

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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CLERK

UNITED STATES OF AMERICA

:

Criminal No. 09-469 2009 JUN 23 A 11: 2L

v.

:

(SPS)

UNITED STATES
DISTRICT COURT

FABIO GARCIA

:

21 U.S.C. §§ 846 and 841

18 U.S.C. §§ 1014 and 2

:

18 U.S.C. § 1956 (h)

Forfeiture Allegations

21 U.S.C. § 853

INDICTMENT

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

COUNT 1

(Conspiracy to Distribute and Possess with the Intent to Distribute Heroin)

Background

At various times relevant to this Indictment:

1. **Defendant Fabio Garcia.** Defendant Fabio Garcia resided at a home on Scarborough Drive in Egg Harbor Township, New Jersey (the "Scarborough Drive Residence"). Defendant Fabio Garcia operated the Sabor Paisa Restaurant in Atlantic City, New Jersey with his wife G.G., and controlled a bank account maintained in the name of the Sabor Paisa Restaurant Corporation at Bank of America (the "Sabor Paisa Restaurant Corporation Account"). He also controlled other bank accounts maintained in his name at TD Bank (formerly known as Commerce Bank) and Bank of America (formerly known as Fleet Bank). In addition, defendant Fabio Garcia maintained control over safe deposit boxes at Bank of America in New Jersey and North Fork Bank in New York.

[Handwritten signature]

2. **Co-conspirator 1.** An individual identified as “Co-conspirator 1,” who is named as a co-conspirator but not as a defendant herein, was a resident of South Ozone Park, New York and worked for defendant Fabio Gacia distributing quantities of heroin. At defendant Fabio Garcia’s direction, Co-conspirator 1 also made deposits of heroin sales proceeds into bank accounts controlled by defendant Fabio Garcia and placed large amounts of United States currency into safe deposit boxes maintained by defendant Fabio Garcia.

3. **Co-conspirator 2.** An individual identified as “Co-conspirator 2,” who is named as a co-conspirator but not as a defendant herein, was a resident of Atlantic County, New Jersey. Co-conspirator 2 worked with defendant Fabio Garcia transporting heroin from in or around Egg Harbor Township, New Jersey to New York for distribution. Co-conspirator 2 also transported large sums of United States currency from New York to New Jersey.

4. **Co-conspirator 3.** An individual identified as “Co-conspirator 3,” who is named as a co-conspirator but not as a defendant herein, was a citizen of the country of Colombia and coordinated the the smuggling of heroin from Columbia into the United States for distribution by defendant Fabio Garcia and others working with him.

5. **Co-conspirator 4.** An individual identified as “Co-conspirator 4,” who is named as a co-conspirator but not as a defendant herein, was a citizen of the country of Colombia and coordinated the the smuggling of heroin from Columbia into the United States for distribution by defendant Fabio Garcia and others working with him.

6. **Co-conspirator 5.** An individual identified as “Co-conspirator 5,” who is named as a co-conspirator but not as a defendant herein, was a resident of New York and accompanied defendant Fabio Garcia in New York while he distributed heroin and collected money from his

customers. At the direction of defendant Fabio Garcia, Co-conspirator 5 also packaged the heroin for distribution at Co-conspirator 1's residence located in South Ozone Park, New York and packaged heroin sales proceeds to be shipped to Florida so that it could be smuggled out of the United States to pay for shipments of heroin coming from Colombia and elsewhere.

7. **Co-conspirator 6 and Co-Conspirator 7.** Individuals identified as "Co-conspirator 6" and "Co-conspirator 7," who are named as a co-conspirators but not as a defendants herein, were residents of New York and were bulk customers of defendant Fabio Garcia and Co-conspirator 1.

THE CONSPIRACY

8. From in or about January 2004, to in or about December 2007, in Atlantic County, in the District of New Jersey, and elsewhere, the defendant,

FABIO GARCIA,

did knowingly and intentionally conspire and agree with others, to distribute and to possess with intent to distribute 1 kilogram or more of a mixture and substance containing a detectable amount of Heroin, a Schedule I controlled substance, contrary to Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A).

OBJECT OF THE CONSPIRACY

9. It was the object of the conspiracy for Defendant Fabio Garcia and his Co-conspirators to profit from the importation of heroin into the United States to be distributed for sale in New Jersey, New York, and elsewhere.

MANNER AND MEANS OF THE CONSPIRACY

10. It was part of the conspiracy that defendant Fabio Garcia and his Co-conspirators would earn significant cash profits by arranging for the importation of heroin into the United States to be distributed for sale in New Jersey, New York, and elsewhere.

Smuggling the Heroin into the United States

11. It was further part of the conspiracy that, at defendant Fabio Garcia's direction, Co-conspirator 3 and Co-conspirator 4 would obtain bulk quantities of heroin from Colombia and elsewhere to be smuggled into the United States, often concealed in machine or vehicle parts transported on planes flying into Miami International Airport located in Miami, Florida.

12. It was further part of the conspiracy that Co-conspirator 1, Co-conspirator 3, Co-conspirator 4 and others would transport the bulk quantities of heroin from Miami, Florida to stash houses in New Jersey and New York.

