations that were used to open bank accounts into which CC-7 deposited or caused to be deposited false and fraudulent checks or electronic debits, and out of which CC-7 transferred or caused to be transferred ill-gotten proceeds to himself and other co-conspirators.

### **III. Bank Victims**

4. At all times relevant to this Indictment:

a. The following were financial institutions (along with their predecessor names, as is relevant to this Indictment), as defined in Title 18, United States Code, Section 20, whose deposits were insured by the FDIC: Citibank, N.A.; Fifth Third Bank (formerly First National Bank of Florida); Wachovia Corporation (formerly First Union National Bank); JP Morgan Chase & Co. (formerly Bank One); SunTrust Banks, Inc.; Branch Banking and Trust Company; Sovereign Bank; Bank of America, N.A (formerly NatWest Bank); Washington Mutual Inc.; Pilot Bank; Bank of the West (formerly Commercial Federal Bank); Bancorp Bank (dba ITI Bank); Rockland Trust Company; TD BankNorth Inc. (formerly Hudson United Bank and Commerce Bank); First Citizens Bank; and PNC Bank, N.A. These institutions and their account holders were defrauded in the manner set forth herein.

### **IV. Corporations Used To Effectuate The Scheme To Defraud**

5. At all times relevant to this Indictment:

a. The following were corporate entities that were used to effectuate the scheme to defraud in the manner set forth herein.

i. On or about October 23, 2003, OC, at the request and direction of CC-1, incorporated Electronic Money Solutions, Inc. (“EMS”), in the State of Nevada.

ii. On or about February 1, 2003, GH, at the request and direction of Defendant SACKS, incorporated American Dynamic, LLC, in the state of Delaware.

iii. On or about August 14, 1998, CS incorporated Port of Call, Inc., in the state of Florida.

iv. On or about July 25, 2003, Defendant HILEY incorporated HGC Properties, Inc., in the state of Florida.

b. The following were ACH processors that were used to effectuate the scheme to defraud in the manner set forth herein.

i. Alliance Payment Technologies, Inc. (hereinafter “Alliance”), located in Ontario, California.

ii. Evalucheck, Inc. (hereinafter “Evalucheck”), located in Scottsdale, Arizona.

iii. Check Free Recovery Inc. (dba Integrated Check Technologies, Inc.) (hereinafter “ICT”), located in Columbus, Ohio.

c. The following were facsimile check printers that were used to effectuate the scheme to defraud in the manner set forth herein.

i. Net 30 Solutions, located in The Woodlands, Texas.

iii. JKST Services, LLC (hereinafter “JKST”), located in Sun Prairie, Wisconsin.



iii. ITI Internet Services, Inc. (hereinafter ITI), located in Tacoma, Washington.

c. The following is a facsimile check and/or electronic debit “scrubber” (as defined below), that was used to effectuate the scheme to defraud in the manner set forth herein.

i. Better Check, Inc. (hereinafter “Better Check”), located in Boston, Massachusetts.

## V. **Relevant Terms**

6. At all times relevant to this Indictment:

a. “Telemarketer”, “Merchant” or “Originator” (hereinafter “Originator”) are common terms for companies that sell products via telephone or internet solicitation. These Originators solicit the individuals bank account information in order to facilitate payment for the product.

b. The terms “lead lists” or “full data lists” are used to describe lists of consumer bank account information, often compiled from data provided by consumers who previously purchased a product via telephone or internet solicitation. Fraudulent Originators and their co-conspirators often trade lead lists of prospective victims, including repeat victims who are likely to become a victim of another fraudulent scheme.

c. Originators and their associates often contract with “payment processors” to collect and transmit money, among other services. A “payment processor” performs this service in one of two ways relevant to this scheme: (i) the payment processor prints “facsimile checks” and deposits them or causes them to be deposited in an account designated by the Originator (“Facilitating Bank Account”) or designated by the payment processor (“Processor

Settlement Account”), whereby the facsimile checks are submitted to the customer’s bank for payment from the customer’s account; and/or (ii) the payment processor, or “ACH Processor,” electronically debits the account of a customer, transfers money into a Processor Settlement Account, and electronically wires the proceeds to a designated account.

d. A “facsimile check” or “demand draft” (hereinafter “facsimile check”) is a document that has the same format and characteristics of a bank check. It contains the name, address, bank routing number and account number for the consumer, but not the consumer’s signature. When properly used, a facsimile check is verbally authorized by the consumer, printed by the merchant or a third-party payment processor, and submitted to a bank in the form of a draft check; these checks are processed by the banking system in the same manner as other financial instruments.

e. “Account Clearinghouse” (“ACH”) is an automated system by which accounts are electronically debited (i.e., electronically withdrawn); these electronic debits are often referred to as “ACH debits.”

f. A check or ACH “return” refers to a transaction refused or reversed by the payor’s bank because the check or debit was drawn upon: (1) bank accounts that were nonexistent, closed or contained insufficient funds; and/or (2) bank accounts of unwitting individuals who had not purchased any product and did not authorize any withdrawal from their account and alerted the bank in time to reverse the transaction (usually 30-60 days), thereby effectuating a return of the money to the victim’s account.

i. The Federal Reserve Board estimates that the average total return rate for bank checks (which includes facsimile checks) was approximately one half a percent.

ii. Rules established by the National Automated Clearinghouse Association (hereinafter “NACHA”) require investigative action where the unauthorized return rate on ACH transactions for customer initiated telephone transactions appears to exceed two and one-half percent.

g. Overall “return rate(s)” cited herein do not include withdrawals or debits from alleged telemarketing customers who had neither purchased a product nor authorized a withdrawal and who did not alert the bank in time to reverse the transaction (because they either realized too late or never realized at all); these accounts holders would not be entitled to a return of their money and the facsimile check or debit in their name would not be included in the overall return rate.

h. “Scrubbing” is a term used to define efforts made to determine if an alleged customer account is active and contains sufficient funds to accommodate a withdrawal or electronic debit. Pre-debit “scrubbing” of alleged telemarketing accounts will result in fewer checks or debits being returned without payment than the deposit or electronic debit of non-scrubbed accounts.

i. “Voice Verifications,” “Call Verification Records” or “Genies” are recordings of transactions used to verify and substantiate customer purchases.

### The Conspiracy

7. From at least as early as July 1, 2004, to in or about September, 2006, in Mercer, Monmouth, Hunterdon, Ocean and Middlesex Counties, in the District of New Jersey, and elsewhere, the defendants,

SIAMAK SALEKI,  
JAN LUDVIK (a/k/a THOMAS PALMER),  
ROBERT SACKS,  
SCOTT SALOMON,  
SHAUN ROSIERE,  
DIEGO HERNANDEZ,  
JOHN HILEY,  
BRIGETTE FREYERMUTH and  
JOSEPH FUERTE,

did knowingly and intentionally conspire and agree among themselves and with CC-1, CC-2, CC-3, CC-4, CC-5, CC-6, CC-7 and others to devise a scheme and artifice to defraud financial institutions and account holders, and to obtain money and property, by means of materially false and fraudulent pretenses, representations and promises, which scheme and artifice was in substance as set forth in paragraphs 8 through 79 below, and for the purpose of effectuating such scheme and artifice below:

a. placed and caused to be placed in a post office and authorized depository of mail, and caused to be delivered thereon, certain mail matter, to be sent and delivered by the United States Postal Service, and by any private and commercial interstate carrier, contrary to Title 18, United States Code, Section 1341; and

b. transmitted and caused to be transmitted by means of using interstate and foreign wire communications writings, signs, signals, pictures and sounds for the purpose of

executing such scheme and artifice to defraud, contrary to Title 18, United States Code, Section 1343.

### **Object of the Conspiracy**

8. The object of the conspiracy was, under the fraudulent pretext of operating a telemarketing business, to defraud and attempt to defraud financial institutions (hereinafter “bank-victims”) and their account holders (hereinafter “consumer-victims”) out of over \$20 million by: debiting or attempting to debit tens of thousands of bank accounts throughout the United States of unwitting account-holders who did not order a product or authorize a debit, for deposit into accounts under the custody and control of the Defendants and their co-conspirators; withdrawing the ill-gotten proceeds from these accounts after the bank-victim had made funds available and before either the bank-victim or the consumer-victim had realized that the account had been wrongfully debited; and transferring the ill-gotten proceeds into additional accounts under the custody and control of the Defendants and their co-conspirators, for their own personal use.

### **Means and Methods of the Conspiracy**

9. Among the means and methods employed by the Defendants and their co-conspirators to carry out the conspiracy and effectuate its unlawful object were those set forth in Paragraphs 10 through 79 below.

10. **Facilitating Corporations:** Defendants and their co-conspirators, under the guise of operating a legitimate telemarketing business, used or caused to be used pre-existing corporations, or incorporated or caused to be incorporated new corporations (hereinafter

“Facilitating Corporations”), that then were used to open Facilitating or Consolidating Bank Accounts.

11. **Facilitating Bank Accounts:** Defendants and their co-conspirators, under the guise of operating a legitimate telemarketing business, used or caused to be used pre-existing bank accounts, or opened or caused to be opened new bank accounts, throughout the United States in the names of various Facilitating Corporations (hereinafter “Facilitating Bank Accounts”), that then received and processed false and fraudulent facsimile checks and/or electronic debits.

12. **Processing Alleged Customer Account Lists:** Defendants and their co-conspirators obtained bank account information of account holders in the United States and hired Payment Processors to debit or attempt to debit these accounts without the consent or authorization of the account holder by either: (a) drafting or causing to be drafted facsimile checks, purportedly on behalf of alleged telemarketing customers, that then were deposited into Facilitating Bank Accounts; or (b) electronically debiting or causing to be electronically debited the accounts of alleged telemarketing customers that then were deposited into a Processor Settlement Account.

