

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

FELONY

**INDICTMENT FOR CONSPIRACY TO COMMIT MAIL FRAUD, MAIL FRAUD,
CONSPIRACY TO COMMIT MONEY LAUNDERING, AND MONEY LAUNDERING**

UNITED STATES OF AMERICA

*

CRIMINAL NO.

11-157

v.

*

SECTION:

SECT. C MAG. 5

DOMINICK FAZZIO

*

VIOLATIONS: 18 USC § 2
18 USC § 371
18 USC § 1341
18 USC § 1956(h)
18 USC § 1957

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The Grand Jury charges that:

COUNT 1

A. AT ALL TIMES MATERIAL HEREIN:

1. **DOMINICK FAZZIO** (hereafter referred to as "**FAZZIO**"), was an individual residing and doing business in Louisiana.

2. Garner Services, L.L.C. (hereafter referred to as "**GSL**"), was a construction management company and a non-Louisiana corporation doing business in the State of Louisiana and other states in the United States.

3. Mark J. Titus (hereafter referred to as Titus), was the Chief Operating Officer and part owner of GSL.

4. W.C.S., Inc. was a business incorporated in the State of Louisiana. **FAZZIO** was the Registered Agent, Director, and an officer of W.C.S., Inc.

5. Crescent City Materials and Hauling, L.L.C. (hereafter referred to as CCMH), was a Limited Liability Company registered in the State of Louisiana. **FAZZIO** was the Registered Agent and Manager of CCMH.

6. TLT Properties, L.L.C. (hereafter referred to as TLT), was a Limited Liability Company registered in the State of Louisiana. Titus was the Registered Agent and Member of TLT.

7. QCI Marine Services, L.L.C. (hereafter referred to as QCI), was a non-Louisiana Limited Liability Company doing business in the State of Louisiana and other states in the United States. QCI owned 24.5 percent of GSL. QCI was responsible for processing the accounts payable for GSL at the behest of Titus.

B. THE SCHEME:

Beginning at a time unknown but prior to June 2, 2008, through the date of this Indictment, in the Eastern District of Louisiana and elsewhere, the defendant, **DOMINICK FAZZIO**, and others known and unknown to the Grand Jury did knowingly and willfully devise and intend to devise a scheme and artifice to defraud GSL and to obtain money by means of false pretenses, promises and representations by fraudulently creating invoices for services never rendered to GSL and causing

payments to be made by GSL ultimately to **FAZZIO** and Titus for such fraudulent invoices.

C. THE CONSPIRACY:

Beginning at time unknown, but before June 2, 2008, and continuing through the date of this Indictment, in the Eastern District of Louisiana and elsewhere, the defendant, **DOMINICK FAZZIO** and others known and unknown to the Grand Jury, did knowingly and intentionally combine, conspire, confederate and agree with each other to knowingly and willfully cause mail matter to be delivered by interstate commercial carriers for the purpose of executing the scheme set forth above in violation of Title 18, United States Code, Section 1341.

D. OVERT ACTS:

In furtherance of the conspiracy and to accomplish its purposes, the defendant and others committed the following overt acts, among others, in the Eastern District of Louisiana and elsewhere:

OVERT ACTS 1 - 18

1. At an exact time unknown but prior to June 2, 2008, **FAZZIO** and Titus agreed to create fraudulent invoices made payable from GSL to companies controlled by **FAZZIO**.
2. At an exact time unknown but prior to June 2, 2008, **FAZZIO** and Titus agreed that **FAZZIO** would retain a portion of the amount paid by GSL to the companies controlled by **FAZZIO** as payment for his role in the fraud scheme.