13. **Deposits of Fraudulent Checks Into Facilitating Bank and Processor Settlement Accounts:** Defendants and their co-conspirators then deposited or caused to be deposited into these Facilitating Bank Accounts or Processor Settlement Accounts more than \$20 million in the form of either facsimile checks or electronic wire transfers, drawn primarily upon: (1) bank accounts that were nonexistent, closed or contained insufficient funds; and/or (2) bank

accounts of unwitting individuals who had not purchased any product and did not authorize any withdrawal from their account (“alleged telemarketing customers”).

14. **Transfers Into Consolidating Bank Accounts:** Once the Facilitating Bank Account or Processor Settlement Account made funds available, which often occurred before the checks were returned or debits were reversed for the above-mentioned reasons, the Defendants and their co-conspirators withdrew or attempted to withdraw funds from the Facilitating Bank Account or Processor Settlement Account, and transferred or attempted to transfer the fraudulent proceeds into Consolidating Accounts that were controlled by the Defendants and their co-conspirators, for their own personal use.

## **VI. Accounts**

### **A. Fifth Third EMS**

15. It was further part of the conspiracy that beginning in or about July, 2004, CC-1 began processing millions of dollars of false and fraudulent facsimile checks based upon alleged telemarketing customer lists provided by Defendants SALEKI, LUDVIK and others, including but not limited to the following:

16. **Facilitating Corporations:** It was further part of the conspiracy that CC-1 used EMS, which was incorporated by OC, a business partner of CC-1, in the state of Nevada, in or about October, 2003, for the purpose of opening Facilitating Bank Accounts.

17. **Facilitating Bank Accounts:** It was further part of the conspiracy that CC-1 opened or caused to be opened business checking account number 700324379 at Fifth Third Bank (formerly First National Bank of Florida), in the name “Electronic Money Solutions”

(hereinafter “Fifth Third EMS Account”), on or about July 1, 2004, to deposit funds derived from alleged telemarketing sales.

18. **Processing Alleged Customer Account Lists:** It was further part of the conspiracy that from in or about July, 2004 until in or about January, 2005, Defendants SALEKI, LUDVIK and others sent CC-1 false and fraudulent telemarketing customer list information that represented over \$1 million worth of alleged telemarketing sales for deposit into the Fifth Third EMS Account.

19. It was further part of the conspiracy that from in or about July, 2004, CC-1 employed as many as ten employees to scrub the customer list information by telephoning the banks from which the electronic debits were to be made in order to determine whether the accounts were active and funded in an amount in excess of the customer check. CC-1 subsequently entered into an agreement, online, with Better Check, Inc., to scrub the customer list information.

20. It was further part of the conspiracy that, once scrubbed, CC-1 formatted the account information and sent the formatted lists either to Alliance, for electronic debit and deposit into the Alliance Settlement Account (and subsequent deposit into the Fifth Third EMS Account), or directly to Fifth Third Bank, for electronic debit and deposit into the Fifth Third EMS Account.

21. **Transfer Of Fraudulent Proceeds Into Processor Settlement Accounts:** It was further part of the conspiracy that in or about July, 2004, Alliance electronically debited or attempted to electronically debit approximately \$42,294.00 from the bank accounts of alleged telemarketing customers associated with EMS, and credited or attempted to credit the Alliance



Settlement Account. Approximately 80% of the debits were returned to the Alliance Settlement Account because they were drawn upon accounts that were non-existent, closed, contained insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction. From on or about July 6, 2005 to on or about July 30, 2005, approximately \$30,978.00, which represented proceeds of the scheme, was transferred from the Alliance Settlement Account to the Fifth Third EMS Account.

22. **Deposits of Fraudulent Checks Into Facilitating Bank Accounts:** It was further part of the conspiracy that from in or about October, 2004 until in or about January, 2005, Fifth Third Bank electronically debited or attempted to electronically debit over \$1 million from the bank accounts of alleged telemarketing customers. Approximately 50% of these already-scrubbed checks were returned to the Fifth Third EMS Account because they were drawn upon accounts that were non-existent, closed, contained insufficient funds, or because they were drawn upon the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction. Several of the formatted lists referenced a telephone number (888-488-7522), which was used by Defendants SACKS, SALEKI and LUDVIK and others as a customer service number on various documents created during, and used to facilitate and perpetuate, this scheme. Fifth Third closed this account on or about July 22, 2005, at which time the account was overdrawn.

23. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that between on or about December 6, 2004 through on or about January 21, 2005, CC-1 transferred or caused to be transferred, via wire, approximately \$266,848.37 from the Fifth Third

EMS Account to the Citibank American Dynamic Account under the control of Defendant SACKS, which represented proceeds of the scheme.

a. It was further part of the conspiracy that from on or about December 15, 2004 to on or about January 24, 2005, Defendant SACKS, in turn, transferred or caused to be transferred, via wire, approximately \$90,000.00 from the Citibank American Dynamic Account to the Denarius Financial Group Account at Key Bank in Albany, New York (Acct. #: 329681005131), under the control of Defendant LUDVIK, which represented proceeds of the scheme.

b. It was further part of the conspiracy that from on or about October 14, 2004 to on or about January 14, 2005, Defendant SACKS transferred or caused to be transferred, via wire, approximately \$70,000.00 from the Citibank American Dynamic Account to the Canada Inc. Account at JP Morgan Chase in New York, New York (Acct. #: 995-5017574-65), under the control of Defendant SALEKI, which represented proceeds of the scheme.

c. It was further part of the conspiracy that from on or about December 14, 2004 to on or about January 21, 2005, CC-1 transferred or caused to be transferred from the Fifth Third EMS Account, via wire, approximately \$62,709.50 to the Canada Inc., account at JP Morgan Chase under the control of Defendant SALEKI, which represented proceeds of the scheme.

d. It was further part of the conspiracy that from on or about November 26, 2004 to on or about February 3, 2005, CC-1 transferred or caused to be transferred approximately \$218,000.00 from the Fifth Third EMS Account to an account in the name of Coastal Solutions Direct, which was incorporated by CC-1 on or about September 17, 2004, at

Wachovia Bank, which account was opened on or about September 20, 2004 by CC-1, and was under the custody and control of CC-1, which represented proceeds of the scheme.

**B. American Direct and American Dynamic Accounts**

24. It was further part of the conspiracy that beginning in or about September, 2004 until in or about July, 2005, Defendant SACKS, GH, a personal assistant of Defendant SACKS, and others, acquired lists of alleged telemarketing customers from Defendants SALEKI, LUDVIK and others, hired ACH Processors to electronically debit or attempt to electronically debit over \$7 million from the accounts of alleged telemarketing customers, and then transferred or caused to be transferred, from Processor Settlement Accounts, the ill-gotten proceeds into Consolidating Accounts under the control of the Defendants and their co-conspirators, including but not limited to the following:

25. **Facilitating and/or Consolidating Corporations:** It was further part of the conspiracy that Defendant SACKS incorporated or caused to be incorporated American Direct, Inc., on or about October 22, 2004, for the purpose of opening Facilitating Bank Accounts and/or receiving ill-gotten proceeds from Facilitating Bank Accounts or Processor Settlement Accounts; and Defendant SACKS used or caused to be used American Dynamic, LLC, which was incorporated or caused to be incorporated by GH on or about February 1, 2003, for the purpose of opening Facilitating Bank Accounts and/or receiving ill-gotten proceeds from Facilitating Bank Accounts or Processor Settlement Accounts.

26. **Processing Alleged Customer Account Lists For Deposit Into Processor Settlement Accounts:** It was further part of the conspiracy that on or about October 27, 2004, Defendant SACKS, on behalf of American Direct, Inc., and Evalucheck, Inc., an ACH

Processor, entered into a Check Processing Services Agreement (“Evalucheck SACKS Contract”), whereby Evalucheck agreed to electronically debit the accounts of alleged telemarketing customers and deposit the funds into its Settlement Account at First Citizens Bank in Charlotte, North Carolina (“Evalucheck Settlement Account”). From on or about October 28, 2004 to on or about November 15, 2004, Defendant SALEKI provided customer list information to Evalucheck, via wire, that purportedly represented approximately \$702,902.00 worth of alleged telemarketing sales. Defendant SALEKI was listed on the Evalucheck Contract as American Direct’s “Primary Contact” for Evalucheck. This contract also listed 888-488-7522 as the “customer service toll free number” – the same number that was listed on the formatted lists provided to CC-1 by Defendant SALEKI with regard to the Fifth Third EMS Account. On or about September 20, 2004, GH, on behalf of American Dynamic, LLC, and at the request and direction of Defendant SACKS, entered into a similar Check Processing Services Agreement with Evalucheck.

27. **Transfer Of Fraudulent Proceeds Into Processor Settlement Accounts:** It was further part of the conspiracy that from on or about October 28, 2004 to on or about November 15, 2004, Evalucheck debited or attempted to debit approximately \$702,902.00 from bank accounts of alleged telemarketing customers associated with American Direct and American Dynamic, and credited or attempted to credit the Evalucheck Settlement Account. Approximately 64% of the debits associated with American Direct and approximately 84% of the debits associated with American Dynamic were returned to the Evalucheck Settlement Account because they were drawn upon accounts that were non-existent, closed, contained

insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction.

28. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that on or about October 27, 2004, Defendant SACKS opened or caused to be opened business checking account number 1000026564368 in the name of American Direct, Inc., at Sun Trust Bank, and Defendant SACKS also used or caused to be used business checking account number 78422334-0, opened by GH on or about December 22, 2003, in the name of American Dynamic, LLC, at Citibank, to receive ill-gotten proceeds from Facilitating Bank Accounts or Processor Settlement Accounts, including but not limited to the Evalucheck Settlement Account. On or about November 22, 2004, approximately \$54,418.00, which represented proceeds of the scheme, was transferred from the Evalucheck Settlement Account to Defendant SACKS' American Direct Account. At or around this time, Evalucheck froze the account because of excessive returns and problems with call verification records.

**C. The Recruits**

29. It was further part of the conspiracy that Defendant SACKS, CC-2 and others recruited individuals throughout the country to incorporate Facilitating and Consolidating Corporations and/or open Facilitating and Consolidating Bank Accounts, into which false and fraudulent checks or debits were deposited, and out of which ill-gotten proceeds were transferred to the Defendants and their co-conspirators, including but not limited to the following:

**1. Wyncrest**

30. It was further part of the conspiracy that CC-3, upon being recruited by CC-2, incorporated Facilitating Corporations and opened Facilitating Bank Accounts in New Jersey,

and recruited another individual in New Jersey to do the same, into which false and fraudulent checks or debits were deposited, and out of which ill-gotten proceeds were transferred to the Defendants and their co-conspirators, including but not limited to the following:

31. **Facilitating Corporations:** It was further part of the conspiracy that CC-3, at the request and direction of CC-2 and Defendant SACKS, incorporated or caused to be incorporated Wyncrest Consulting Corp., in the state of New Jersey, on or about February 18, 2005, for the purpose of opening Facilitating Bank Accounts.

32. **Facilitating Bank Accounts:** It was further part of the conspiracy that CC-3, at the request and direction of Defendant SACKS and CC-2, opened or caused to be opened business checking account number 2351081617-0 at Sovereign Bank in Old Bridge, New Jersey, in the name of Wyncrest Consulting Corp. (hereinafter "Sovereign Wyncrest Account"), on or about June 10, 2005, to deposit funds derived from alleged telemarketing sales.

33. **Processing Alleged Customer Account Lists:** It was further part of the conspiracy that on or about May 12, 2005, CC-3, on behalf of Wyncrest Consulting Corp., and Net 30 Solutions, a payment processing company owned and operated by JM, entered into a Payment Processing Agreement, whereby Net 30 Solutions agreed to print facsimile checks of alleged telemarketing customers, upon receipt of alleged customer account information, via wire (e-mail), and deposit those checks directly into the client's bank account. JM also scrubbed these accounts prior to printing and depositing the facsimile checks. In or about May, 2005, Defendant SALEKI provided the alleged telemarketing customer list information to JM at Net 30 Solutions, so that JM could print the facsimile checks.

34. **Deposits of Fraudulent Checks Into Facilitating Bank Accounts:** It was further part of the conspiracy that on or about June 13, 2005, JM, on behalf of Defendants SACKS, SALEKI, CC-2 and CC-3, mailed the following facsimile checks to the Sovereign Wyncrest Account at Sovereign Bank in Old Bridge, New Jersey for deposit: the first deposit, on or about June 14, 2005, totaled approximately \$168,903.00; the second deposit, on or about June 15, 2005, totaled approximately \$198,232.00. JM mailed the printed facsimile checks, via Federal Express, charging account number 260315765, which is the Federal Express account number for the law firm of Sacks and Sacks, LLP., New York, New York, the law firm of Defendant SACKS' two brothers. Approximately 83% of these already-scrubbed checks were returned to Sovereign Bank because they were drawn upon accounts that were non-existent, closed, contained insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction. On or about June 16 and June 20, 2005, JM mailed additional facsimile checks, via Federal Express, in the approximate amount of \$174,009.00, to the Sovereign Wyncrest Account; these checks were held by the bank and not deposited due to suspicions of fraud based upon the high rate of returns for the checks deposited on or about June 14 and June 15, 2005.

35. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that on or about June 20, 2005, CC-3, at the direction of Defendant SACKS and CC-2, attempted to transfer funds, representing proceeds of the scheme, from the Sovereign Wyncrest Account to an account in the name of American Payment Inc., at SunTrust Bank, which was opened by Defendant SACKS and CC-2 on or about February 15, 2005; American Payment Inc., was a Florida corporation, incorporated on or about October 29, 2004 by Defendant SACKS and CC-2.

This attempted transfer of funds was unsuccessful because Sovereign Bank, on or about June 17, 2005, froze the Sovereign Wyncrest Account due to suspicious activity.



## 2. Edgebrook Services

36. It was further part of the conspiracy that CC-4, upon being recruited by CC-2, incorporated Facilitating Corporations and opened Facilitating Bank Accounts, into which false and fraudulent checks or debits were deposited, and out of which ill-gotten proceeds were transferred to the Defendants and their co-conspirators, including but not limited to the following:

37. **Facilitating Corporations:** It was further part of the conspiracy that CC-4, at the direction of Defendant SACKS and CC-2, incorporated or caused to be incorporated Edgebrook Services Inc., in the State of Michigan, on or about May 31, 2005, for the purpose of opening Facilitating Bank Accounts.

38. **Facilitating Bank Accounts:** It was further part of the conspiracy that CC-4, at the request and direction of Defendant SACKS and CC-2, opened or caused to be opened business checking account number 695149401 at J.P. Morgan Chase (formerly Bank One) in Detroit, Michigan, in the name of Edgebrook Services Inc. (hereinafter "Chase Edgebrook Account"), on or about June 1, 2005, to deposit funds derived from alleged telemarketing sales.

39. **Processing Alleged Customer Account Lists:** It was further part of the conspiracy that on or about May 31, 2005, CC-4, on behalf of Edgebrook Services, and Net 30 Solutions entered into a Payment Processing Agreement, whereby Net 30 Solutions agreed to print facsimile checks upon receipt of customer account information via "Direct Mail," and deposit those checks directly into the Chase Edgebrook Account, which JM, the owner and operator of Net 30 Solutions, did, soon thereafter, at a Bank One branch in The Woodlands, Texas. JM also scrubbed these accounts prior to printing the facsimile checks. In or about June,

2005, Defendant SALEKI provided the alleged telemarketing customer list information to Net 30 Solutions; Net 30 Solutions used this information to print the facsimile checks.

40. **Deposits of Fraudulent Checks Into Facilitating Bank Accounts:** It was further part of the conspiracy that on or about June 8, 2005 through on or about June 16, 2005, Defendants SACKS, SALEKI and CC-2 caused the deposit of facsimile checks totaling approximately \$250,980.00 to be made into the Chase Edgebrook Account. Approximately 72% of these already-scrubbed checks were returned to the Chase Edgebrook Account because they were drawn upon accounts that were non-existent, closed, contained insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction.

41. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that on or about June 10, 2005, CC-4, at the direction of Defendants SACKS and CC-2, transferred or caused to be transferred, via wire, approximately \$60,000.00, which represented proceeds of the scheme, from the Chase Edgebrook Account to an account in the name of American Payment Inc., at SunTrust Bank, which was opened by Defendant SACKS and CC-2 on or about February 15, 2005. On or about July 28, 2005, J. P. Morgan Chase closed the Chase Edgebrook Account, at which time the account was overdrawn.

### **3. Fuerte/Freyermuth BoA Accounts**

42. It was further part of the conspiracy that in or about late 2004, Defendant SACKS recruited a distant relative, CB, to find additional individuals to incorporate Facilitating Corporations and open Facilitating Bank Accounts, in and around Florida. CB discussed this opportunity with his cousin, Defendant FUERTE, who, in turn, recruited his girlfriend,

Defendant FREYERMUTH, and asked to meet with Defendant SACKS to discuss the incorporation of Facilitating Corporations and the opening of Facilitating Bank Accounts.

43. It was further part of the conspiracy that in or about late 2004, Defendant FUERTE met with Defendants SACKS, LUDVIK and others on multiple occasions and agreed to incorporate Facilitating Corporations and open Facilitating Bank Accounts into which false and fraudulent checks or debits were deposited, and out of which ill-gotten proceeds were transferred to the Defendants and their co-conspirators.

44. **Facilitating Corporations:** It was further part of the conspiracy that:

a. Defendant FREYERMUTH incorporated or caused to be incorporated Palms Processing, Inc., and JoeBrig Processing, Inc., on or about January 14, 2005, in the state of Florida, for the purpose of opening Facilitating Bank Accounts.

b. Defendant FUERTE incorporated or caused to be incorporated Professional Order Processing, Inc., on or about December 30, 2004, in the state of Florida, for the purpose of opening Facilitating Bank Accounts.

45. **Facilitating Bank Accounts:** It was further part of the conspiracy that:

a. Defendant FREYERMUTH opened or caused to be opened: business checking account number 005484924053 at Bank of America, in Fort Lauderdale, Florida, in the name of Palms Processing, Inc., on or about January 31, 2005 (“BoA Palms Account”); and business checking account number 005484924066 at the Bank of America, in Fort Lauderdale, Florida, in the name of JoeBrig Processing, Inc., on or about January 31, 2005 (“BoA JoeBrig Account”), to deposit funds derived from alleged telemarketing sales.

b. Defendant FUERTE opened or caused to be opened business checking account number 005507821240 at the Bank of America, in Fort Lauderdale, Florida, in the name of Professional Order Processing, Inc., on or about June 6, 2005 (“BoA POP Account”), to deposit funds derived from alleged telemarketing sales.

46. **Processing Alleged Customer Account Lists:** It was further part of the conspiracy that:

a. on or about May 18, 2005, Defendant FREYERMUTH, on behalf of Palms Processing Inc., and Net 30 Solutions entered into a Payment Processing Agreement (“Palms Processing Agreement”), whereby Net 30 Solutions agreed to print facsimile checks upon receipt of customer account information via wire (e-mail), and deposit those checks directly into the BoA Palms Account. JM also scrubbed these accounts prior to printing the facsimile checks.

b. on or about May 25, 2005, Defendant FREYERMUTH, on behalf of JoeBrig Processing Inc., and Net 30 Solutions entered into a Payment Processing Agreement (“JoeBrig Processing Agreement”), whereby Net 30 Solutions agreed to print facsimile checks upon receipt of customer account information via wire (e-mail), and deposit those checks directly into the BoA JoeBrig Account. JM also scrubbed these accounts prior to printing the facsimile checks.

c. on or about June 6, 2005, Defendant FUERTE, on behalf of Professional Order Processing, Inc., and Net 30 Solutions entered into a Payment Processing Agreement (“POP Processing Agreement”), whereby Net 30 Solutions agreed to print facsimile checks upon

receipt of customer account information via wire (e-mail), and deposit those checks directly into the BoA POP Account. JM also scrubbed these accounts prior to printing the facsimile checks.