3. At an exact time unknown but prior to June 2, 2008, **FAZZIO** and Titus agreed that **FAZZIO** would then send the remaining money sent from GSL back to Titus through Titus' company, TLT and/or make payments to other entities on Titus' behalf.
4. On or about June 2, 2008, **FAZZIO** and Titus caused CCMH to fraudulently invoice GSL in the amount of \$84,200.
5. On or about June 11, 2008, **FAZZIO** and Titus caused QCI to issue a check on behalf of GSL to CCMH in the amount of \$84,200.
6. On or about November 28, 2008, **FAZZIO** and Titus caused CCMH to fraudulently invoice GSL in the amount of \$108,400.
7. On or about December 10, 2008, **FAZZIO** and Titus caused QCI to issue a check on behalf of GSL to CCMH in the amount of \$108,400.
8. On or about November 28, 2010, **FAZZIO** and Titus caused CCMH to fraudulently invoice GSL in the amount of \$36,400.
9. On or about January 4, 2011, **FAZZIO** and Titus caused QCI to issue a check on behalf of GSL to CCMH in the amount of \$36,400.
10. On or about September 4, 2009, **FAZZIO** and Titus caused W.C.S., Inc. to fraudulently invoice GSL in the amount of \$209,320.
11. On or about October 9, 2009, **FAZZIO** and Titus caused QCI to issue a check on behalf of GSL to W.C.S., Inc. in the amount of \$209,320.
12. On or about January 4, 2010, **FAZZIO** and Titus caused W.C.S., Inc. to fraudulently invoice GSL in the amount of \$762,000.

13. On or about April 21, 2010, **FAZZIO** and Titus caused QCI to issue a check on behalf of GSL to W.C.S., Inc. in the amount of \$162,000.
14. On or about April 21, 2010, **FAZZIO** and Titus caused QCI to mail to Mark Titus, via Federal Express, a check in the amount of \$162,000.
15. On or about October 6, 2010, **FAZZIO** and Titus caused QCI to issue a check on behalf of GSL to W.C.S., Inc. in the amount of \$175,000.
16. On or about October 6, 2010, **FAZZIO** and Titus caused QCI to mail to Mark Titus, via Federal Express, a check in the amount of \$175,000.
17. On or about March 24, 2011, **FAZZIO** and Titus caused QCI to issue a check on behalf of GSL to W.C.S., Inc. in the amount of \$150,000.
18. On or about March 24, 2011, **FAZZIO** and Titus caused QCI to mail to Mark Titus, via Federal Express, a check in the amount of \$150,000.

All in violation of Title 18, United States Code, Section 371.

COUNTS 2 - 4

A. AT ALL TIMES MATERIAL HEREIN:

The allegations contained in Count 1, Sections A and B are reincorporated herein by reference.

B. MAILINGS:

On or about the dates listed below, in the Eastern District of Louisiana, the defendant, **DOMINICK FAZZIO** and others as set forth below, for the purpose of executing the scheme and artifice to defraud set forth in Count 1, knowingly and willfully caused checks for payments to be placed in interstate commercial carriers for delivery to the recipient listed below:

<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>RECIPIENT</u>	<u>CONTENTS</u>
2	04/21/2010	QCI Marine Services, LLC	Mark J. Titus	Check in the amount of \$162,000
3	10/06/2010	QCI Marine Services, LLC	Mark J. Titus	Check in the amount of \$175,000
4	03/24/2011	QCI Marine Services, LLC	Mark J. Titus	Check in the amount of \$150,000

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

COUNT 5

A. AT ALL TIMES MATERIAL HEREIN:

1. The allegations contained in Count 1, Sections A and B are reincorporated herein by reference.
2. Capital One Bank is a financial institution with branches located in Louisiana.
3. Gulf Coast Bank and Trust is a financial institution with branches located in Louisiana.
4. Amegy Bank of Texas is a financial institution with branches located in Texas.
5. CCMH maintains a checking account, number xxxxxx7816, with Capital One Bank.
6. W.C.S., Inc. maintains a checking account, number xxxxxx2213, with Capital One Bank.
7. W.C.S., Inc. maintains a checking account, number xxxxx9984, with Gulf Coast Bank and Trust.

8. GSL maintains a checking account, number xxxxxx4664, with Amegy Bank.

9. A specified unlawful activity as defined in Title 18, United States Code, Sections 1956(c)(7)(A) and 1961(1) includes mail fraud in violation of Title 18, United States Code, Section 1341.

B. CONSPIRACY:

Beginning at a time unknown, but before June 2, 2008, and continuing through the date of this Indictment, in the Eastern District of Louisiana and elsewhere, the defendant, **DOMINICK FAZZIO**, and others, did, with the intent to promote the carrying on of the specified unlawful activity set forth in paragraph 9, above, combine, conspire, confederate and agree with each other to knowingly and willfully conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, as further described below which involved the proceeds of said specified unlawful activity with the intent to promote the carrying on of specified unlawful activity and that while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is funds, represented the proceeds of some form of unlawful activity in violation of Title 18, United States Code, Sections 1956(a)(1)(A)(i);

C. OVERT ACTS:

On or about the dates below, **FAZZIO** and others caused the following checks from GSL, related to payments for fraudulent invoices, made payable to CCMH to be deposited in CCMH's account, number xxxxx7816, located at Capital One Bank:

<u>OVERT ACT</u>	<u>DATE OF CHECK</u>	<u>CHECK NUMBER</u>	<u>AMOUNT</u>
1	06/11/2008	2181	\$ 84,200
2	12/10/2008	2253	\$108,400
3	01/04/2011	2814	\$ 36,400

On or about the dates below, **FAZZIO** and others caused the following checks from GSL related to payments for fraudulent invoices made payable to W.C.S., Inc. to be deposited in W.C.S., Inc.'s account, number xxxxx2213, located at Capital One Bank.

<u>OVERT ACT</u>	<u>DATE OF CHECK</u>	<u>CHECK NUMBER</u>	<u>AMOUNT</u>
4	10/15/2009	2462	\$209,320
5	04/28/2010	2623	\$162,000

On or about the dates below, **FAZZIO** and others caused the following checks from GSL, related to payments for fraudulent invoices, made payable to W.C.S., Inc. to be deposited in W.C.S., Inc.'s account, number xxxxx9984, located at Gulf Coast Bank and Trust.

<u>OVERT ACT</u>	<u>DATE OF CHECK</u>	<u>CHECK NUMBER</u>	<u>AMOUNT</u>
6	10/16/2010	2755	\$175,000
7	03/24/2011	2882	\$150,000

On or about the dates below, **FAZZIO** endorsed the following checks from CCMH's account, number xxxxx7816, located at Capital One Bank, made payable to TLT.

<u>OVERT ACT</u>	<u>DATE OF CHECK</u>	<u>CHECK NUMBER</u>	<u>AMOUNT</u>
8	07/18/2008	1000	\$25,000
9	07/18/2008	1001	\$25,000
10	07/18/2008	1002	\$25,000
11	12/31/2008	1007	\$25,000
12	12/31/2008	1008	\$20,000
13	12/31/2008	1009	\$21,400

On or about the dates below, **FAZZIO** endorsed the following checks from W.C.S., Inc.'s account, number xxxxx2213, located at Capital One Bank, made payable to TLT.

<u>OVERT ACT</u>	<u>DATE OF CHECK</u>	<u>CHECK NUMBER</u>	<u>AMOUNT</u>
14	11/02/2009	629	\$66,682.91
15	05/02/2010	635	\$30,000
16	05/05/2010	636	\$26,000
17	05/06/2010	637	\$39,850
18	05/07/2010	638	\$32,000
19	05/08/2010	640	\$22,000

On or about the dates below, **FAZZIO** endorsed the following checks from W.C.S., Inc.'s account, number xxxxx9984, located at Gulf Coast Bank and Trust. made payable to TLT.

<u>OVERT ACT</u>	<u>DATE OF CHECK</u>	<u>CHECK NUMBER</u>	<u>AMOUNT</u>
20	04/24/2011	1002	\$50,000
21	04/25/2011	1003	\$35,000

All in violation of Title 18, United States Code, Section 1956(h).