47. **Deposits of Fraudulent Checks Into Facilitating Bank Accounts:** It was further part of the conspiracy that:

a. from on or about June 3, 2005 to on or about June 8, 2005, JM, at the direction of Defendant SALEKI, who provided the customer list information, caused the deposit of facsimile checks totaling approximately \$374,022.00 into the BoA Palms and JoeBrig Accounts: approximately 65% of the already scrubbed facsimile checks were returned to the BoA Palms Account; and approximately 54% of the already scrubbed facsimile checks were returned to the BoA Joe Brig Account, because they were drawn upon accounts that were non-existent, closed, contained insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction.

b. on or about June 8, 2005, JM, at the direction of Defendant SALEKI, who provided the customer list information, caused the deposit of facsimile checks totaling approximately \$109,445.00 into the BoA POP Account: approximately 59% of the already scrubbed facsimile checks were returned to BoA POP, because they were drawn upon accounts that were non-existent, closed, contained insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction.

48. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that:

a. on or about November 10, 2005, Defendant FREYERMUTH withdrew approximately \$70,948.05, which represented proceeds of the scheme, from the BoA Palms Account in the form of a cashiers check, and deposited that check, on or about January 20, 2006, in account number 1000038547377 at SunTrust Bank, which Defendant FREYERMUTH opened on or about January 20, 2006, in the name of Palms Processing, Inc. (“SunTrust Palms Account”). From on or about January 24, 2006 to on or about July 10, 2006, Defendant FREYERMUTH withdrew funds from the SunTrust Palms Account for Defendants FREYERMUTH’s and FUERTE’s own personal use.

b. on or about November 3, 2005, Defendant FREYERMUTH withdrew approximately \$75,510.00, which represented proceeds of the scheme, from the BoA JoeBrig Account in the form of a cashiers check, and deposited that check, on or about March 3, 2006, in account number 1000046418785 at SunTrust Bank, which Defendant FREYERMUTH opened on or about March 3, 2006, in the name of JoeBrig, Inc. (“SunTrust JoeBrig Account”). From on or about April 3, 2006 to on or about September 25, 2006, Defendant FREYERMUTH withdrew funds from the SunTrust JoeBrig Account for Defendants FREYERMUTH’s and FUERTE’s own personal use.

c. on or about July 26, 2005, Defendant FUERTE withdrew approximately \$28,636.00, which represented proceeds of the scheme, from the BoA POP Account in the form of a cashiers check, and deposited that check, on or about August 1, 2005, in account number 185-223791-6 at Washington Mutual Bank, which Defendant FUERTE opened on or about

August 1, 2005, in the name of Professional Order Processing, Inc. (“WAMU POP Account”). From on or about August 2, 2006 to on or about September 2, 2006, Defendant FUERTE withdrew funds from the WAMU POP Account for Defendants FUERTE’s and FREYERMUTH’s own personal use.

**4. DI & VI**

49. It was further part of the conspiracy that Defendant HERNANDEZ, upon being recruited by Defendant SACKS, incorporated or caused to be incorporated Facilitating Corporations and opened or caused to be opened Facilitating Bank Accounts, into which false and fraudulent checks or debits were deposited, and out of which ill-gotten proceeds were transferred to the Defendants and their co-conspirators, including but not limited to the following:

50. **Facilitating And/Or Consolidating Corporations:** It was further part of the conspiracy that Defendant DIEGO HERNANDEZ caused the incorporation of DI & VI Corporation (hereinafter “DI & VI”), a Florida corporation, on or about February 8, 2005, for the purpose of receiving ill-gotten proceeds from Processor Settlement Accounts.

51. **Processing Alleged Customer Account Lists For Deposit Into Consolidating Bank Accounts:** It was further part of the conspiracy that on or about August 24, 2005, VH (Defendant HERNANDEZ’s wife), on behalf of DI & VI, at the request and direction of Defendant HERNANDEZ, and ICT entered into an Agreement to Provide Services (“ICT DI & VI Contract”), whereby ICT agreed to electronically debit the accounts of alleged telemarketing customers and deposit the funds into its Settlement Account at U.S. Bank in Bedford, Ohio. (Acct. # 481159374) (“ICT Settlement Account”). This information was provided to ICT, via

wire (e-mail), in the form of alleged telemarketing customer lists from Defendant SALEKI and others in or about October, 2005. In addition to the August 24, 2005 contract, DI & VI also submitted a Merchant Application to ICT, signed by VH, at the request and direction of Defendant HERNANDEZ, on September 28, 2005, listing “Sam Sialek,” on behalf of Cytech Marketing, as one of the trade references; this Merchant Application also listed the above-mentioned 888-488-7522 as the “merchant customer service number.”

52. **Transfer Of Fraudulent Proceeds Into Processor Settlement Accounts:** It was further part of the conspiracy that from on or about October 14, 2005 to on or about December 15, 2005, ICT debited or attempted to debit approximately \$4,842,199.00 from alleged telemarketing customers associated with DI & VI, and credit or attempt to credit the ICT Settlement Account. Approximately 80% of the debits associated with DI & VI were returned to the ICT Settlement Account because they were drawn upon accounts that were non-existent, closed, contained insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction.

53. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that on or about June 23, 2005, Defendant HERNANDEZ opened or caused to be opened a business checking account number 0145345138 in the name of DI & VI Inc., at Branch Banking and Trust Company to receive, in part, ill-gotten proceeds from the ICT Settlement Account (hereinafter “BB&T DI&VI Account”). ICT, on or about October 25, 2005, wired approximately \$52,887.00, which represented proceeds of the scheme, to the BB&T DI & VI Account. On or about November 22, 2005, ICT froze the ICT Settlement Account due to



excessive returns; this account was closed by ICT on or about December 16, 2006, due to suspicious activity.

54. It was further part of the conspiracy that on or about November 1, 2005, approximately \$35,000.00 was wired from the BB&T DI & VI Account into a UBS account under the control of Defendant SACKS; on or about November 25, 2005, approximately \$4,000.00 was wired from the BB&T DI & VI Account into Defendant HERNANDEZ's account at Centennial Bank (Acct #: 001105242833); and on or about November 25, 2005, approximately \$13,000.00, in the form of a bank check, was withdrawn from the BB&T DI & VI Account and deposited on or about November 28, 2005 into a UBS account under the control of Defendant SACKS. Moreover, from on or about November 2, 2005 to on or about November 22, 2005, approximately \$150,446.20 was wired from the ICT Settlement Account directly into Defendant SALEKI's Canada Inc. Account at JP Morgan Chase Bank. These funds all represented proceeds of the scheme. On or about November 23, 2005, approximately \$21,150.00 was wired from Defendant SALEKI's Canada Inc. Account at JP Morgan Chase Bank back into the BB&T DI & VI Account.

**D. Pilot Accounts**

55. It was further part of the conspiracy that from in or about December, 2004 until in or about February, 2005, Defendants SALEKI, LUDVIK, SACKS, SALOMON, along with CC-1, CC-5 and CC-6 discussed, in person or on the telephone, on numerous occasions, in Defendant SALOMON's office and elsewhere, finding a bank that would accept the deposit of alleged telemarketing checks and tolerate high return rates, and make monies available soon after the deposit of alleged telemarketing checks. Defendant SALOMON, in furtherance of this

purpose, introduced the above-mentioned co-conspirators to DV, who was employed by Pilot Bank as a Branch Manager. DV is the father of Defendant SALOMON's friend DJ; DJ worked for a time with Defendant SALOMON at EZ Mortgage in or about 2004-2005, a company owned and operated by Defendant SALOMON.

56. **Facilitating Corporations:** It was further part of the conspiracy that on or about the following dates, the Defendants and their co-conspirators incorporated or caused to be incorporated the following Facilitating Corporations, for the purpose of opening Facilitating Bank Accounts:

<u>Name</u>	<u>Incorporation Date</u>	<u>Incorporator</u>
Telenet Processing Corp.	December 28, 2004	SF
Connect Processing Inc.	January 14, 2005	DV
Mex Processing Inc.	January 14, 2005	DV
Jato Processing Inc.	January 14, 2005	JF
Joebrig Processing Inc.	January 14, 2005	BRIGETTE FREYERMUTH

57. **Facilitating Bank Accounts:** It was further part of the conspiracy that on or about February 9, 2005, Defendants SACKS and SALOMON, along with CC-1, CC-5, CC-6 and others traveled to Tampa, Florida and opened or caused to be opened twenty five business checking accounts at the Pilot Bank, Tampa, Florida ("Pilot Accounts"), in their names, and the names of others who were not present, including but not limited to the following accounts, to deposit funds derived from alleged telemarketing sales:

<u>Account Name</u>	<u>Account No.</u>	<u>Signator</u>
Port of Call Inc.	2115812	CS; SCOTT SALOMON
Telenet Processing Corp.	2115948	SF; SCOTT SALOMON
Connect Processing Inc.	2115993	DV; ROBERT SACKS
Mex Processing Inc.	2115841	DV; ROBERT SACKS
Jato Processing Inc.	2115838	JF; SCOTT SALOMON

JoeBrig Processing Inc.

2115799

Unnamed (business address of  
Defendant SALOMON)

Of the remaining nineteen unused accounts, Defendant SALOMON's name appeared on an additional twelve accounts (Defendant SALOMON was the sole signator on two of these), Defendant FUERTE's name appeared on an additional two accounts, and CC-5's name appeared on an additional three accounts. On or about February 9, 2005, Defendant SACKS provided Pilot Bank with a \$2,300.00 check (dated February 8, 2005), for the opening of the majority of the Pilot Accounts; this check was negotiated by Pilot Bank on or about February 10, 2005.

58. **Processing Alleged Customer Account Lists:** In or about February, 2005, CC-1 entered into an agreement, online, with Better Check, Inc., to scrub customer list information provided by Defendants SALEKI, LUDVIK and others. In or about February, 2005, Defendants SALEKI, LUDVIK and others provided or caused to be provided the alleged telemarketing customer list information to CC-1, via wire (e-mail). Once scrubbed, CC-1 printed facsimile checks containing the account information of the remaining alleged telemarketing customers and deposited or caused to be deposited these facsimile checks into the above-listed Pilot Accounts.

59. **Deposits of Fraudulent Checks Into Facilitating Bank Accounts:** It was further part of the conspiracy that on or about the following dates, the following deposits of checks were made to the following Pilot Accounts, which resulted in the following post-scrubbing return rates because the checks were drawn upon accounts that were non-existent, closed, contained insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction:

<u>Account</u>	<u>Deposit Date(s)</u>	<u>Deposits</u>	<u>Return Rate</u>
Pilot Port of Call Account	2/28/05	\$29,898.00	55%
Pilot Connect Account	3/1/05	\$36,828.00	49%
Pilot Mex Account	2/28/05; 3/1/05	\$44,550.00	52%
Pilot Jato Account	2/28/05; 3/1/05	\$48,312.00	51%
Pilot Telenet Account	2/28/05; 3/1/05	\$33,363.00	54%
Pilot JoeBrig Account	2/23/05; 3/1/05	\$94,050.00	43%

60. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that on or about April 26, 2005, Defendant SALOMON transferred or caused to be transferred, via wire, a total of approximately \$64,000.00, which represented proceeds of the scheme, from the Pilot Accounts (excluding Pilot JoeBrig Account) to an escrow account at Wachovia Bank (Acct. #: 2000016159257), opened on or about January 1, 2005, by Defendant SALOMON (Wachovia Escrow Account). Soon after the April 26, 2005 transfer, Pilot Bank froze the Facilitating Pilot Accounts, for several months, due to a high rate of returns.

61. It was further part of the conspiracy that on or about April 27, 2005, Defendant SALOMON issued five checks from the Wachovia Escrow Account to: CC-6 in the approximate amount of \$20,833.00 (two checks); CC-5 in the approximate amount of \$20,833.00 (two checks); and to himself in the approximate amount of \$7,500.00 (one check), leaving approximately \$14,834.00 in the Wachovia Escrow Account for Defendant SALOMON's use. These funds all represented proceeds of the scheme.

62. It was further part of the conspiracy that from on or about April 28, 2005 to on or about June 14, 2005, approximately \$29,268.30, which represented proceeds of the scheme, was transferred or caused to be transferred, via wire, from the Pilot JoeBrig Account to business checking account number 2000026281050, in the name of Cut to the Chase, opened by CC-1 on or about February 3, 2005.

63. It was further part of the conspiracy that on or about April 29, 2005, approximately \$20,000.00, which represented proceeds of the scheme, was transferred or caused to be transferred, via wire, from the Pilot JoeBrig Account to Defendant LUDVIK's Denarius Financial Group Account at Key Bank.

64. It was further part of the conspiracy that on or about June 2, 2005, Defendant SALOMON transferred or caused to be transferred, via wire, a total of approximately \$20,423.24, which represented proceeds of the scheme, from the Pilot Accounts (excluding the Pilot JoeBrig Account) to his Wachovia Escrow Account.

65. It was further part of the conspiracy that from on or about June 3, 2005 to on or about June 6, 2005, Defendant SALOMON issued four checks from the Wachovia Escrow Account to: CC-6 in the approximate amount of \$6,750.00 (two checks on or about June 3, 2005); CC-5 in the approximate amount of \$6,500.00 (one check on or about June 6, 2005); and Defendant SALOMON in the approximate amount of \$1,500.00 (one check on or about June 3, 2005), leaving approximately \$5,673.24 in the Wachovia Escrow Account for Defendant SALOMON's use. These funds all represented proceeds of the scheme.

**E. Colorado Accounts**

66. It was further part of the conspiracy that Defendant SACKS and others, in an effort to find additional bank accounts throughout the country after the Pilot Accounts were closed, approached Defendant HILEY and CC-7 to see if they knew any individuals that could assist in the opening of Facilitating Corporations and Facilitating Bank Accounts. Defendant HILEY, in turn, introduced Defendant SACKS to Defendant ROSIERE in or about May, 2005.

67. **Facilitating Corporations:** It was further part of the conspiracy that on or about the following dates, Defendant ROSIERE incorporated or caused to be incorporated the following Facilitating Corporations (hereinafter “Rosiere Corporations”), for the purpose of opening Facilitating Bank Accounts:

<u>Name</u>	<u>Date</u>	<u>Incorporator</u>
Chain of Mines Inc.	March 31, 2005	ROSIERE
Core Basic Data Systems Inc.	March 31, 2005	ROSIERE
Engineering Systems Inc.	March 31, 2005	ROSIERE
Fiesta Systems Inc.	March 31, 2005	ROSIERE
GoGo Big Daddy Inc.	March 31, 2005	ROSIERE
GoGo Inc.	March 31, 2005	ROSIERE
Gold Inc.	April 1, 2005	ROSIERE
International Investment Fund Inc.	March 31, 2005	ROSIERE
Macrosoft Inc.	March 31, 2005	ROSIERE
National Investment Fund Inc.	March 31, 2005	ROSIERE
Players Club Inc.	March 31, 2005	ROSIERE
Velocity International Inc.	March 31, 2005	ROSIERE

On or about the same dates, Defendant ROSIERE incorporated or caused to be incorporated an additional thirty two corporations that then were used to open additional bank accounts.

68. **Facilitating Bank Accounts:** It was further part of the conspiracy that on or about May 18, 2005, Defendant ROSIERE, with the knowledge and consent of Defendants SACKS, SALEKI, LUDVIK and others, opened or caused to be opened the following business checking accounts at the Commercial Federal Bank (currently Bank of the West) (hereinafter “BotW Rosiere Accounts”), to deposit funds derived from alleged telemarketing sales:

<u>Account Name</u>	<u>Account No.</u>	<u>Signator</u>
Chain of Mines Inc.	98496344	ROSIERE
Core Basic Data Systems Inc.	98496154	ROSIERE
Engineering Systems Inc.	98496104	ROSIERE
Fiesta Systems Inc.	98496245	ROSIERE
GoGo Big Daddy Inc.	98496386	ROSIERE

GoGo Inc.	98496295	ROSIERE
Gold Inc.	98496211	ROSIERE
International Investment Fund Inc.	98495990	ROSIERE
Macrosoft Inc.	98495974	ROSIERE
National Investment Fund Inc.	98496055	ROSIERE
Players Club Inc.	98496196	ROSIERE
Velocity International Inc.	98496170	ROSIERE

69. **Processing Alleged Customer Account Lists:** It was further part of the conspiracy that in or about June, 2005, Defendant ROSIERE, on behalf of the Rosiere Corporations, and JKST entered into a contract, whereby JKST agreed to print facsimile checks based upon alleged customer information provided to JKST by CC-1. CC-1, prior to sending the checks to JKST, formatted the alleged customer list information that had been provided to CC-1 by Defendants SALEKI, LUDVIK and others. Upon printing the checks, JKST, from in or about June 28, 2005 through in or about June 31, 2005, mailed the printed facsimile checks, via Federal Express, to Defendant ROSIERE's home address, charging account number 260315765, which is the Federal Express account number for the law firm of Sacks and Sacks, LLP.; this number was provided to JKST by CC-1.

70. **Deposits of Fraudulent Checks Into Facilitating Bank Accounts:** It was further part of the conspiracy that on or about the following dates, Defendant ROSIERE, with the knowledge and consent of Defendants SACKS, SALEKI and LUDVIK, along with CC-1, and others, deposited the printed facsimile checks into the following corporate business accounts, which resulted in the following return rates because the checks were drawn upon accounts that were non-existent, closed, contained insufficient funds, or the accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction:

<u>Name</u>	<u>Account No.</u>	<u>Amount</u>	<u>Deposit Date</u>	<u>Return Rates</u>
Chain of Mines Inc.	98496344	\$80,784.00	6/30/05	63%
Core Basic Data Systems Inc.	98496154	\$99,000.00	6/30/05	
		\$49,698.00	7/5/05	53%
Engineering Systems Inc.	98496104	\$99,000.00	6/30/05	
		\$79,002.00	7/5/05	56%
Macrosoft Inc.	98495974	\$99,000.00	6/30/05	60%
National Investment Fund Inc.	98496055	\$99,000.00	6/30/05	
		\$49,500.00	7/5/05	57%
Fiesta Systems Inc.	98496245	\$99,000.00	7/1/05	56%
GoGo Big Daddy Inc.	98496386	\$99,000.00	7/1/05	62%
GoGo Inc.	98496295	\$99,000.00	7/1/05	51%
Gold Inc.	98496211	\$80,685.00	7/1/05	
		\$93,555.00	7/5/05	53%
International Investment Fund Inc.	98495990	\$80,685.00	7/1/05	63%
Players Club Inc.	98496196	\$99,000.00	7/1/05	88%
Velocity International Inc.	98496170	\$81,774.00	7/1/05	
		\$93,555.00	7/5/05	53%

71. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that from on or about July 5, 2005 to on or about July 6, 2005, Defendant ROSIERE transferred or caused to be transferred approximately \$127,427.00, which represented proceeds of the scheme, from the BotW Rosiere Accounts to another account at BotW, in the name of Business Center Solutions Inc. (Acct. #: 98495958), which was under the sole custody and control of Defendant ROSIERE.

a. It was further part of the conspiracy that on or about July 5, 2005, Defendant ROSIERE wired Defendant HILEY, from the BotW Business Center Solutions Inc. Account, approximately \$4,000.00, which represented proceeds of the scheme, to business checking account number 0758758756848 at SunTrust Bank under the sole custody and control of Defendant HILEY.



b. It was further part of the conspiracy that on or about October 17, 2005, Defendant ROSIERE withdrew approximately \$5,000.00 in cash, which represented proceeds from the scheme, from the BotW Business Center Solutions Inc. Account, and transferred or caused to be transferred approximately \$94,072.00, which represented proceeds of the scheme, from the BotW Business Center Solutions Inc. Account into an account at U.S. Bank, in the name of Business Center Solutions Inc. (Acct. #: 1-036-5873-3441), which was under the sole custody and control of Defendant ROSIERE.