COUNTS 6 - 19

On or about the dates indicated below, in the Eastern District of Louisiana and elsewhere, defendant, **DOMINICK FAZZIO**, did knowingly engage and attempt to engage in monetary transactions by, through or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, that is the deposit, withdrawal, and transfer of funds in the amounts indicated below, such property having been derived from a specified unlawful activity, that is mail fraud in violation of Title 18, United States Code, Section 1341 involving mailings in furtherance of the scheme;

<u>COUNT</u>	<u>DATE OF TRANSACTION</u>	<u>TYPE OF TRANSACTION</u>	<u>PAYEE</u>	<u>AMOUNT</u>
6	07/18/2008	Check	TLT Properties	\$25,000
7	07/18/2008	Check	TLT Properties	\$25,000
8	07/18/2008	Check	TLT Properties	\$25,000
9	12/31/2008	Check	TLT Properties	\$25,000
10	12/31/2008	Check	TLT Properties	\$20,000
11	12/31/2008	Check	TLT Properties	\$21,400
12	11/02/2009	Check	TLT Properties	\$66,682.91
13	05/02/2010	Check	TLT Properties	\$30,000
14	05/05/2010	Check	TLT Properties	\$26,000
15	05/06/2010	Check	TLT Properties	\$39,850
16	05/07/2010	Check	TLT Properties	\$32,000
17	05/08/2010	Check	TLT Properties	\$22,000
18	04/24/2011	Check	TLT Properties	\$50,000
19	04/24/2011	Check	TLT Properties	\$35,000

all in violation of Title 18, United States Code, Sections 1957 and 2.

NOTICE OF MAIL FRAUD FORFEITURE

1. The allegations of Counts 1 through 4 of this Indictment are re-alleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 18, United States Code, Sections 371, 1341, and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c).

2. As a result of the offenses alleged in Counts 1 through 4 defendant, **DOMINICK FAZZIO**, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c), any and all property, real or personal, which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Sections 371 and 1341, including but not limited to:

- a. \$1,200,320 in United States currency and all interest and proceeds traceable thereto.
- b. The government specifically provides notice of its intent to seek a personal money judgement against the defendant in the amount of the fraudulently obtained proceeds.

3. If any of the property subject to forfeiture, 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 person;
- 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section

853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Sections 371, 1341, and 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c).

NOTICE OF MONEY LAUNDERING FORFEITURE

1. The allegations of Counts 5 through 19 of this Indictment are re-alleged and incorporated by reference as though set forth fully herein for the purpose of alleging forfeiture to the United States of America pursuant to the provisions of Title 18, United States Code, Section 982.

2. As a result of the offenses alleged in Count 5 through 19, defendant, **DOMINICK FAZZIO**, shall forfeit to the United States pursuant to Title 18, United States Code, Section 982, all property real or personal, involved in the aforesaid offenses and all property traceable to such property in violation of Title 18, United States Code, Sections 1956 and 1957, including but not limited to:

- a. \$1,200,320 in United States currency and all interest and proceeds traceable thereto.
- b. The government specifically provides notice of its intent to seek a personal money judgement against the defendant in the amount of the fraudulently obtained proceeds.

3. If any of the property subject to forfeiture, 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 person;
- 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 subdivided without difficulty;


it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b)(1) to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

All in violation of Title 18, United States Code, Sections 982, 1956, and 1957.

A TRUE BILL:

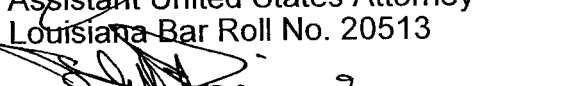

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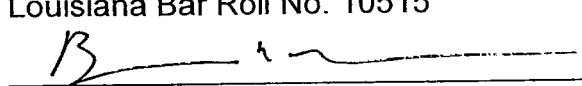

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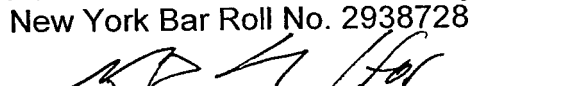

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New Orleans, Louisiana
June 24, 2011