**F. HGC Accounts**

72. It was further part of the conspiracy that after Defendant ROSIERE withdrew the proceeds from BotW, Defendants LUDVIK, HILEY and others, along with CC-7, opened or caused to be opened, or used or caused to be used, additional Facilitating Corporations and Facilitating Bank Accounts, for the purpose of effectuating the scheme to defraud.

73. **Facilitating Corporations:** It was further part of the conspiracy that Defendant HILEY, CC-7 and others used HGC Properties Inc., which was a Florida corporation incorporated by Defendant HILEY on or about July 25, 2003, for the purpose of opening Facilitating Bank Accounts.

74. **Facilitating Bank Accounts:** It was further part of the conspiracy that:

a. on or about August 15, 2005, Defendant HILEY opened business checking account number 203-1-025289 at ITI Bank in Wilmington, Delaware, in the name HGC Properties Inc. (hereinafter "ITI HGC Account"), to deposit funds derived from alleged telemarketing sales.

b. on or about November 7, 2005, Defendant HILEY and CC-7 opened business checking account number 0059592814 at Bank Atlantic, in Hallandale, Fl., in the name HGC Properties Inc. (hereinafter "Bank Atlantic HGC Account"), to deposit funds derived from alleged telemarketing sales.

c. on or about November 14, 2005, Defendant HILEY opened business checking account number 0054761085 at AmSouth Bank in Winter Springs, Fl., in the name HGC Properties Inc. (hereinafter "AMSouth HGC Account"), to deposit funds derived from alleged telemarketing sales.

75. **Processing Alleged Customer Account Lists:** It was further part of the conspiracy that:

a. on or about August 18, 2005, Defendant HILEY, on behalf of HGC Properties, Inc., and ITI, entered into an agreement, online, whereby ITI agreed to print facsimile checks upon receipt of customer account information via wire (e-mail), and deposit those checks directly into the ITI HGC Account. ITI also agreed to provide scrubbing services. The alleged telemarketing customer list was provided by Defendant LUDVIK and others.

b. on or about October 18, 2005, Defendant HILEY, on behalf of HGC Properties, Inc., and Pay by Web, entered into a Check Draft Service Agreement, whereby Pay by Web agreed to print facsimile checks upon receipt of customer account information via wire (e-mail), and mail those checks, via Federal Express, to HGC Properties, Inc. Pay by Web was not tasked to scrub these accounts. The alleged telemarketing customer list was provided by Defendant LUDVIK and others.

76. **Deposits of Fraudulent Checks Into Facilitating Bank Accounts:** It was further part of the conspiracy that:

a. from on or about August 29, 2005 to on or about October 28, 2005, Defendants HILEY and LUDVIK, with knowledge of CC-7, caused ten deposits to be made to the ITI HGC Account. These deposits, comprised of alleged telemarketing customer checks, totaled approximately \$543,639.00. At least 47% of these checks were returned because they were drawn upon accounts that were non-existent, closed, contained insufficient funds or were drawn upon accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction. This account remained open, and, as of September, 2008, carried a balance of approximately \$13,000.00.

b. on or about November 8, 2005, Defendants HILEY and LUDVIK, along with CC-7, caused nine deposits of facsimile checks to be deposited to the Bank Atlantic HGC Account. These deposits, comprised of alleged telemarketing customer checks, totaled approximately \$45,730.00. Approximately 46% of these checks were returned because they were drawn upon accounts that were non-existent, closed, contained insufficient funds or were drawn upon accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction. Bank Atlantic closed this account on or about January 18, 2006, at which time the account was overdrawn.

c. From on or about November 14, 2005, until on or about November 16, 2005, Defendants HILEY and LUDVIK, along with CC-7, caused nineteen deposits of facsimile checks to be deposited to the AmSouth HGC Account. These deposits, comprised of alleged telemarketing customer checks, totaled approximately \$192,879.00. Approximately 58% of

these checks were returned because they were drawn upon accounts that were non-existent, closed, contained insufficient funds or were drawn upon accounts of unwitting individuals who did not authorize the withdrawal and alerted the bank in time to reverse the transaction. On or about January 31, 2006, AmSouth froze this account due to suspicious activity.

77. **Transfers Into Consolidating Accounts:** It was further part of the conspiracy that:

a. from on or about September 12, 2005 through on or about September 13, 2005, Defendant HILEY transferred or caused to be transferred, via wire, approximately \$27,120.00, which represented proceeds of the scheme, from the HGC ITI Account, to business checking account number 0758758756848 at SunTrust Bank, under the custody and control of Defendant HILEY

b. from on or about September 29, 2005 through on or about October 20, 2005, Defendant HILEY transferred or caused to be transferred, via wire, approximately \$179,800.00, which represented proceeds of the scheme, from the HGC ITI Account, to business checking account number 1000038587993 in the name of HGC Properties Inc., under the custody and control of Defendant HILEY and others, at Suntrust Bank (HGC SunTrust Account).

i. from on or about September 19, 2005 to on or about October 21, 2005, Defendant HILEY transferred or caused to be transferred, via wire, approximately \$157,134.00, which represented proceeds of the scheme, from the HGC SunTrust Account to Defendant LUDVIK's Denarius Financial Group account at Key Bank.

ii. from on or about September 29, 2005 to on or about October 21, 2005, Defendant HILEY transferred or caused to be transferred, via wire, approximately \$10,650.00, which represented proceeds of the scheme, from the HGC SunTrust Account to an account under the custody and control of CC-7.

iii. from on or about September 30, 2005 to on or about December 15, 2005, Defendant HILEY withdrew approximately \$26,400.00, which represented proceeds of the scheme, from the SunTrust HGC Account.

c. on or about October 6, 2005, Defendant HILEY transferred or caused to be transferred, via wire, approximately \$5,200.00, which represented proceeds of the scheme, from the HGC ITI Account to an account under the custody and control of CC-7.

d. from on or about November 10, 2005 through on or about November 29, 2005, CC-7, with the knowledge of Defendant HILEY, withdrew approximately \$7,400.00, which represented proceeds of the scheme, from the HGC Bank Atlantic Account.

e. on or about November 16, 2005, CC-7 transferred or caused to be transferred, via wire, approximately \$15,000.00, which represented proceeds of the scheme, from the HGC Bank Atlantic Account to Defendant LUDVIK's Denarius Financial Group account at Key Bank.

f. on or about November 16, 2005, CC-7 transferred or caused to be transferred, via wire, approximately \$2,855.00, which represented proceeds of the scheme, from the HGC Bank Atlantic Account to the HGC SunTrust Account under the custody and control of Defendant HILEY and others.

## **VII. Wirings Or Attempted Wirings To/From The District Of New Jersey**

78. It was further part of the conspiracy that on or about the dates set forth below, for the purpose of executing such scheme and artifice to defraud, the Defendants and their co-conspirators did knowingly cause to be transmitted by means of using interstate and foreign wire communications any writings, signs, signals, pictures and sounds, the following:

<b>WIRE DATE (on or about)</b>	<b>SUBJECT MATTER (approximate)</b>
November 22, 2004	\$249.95 electronic debit (unauthorized) of Acct. # 2700000010 at Hudson United Bank, in or around Frenchtown, New Jersey, by Fifth Third Bank in Sarasota, FL. (Fifth Third EMS Account), as discussed in paragraphs 15-23 of Count One of this Indictment.
November 1, 2004	\$399.00 electronic debit (unauthorized) of Acct. # 1010092680333 at Wachovia Bank, in or around Verona, New Jersey, by First Citizens Bank in Charlotte, North Carolina (Evaluchek Settlement Account), as discussed in paragraphs 24-28 of Count One of this Indictment.
June 15, 2005	\$299.00 electronic debit (unauthorized) of Acct. # 19380020500 at Rockland Trust Company, in or around Plymouth, MA, by Sovereign Bank in Old Bridge, NJ (Sovereign Wyncrest Account), as discussed in paragraphs 30-35 of Count One of this Indictment.
June 8, 2005	\$299.00 electronic debit (unauthorized) of Acct. # 46640049750 at Bank of America (formerly NatWest Bank) in or around Trenton, NJ, by J.P. Morgan Chase in Bloomfield Hills, MI (Chase Edgebrook Account), as discussed in paragraphs 36-41 of Count One of this Indictment.
June 8, 2005	\$99.00 electronic debit (unauthorized) of Acct. # 1010052330678 at Wachovia (formerly First Union National Bank) in or around Galloway, NJ, by Bank of America, in Fort Lauderdale, FL (BoA Palms Account), as discussed in paragraphs 42-48 of Count One of this Indictment.
October 25, 2005	\$399.00 electronic debit (unauthorized) of Acct. # 7859696754 at Commerce Bank, in or around Haddonfield, NJ, by U.S. Bank in Bedford, Oh. (ICT Settlement Account), as discussed in paragraphs 49-54 of Count One of this Indictment.

February 28, 2005	\$99.00 electronic debit (unauthorized) of Acct. # 1010045112638 at Wachovia Bank, in or around Tuckerton, NJ by Pilot Bank in Tampa, FL. (Mex Processing Pilot Account), as discussed in paragraphs 55-65 of Count One of this Indictment.
June 28, 2005	\$99.00 electronic debit (unauthorized) of Acct. # 7857420496 at Commerce Bank, in or around Flemington, NJ, by Bank of the West in Evergreen, Colorado (BotW Gold Account), as discussed in paragraphs 66-71 of Count One of this Indictment.
September 21, 2005	\$138.50 electronic debit (unauthorized) of Acct. # 8103751487 at PNC Bank, in or around Freehold, NJ, by ITI Bank in Wilmington, DE (ITI HGC Account), as discussed in paragraphs 72-77 of Count One of this Indictment.

**VIII. Mailings Or Attempted Mailings To/From The District Of New Jersey**

79. It was further part of the conspiracy that on or about the dates set forth below, for the purpose of executing such scheme and artifice to defraud, the Defendants and their co-conspirators did knowingly and willfully place and cause to be placed in a post office and authorized depository for mail matter to be sent and delivered by the United States Postal Service, and by any private and commercial interstate carrier, according to the directions thereon, the following mail matter:

<b>MAIL DATE (on or about)</b>	<b>SUBJECT MATTER</b>
June 13, 2005	Federal Express mailing of false and fraudulent facsimile checks, printed by JM at Net 30 Solutions, and mailed from Net 30 Solutions, The Woodlands, Texas to Sovereign Bank in Old Bridge, NJ, as discussed in paragraphs 30-35 of Count One of this Indictment.
June 13, 2005	Federal Express mailing of false and fraudulent facsimile checks, printed by JM at Net 30 Solutions, and mailed from Net 30 Solutions, The Woodlands, Texas to Sovereign Bank in Old Bridge, NJ, as discussed in paragraphs 30-35 of Count One of this Indictment.

June 16, 2005	Federal Express mailing of false and fraudulent facsimile checks, printed by JM at Net 30 Solutions, and mailed from Net 30 Solutions, The Woodlands, Texas to Sovereign Bank in Old Bridge, NJ, as discussed in paragraphs 30-35 of Count One of this Indictment.
June 20, 2005	Federal Express mailing of false and fraudulent facsimile checks, printed by JM at Net 30 Solutions, and mailed from Net 30 Solutions, The Woodlands, Texas to Sovereign Bank in Old Bridge, NJ, as discussed in paragraphs 30-35 of Count One of this Indictment.

All in violation of Title 18, United States Code, Section 1349.



COUNTS TWO THROUGH TEN

(Wire Fraud)

1. Paragraphs 1 through 7 and 9 through 79 of Count One of this Indictment are realleged as if set forth fully herein.

2. On or about the dates listed below, in Mercer, Monmouth, Hunterdon, Ocean and Middlesex Counties, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations and promises, the following Defendants did transmit and cause to be transmitted in interstate commerce by means of wire communication, certain writings, signs, signals and sounds:

<b>COUNT</b>	<b>DEFENDANTS</b>	<b>WIRE DATE (on or about)</b>	<b>SUBJECT MATTER</b>
2	SALEKI, LUDVIK and SACKS	November 22, 2004	\$249.95 electronic debit (unauthorized) of Acct. # 2700000010 at Hudson United Bank, in or around Frenchtown, New Jersey, by Fifth Third Bank in Sarasota, Fl. (Fifth Third EMS Account), as discussed in paragraphs 15-23 of Count One of this Indictment.
3	SALEKI and SACKS	November 1, 2004	\$399.00 electronic debit (unauthorized) of Acct. # 1010092680333 at Wachovia Bank, in or around Verona, New Jersey, by First Citizens Bank in Charlotte, North Carolina (Evalucheck Settlement Account), as discussed in paragraphs 24-28 of Count One of this Indictment.

4	SALEKI and SACKS	June 15, 2005	\$299.00 electronic debit (unauthorized) of Acct. # 19380020500 at Rockland Trust Company, in or around Plymouth, MA, by Sovereign Bank in Old Bridge, NJ (Sovereign Wyncrest Account), as discussed in paragraphs 30-35 of Count One of this Indictment.
5	SALEKI and SACKS	June 8, 2005	\$299.00 electronic debit (unauthorized) of Acct. # 46640049750 at Bank of America (formerly NatWest Bank) in or around Trenton, NJ, by J.P. Morgan Chase in Bloomfield Hills, MI (Chase Edgebrook Account), as discussed in paragraphs 36-41 of Count One of this Indictment.
6	SALEKI, LUDVIK, SACKS, FUERTE and FREYERMUTH	June 8, 2005	\$99.00 electronic debit (unauthorized) of Acct. # 1010052330678 at Wachovia (formerly First Union National Bank) in or around Galloway, NJ, by Bank of America, in Fort Lauderdale, FL (BoA Palms Account), as discussed in paragraphs 42-48 of Count One of this Indictment.
7	SALEKI, SACKS and HERNANDEZ	October 25, 2005	\$399.00 electronic debit (unauthorized) of Acct. # 8024583825 at PNC Bank, in or around Haddonfield, NJ, by U.S. Bank in Bedford, Oh. (ICT Settlement Account), as discussed in paragraphs 49-54 of Count One of this Indictment.
8	SALEKI, LUDVIK, SACKS and SALOMON	February 28, 2005	\$99.00 electronic debit (unauthorized) of Acct. # 1010045112638 at Wachovia Bank, in or around Tuckerton, NJ by Pilot Bank in Tampa, Fl. (Mex Processing Pilot Account), as discussed in paragraphs 55-65 of Count One of this Indictment.
9	SALEKI, LUDVIK, SACKS and ROSIERE	June 28, 2005	\$99.00 electronic debit (unauthorized) of Acct. # 7857420496 at Commerce Bank, in or around Flemington, NJ, by Bank of the West in Evergreen, Colorado (BotW Gold Account), as discussed in paragraphs 66-71 of Count One of this Indictment.

10	LUDVIK and HILEY	September 21, 2005	\$138.50 electronic debit (unauthorized) of Acct. # 8103751487 at PNC Bank, in or around Freehold, NJ, by ITI Bank in Wilmington, DE (ITI HGC Account), as discussed in paragraphs 72-77 of Count One of this Indictment.
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In violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS 11 THROUGH 14

(Mail Fraud)

1. Paragraphs 1 through 7 and 9 through 79 of Count One of this Indictment are realleged as if set forth fully herein.

2. On or about the dates listed below, in Middlesex County, in the District of New Jersey, and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations and promises, the following Defendants did place and cause to be placed in a post office and authorized depository of mail, and cause to be delivered thereon, certain mail matter, to be sent and delivered by the United States Postal Service, and by any private and commercial interstate carrier, as described below:

<b>COUNT</b>	<b>DEFENDANTS</b>	<b>MAIL DATE (on or about)</b>	<b>SUBJECT MATTER</b>
11	SALEKI and SACKS	June 13, 2005	Federal Express mailing of false and fraudulent facsimile checks, printed by JM at Net 30 Solutions, and mailed from Net 30 Solutions, The Woodlands, Texas to Sovereign Bank in Old Bridge, NJ, as discussed in paragraphs 30-35 of Count One of this Indictment.
12	SALEKI and SACKS	June 13, 2005	Federal Express mailing of false and fraudulent facsimile checks, printed by JM at Net 30 Solutions, and mailed from Net 30 Solutions, The Woodlands, Texas to Sovereign Bank in Old Bridge, NJ, as discussed in paragraphs 30-35 of Count One of this Indictment.

13	SALEKI and SACKS	June 16, 2005	Federal Express mailing of false and fraudulent facsimile checks, printed by JM at Net 30 Solutions, and mailed from Net 30 Solutions, The Woodlands, Texas to Sovereign Bank in Old Bridge, NJ, as discussed in paragraphs 30-35 of Count One of this Indictment.
14	SALEKI and SACKS	June 20, 2005	Federal Express mailing of false and fraudulent facsimile checks, printed by JM at Net 30 Solutions, and mailed from Net 30 Solutions, The Woodlands, Texas to Sovereign Bank in Old Bridge, NJ, as discussed in paragraphs 30-35 of Count One of this Indictment.

In violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 15

(Conspiracy to Commit Bank Fraud)

1. Paragraphs 1 through 7 and 9 through 79 of Count One are re-alleged and incorporated herein.

2. From at least as early as July 1, 2004, to in or about September, 2006, in Mercer, Monmouth, Hunterdon, Ocean and Middlesex Counties, in the District of New Jersey, and elsewhere, the defendants,

SIAMAK SALEKI,  
JAN LUDVIK (a/k/a THOMAS PALMER),  
ROBERT SACKS,  
SCOTT SALOMON,  
SHAUN ROSIERE,  
DIEGO HERNANDEZ,  
JOHN HILEY,  
BRIGETTE FREYERMUTH, and  
JOSEPH FUERTE,

did knowingly and intentionally conspire and agree with CC-1, CC-2, CC-3, CC-4, CC-5, CC-6, CC-7 and others, to execute and attempt to execute a scheme and artifice to defraud Citibank, N.A.; Fifth Third Bank (formerly First National Bank of Florida); Wachovia Corporation (formerly First Union National Bank); JP Morgan Chase & Co. (formerly Bank One); SunTrust Banks, Inc.; Branch Banking and Trust Company; Sovereign Bank; Bank of America, N.A (formerly NatWest Bank); Washington Mutual Inc.; Pilot Bank; Bank of the West (formerly Commercial Federal Bank); Bancorp Bank (dba ITI Bank); Rockland Trust Company; TD BankNorth Inc. (formerly Hudson United Bank and Commerce Bank); First Citizens Bank; and PNC Bank, N.A., and others (“The Banks”), and to obtain moneys, funds, and assets owned by, and under the custody and control of the Banks, by means of materially false and fraudulent

pretenses, representations, and promises, contrary to Title 18, United States Code, Section 1344,  
in violation of Title 18, United States Code, Section 1349.

COUNTS 16 THROUGH 24

(Aggravated Identity Theft)

1. Paragraphs 1 through 7 and 9 through 79 of Count One are re-alleged and incorporated herein.

2. On or about the following dates in Mercer, Monmouth, Hunterdon, Ocean and Middlesex Counties, in the District of New Jersey, and elsewhere, the following defendants did knowingly and willfully transfer, possess, and use, without lawful authority, a means of identification of another person, namely, the bank account information of an individual identified below, during and in relation to a felony violation of a provision contained in chapter 63, United States Code, that is, wire fraud, in violation of Title 18, United States Code, Section 1343, charged in Counts Two through Ten of this Indictment, in violation of Title 18, United States Code, Section 1028A(a)(1) and Section 2.

<b>COUNT</b>	<b>DEFENDANTS</b>	<b>WIRE FRAUD OFFENSE DATE (on or about)</b>	<b>ACCOUNT INFORMATION</b>
16	SALEKI, LUDVIK and SACKS	November 22, 2004	Acct. # 2700000010 at TD BankNorth, Inc. (formerly Hudson United Bank), in or around Frenchtown, New Jersey; Account in the name of AG, as discussed in paragraphs 15-23 of Count One of this Indictment, and as charged in Count Two of this Indictment.
17	SALEKI and SACKS	November 1, 2004	Acct. # 1010092680333 at Wachovia Bank, in or around Verona, New Jersey; Account in the name of WD, as discussed in paragraphs 24-28 of Count One of this Indictment, and as charged in Count Three of this Indictment.



18	SALEKI and SACKS	June 15, 2005	Acct. # 19380020500 at Rockland Trust Company, in or around Plymouth, MA; Account in the name of SV, as discussed in paragraphs 30-35 of Count One of this Indictment, and as charged in Count Four of this Indictment.
19	SALEKI and SACKS	June 8, 2005	Acct. # 46640049750 at Bank of America (formerly NatWest Bank) in or around Trenton, NJ; Account in the name of JL, as discussed in paragraphs 36-41 of Count One of this Indictment, and as charged in Count Five of this Indictment.
20	SALEKI, LUDVIK, SACKS, FUERTE and FREYERMUTH	June 8, 2005	Acct. # 1010052330678 at Wachovia (formerly First Union National Bank) in or around Galloway, NJ; Account in the name of WR, as discussed in paragraphs 42-48 of Count One of this Indictment, and as charged in Count Six of this Indictment.
21	SALEKI, SACKS and HERNANDEZ	October 25, 2005	Acct. # 8024583825 at PNC Bank, in or around Haddonfield, NJ; Account in the name of RB, as discussed in paragraphs 49-54 of Count One of this Indictment, and as charged in Count Seven of this Indictment.
22	SALEKI, LUDVIK, SACKS and SALOMON	February 28, 2005	Acct. # 1010045112638 at Wachovia Bank, in or around Tuckerton, NJ; Account in the name of MS, as discussed in paragraphs 55-65 of Count One of this Indictment, and as charged in Count Eight of this Indictment.
23	SALEKI, LUDVIK, SACKS and ROSIERE	June 28, 2005	Acct. # 7857420496 at Commerce Bank, in or around Flemington, NJ; Account in the name of CR, as discussed in paragraphs 66-71 of Count One of this Indictment, and as charged in Count Nine of this Indictment.
24	LUDVIK and HILEY	September 21, 2005	Acct. # 8103751487 at PNC Bank, in or around Freehold, NJ; Account in the name of RS, as discussed in paragraphs 72-77 of Count One of this Indictment, and as charged in Count Ten of this Indictment.

## **FIRST FORFEITURE ALLEGATION**

The United States hereby gives notice to Defendants SIAMAK SALEKI, JAN LUDVIK (a/k/a THOMAS PALMER), ROBERT SACKS, SCOTT SALOMON, SHAUN ROSIERE, DIEGO HERNANDEZ, JOHN HILEY, BRIGETTE FREYERMUTH and JOSEPH FUERTE, charged in Count One that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$7 million in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count One, conspiracy to commit mail and wire fraud, for which the Defendants are jointly and severally liable.

2. **Conveyance:** 2005 Toyota 4-Runner, VIN JTEBU14R550077901, license plate number 791 MOG, registered in the name of Shaun Rosiere Mortgage, Inc.

3. **Currency:** All United States currency recovered on or about November 7, 2005 from the residence of Defendant ROSIERE, located at 1969 Sinton Road, Evergreen, Colorado, which includes \$7,200.00 from a safe located in the residence of Defendant ROSIERE.

4. **Bank Account:** All United States currency funds or other monetary instruments credited to the following accounts located at the following banks:

a. \$871,710.80 deposited into account number P7-20309-52, in the name of Lois Sacks, at UBS Bank.

b. \$102,306.90 deposited into account number 16024531, in the name of E-Commerce Cubed (dba Evalucheck) at South County Bank.

c. \$442,576.45 deposited into the BotW accounts, in the above-listed names (excluding the Players Club Inc. Account) listed in paragraph 68 of this Indictment.

d. \$25,140.62 deposited into account number 94312125278, in the name of Shaun Rosiere Mortgage Inc., at US Bank.

e. \$12,965.55 deposited into account number 203-1-025289, in the name of HGC Properties, Inc., at ITI Bank.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Sections 1341, 1343 and 1349.

## SECOND FORFEITURE ALLEGATION

The United States hereby gives notice to Defendants SIAMAK SALEKI, JAN LUDVIK (a/k/a THOMAS PALMER), and ROBERT SACKS, charged in Count Two that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$508,458.80 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Two, wire fraud, for which the Defendants are jointly and severally liable.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

### **THIRD FORFEITURE ALLEGATION**

The United States hereby gives notice to Defendants SIAMAK SALEKI and ROBERT SACKS, charged in Count Three, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$198,865.92 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Three, wire fraud, for which the Defendants are jointly and severally liable.

2. **Bank Account:** All United States currency funds or other monetary instruments credited to the following accounts located at the following banks:

a. \$54,418.00 deposited into account number P7-20309-52, in the name of Lois Sacks, at UBS Bank.

b. \$102,306.90 deposited into account number 16024531, in the name of E-Commerce Cubed (dba Evalucheck) at South County Bank.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

#### **FOURTH FORFEITURE ALLEGATION**

The United States hereby gives notice to Defendants SIAMAK SALEKI and ROBERT SACKS, charged in Count Four, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$62,412.95 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Four, wire fraud, for which the Defendants are jointly and severally liable.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without

difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.



All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

## **FIFTH FORFEITURE ALLEGATION**

The United States hereby gives notice to Defendants SIAMAK SALEKI and ROBERT SACKS, charged in Count Five, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$70,274.40 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Five, wire fraud, for which the Defendants are jointly and severally liable.

2. **Bank Account:** All United States currency funds or other monetary instruments credited to the following accounts located at the following banks:

a. \$70,274.00 deposited into account number P7-20309-52, in the name of Lois Sacks, at UBS Bank.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section

853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

## **SIXTH FORFEITURE ALLEGATION**

The United States hereby gives notice to Defendants SIAMAK SALEKI, JAN LUDVIK (a/k/a THOMAS PALMER), ROBERT SACKS, BRIGETTE FREYERMUTH and JOSEPH FUERTE, charged in Count Six, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$194,913.88 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Six, wire fraud, for which the Defendants are jointly and severally liable.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

## **SEVENTH FORFEITURE ALLEGATION**

The United States hereby gives notice to Defendants SIAMAK SALEKI, ROBERT SACKS and DIEGO HERNANDEZ, charged in Count Seven, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$968,439.80 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Seven, wire fraud, for which the Defendants are jointly and severally liable.

2. **Bank Account:** All United States currency funds or other monetary instruments credited to the following accounts located at the following banks:

a. \$48,000.00 deposited into account number P7-20309-52, in the name of Lois Sacks, at UBS Bank.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

## **EIGHTH FORFEITURE ALLEGATION**

The United States hereby gives notice to Defendants SIAMAK SALEKI, JAN LUDVIK (a/k/a THOMAS PALMER), ROBERT SACKS and SCOTT SALOMON, charged in Count Eight, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$146,248.74 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Eight, wire fraud, for which the Defendants are jointly and severally liable.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.



All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

## **NINTH FORFEITURE ALLEGATION**

The United States hereby gives notice to Defendants SIAMAK SALEKI, JAN LUDVIK (a/k/a THOMAS PALMER), ROBERT SACKS and SHAUN ROSIERE, charged in Count Nine, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$599,850.90 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Nine, wire fraud, for which the Defendants are jointly and severally liable.
2. **Conveyance:** 2005 Toyota 4-Runner, VIN JTEBU14R550077901, license plate number 791 MOG, registered in the name of Shaun Rosiere Mortgage, Inc.
3. **Currency:** All United States currency recovered on or about November 7, 2005 from the residence of Defendant ROSIERE, located at 1969 Sinton Road, Evergreen, Colorado which includes \$7,200.00 from a safe located in the residence of Defendant ROSIERE.
4. **Bank Account:** All United States currency funds or other monetary instruments credited to the following accounts located at the following banks:
  - a. \$442,576.45 deposited into the BotW accounts, in the above-listed names (excluding the Players Club Inc. Account) listed in paragraph 68 of this Indictment.

b. \$25,140.62 deposited into account number 94312125278, in the name of Shaun Rosiere Mortgage Inc., at US Bank.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

## TENTH FORFEITURE ALLEGATION

The United States hereby gives notice to Defendants JAN LUDVIK (a/k/a THOMAS PALMER) and JOHN HILEY, charged in Count Ten, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$394,122.57 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Count Ten, wire fraud, for which the Defendants are jointly and severally liable.

2. **Bank Account:** All United States currency funds or other monetary instruments credited to the following accounts located at the following banks:

a. \$12,965.55 deposited into account number 203-1-025289, in the name of HGC Properties, Inc., at ITI Bank.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section

853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), and Title 18, United States Code Section 1343.

## ELEVENTH FORFEITURE ALLEGATION

The United States hereby gives notice to Defendants SIAMAK SALEKI and ROBERT SACKS, charged in Counts Eleven through Fourteen, that, upon their conviction of said offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which requires any person convicted of such offenses to forfeit any property constituting or derived from proceeds obtained directly or indirectly as a result of such offenses, including but not limited to the following:

1. **Proceeds of Criminal Activity:** A sum of money equal to \$62,412.95 in United States currency, representing the amount of proceeds obtained as a result of the offense alleged in Counts Eleven through Fourteen, mail fraud, for which the Defendants are jointly and severally liable.

If any of the above-described forfeitable property, as a result of any act or omission of the Defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such Defendants, up to the value of the forfeitable property described in this forfeiture allegation.

All in violation of Title 18, United States Code, Section 981(a)(1)(C) and Title 28,  
United States Code, Section 2461(c), and Title 18, United States Code Section 1341.

A TRUE BILL

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FOREPERSON

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CHRISTOPHER J. CHRISTIE  
United States Attorney