Storing the Heroin at Stash Houses

13. It was further part of the conspiracy that Co-conspirator 3 and Co-conspirator 4, as well as others, would transport certain bulk quantities of heroin to stash houses maintained at defendant Fabio Garcia's Scarborough Drive Residence, as well as Co-conspirator 1's residence in South Ozone Park, New York.

14. It was further part of the conspiracy that, once the bulk quantities of the heroin were taken to the stash houses, Co-conspirator 5 and others would process and package it for distribution to defendant Fabio Garcia's customers in New Jersey and New York.

15. It was a further part of the conspiracy that certain conspirators sold heroin in Atlantic County, New Jersey, while others, such as Co-conspirator 1, Co-conspirator 6 and Co-

conspirator 7 sold heroin in New York and elsewhere.

Cash from the Heroin Sales

16. It was further part of the conspiracy that, after the heroin sales were completed, defendant Fabio Garcia and his co-conspirators would use the stash houses, including the Scarborough Drive Residence and Co-conspirator 1's residence in South Ozone Park, New York, to count and store the cash proceeds from those sales.

17. It was further part of the conspiracy that defendant Fabio Garcia, Co-conspirator 1, Co-conspirator 5 and others would retrieve and transport some of the cash proceeds from the heroin sales maintained at the stash houses to safe deposit boxes controlled by defendant Fabio Garcia at Bank of America and North Fork Bank.

18. It was further part of the conspiracy that defendant Fabio Garcia, Co-conspirator 1, Co-conspirator 5, and others would retrieve and transport some of the cash proceeds from the heroin sales maintained at the stash houses for deposit into bank accounts controlled by defendant Fabio Garcia, including the Sabor Paisa Restaurant Corporation Account and other bank accounts at TD Bank and Bank of America.

19. It was further part of the conspiracy that, once the heroin sales proceeds were deposited into the Sabor Paisa Restaurant Corporation Account, defendant Fabio Garcia would cause checks to be written out of that account to make mortgage payments on the Scarborough Drive Residence and to pay for other personal expenses.

Payments for Shipments of Heroin

20. It was part of the conspiracy that Co-conspirator 3 and Co-conspirator 4 would package some of the United States currency from the sale of heroin to be shipped via common

commercial carriers, such as UPS and Federal Express, to Florida so that it could be smuggle out of the United States to Columbia in order to pay for the bulk heroin shipments.

In violation of Title 21, United States Code, Section 846.

COUNT 2
[Distribution of Heroin]

1. Paragraphs 1 through 7, and 9 through 20 of Count 1 of this Indictment are incorporated as if set forth herein.

2. In or about November 2007, in Atlantic County, in the District of New Jersey and elsewhere, the defendant,

FABIO GARCIA,

did knowingly and intentionally distribute and possess with intent to distribute a quantity of heroin, a Schedule I controlled substance.

In violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C); and Title 18, United States Code, Section 2.

COUNT 3

[False Statement on Loan and Credit Application]

1. Paragraph 1 of Count 1 of this Indictment is incorporated as if set forth herein.
2. At all times relevant to Count 3 of this Indictment:
 - a. Countrywide Home Loans, doing business as, "America's Wholesale Lender," located in Calabasas, California, was a financial institution within the meaning of Title 18, United States Code, Section 20, whose deposits were insured by the FDIC, and was engaged in the business of making residential mortgage loans to the public.
3. On or about September 1, 2004, defendant Fabio Garcia and his wife, G.G., entered into a contract to purchase the Scarborough Drive Residence for approximately \$265,000.
4. In or about September 2004, in connection with applying for a mortgage for the purchase of Scarborough Drive Residence, defendant Fabio Garcia provided information to America's Wholesale Lender, through a mortgage brokerage firm located in Cherry Hill, New Jersey in order to obtain loans to finance the purchase of the Scarborough Drive Residence.
5. On or about October 1, 2004, defendant Fabio Garcia financed the purchase of the Scarborough Drive Residence by obtaining two mortgage loans from America's Wholesale Lenders. The primary loan was in the amount of \$212,000. The second loan was in the amount of \$53,000. In the loan applications, defendant Fabio Garcia represented that he had been employed by Sabor Paisa Restaurant for approximately 2.4 years and earned \$6,642 per month.
6. In tax years 2003 and 2004, defendant Fabio Garcia filed joint federal income tax returns with his wife, G.G., on Forms 1040 with the Internal Revenue Service (the "2003 and

2004 Tax Returns"). Defendant Fabio Garcia reported no income on the 2003 and 2004 Tax Returns.

7. On or about October 1, 2004, in Atlantic County, in the District of New Jersey and elsewhere, the defendant,

FABIO GARCIA,

knowingly made false statements for the purpose of influencing the action of Countrywide Home Loans, doing business as, "America's Wholesale Lender," in issuing a mortgage loan to finance the purchase of the Scarborough Drive Residence, in that the defendant falsely represented in a mortgage loan application that he earned approximately \$6,642 per month from his employment with the Sabor Paisa Restaurant.

In violation of Title 18, United States Code, Section 1014; and Title 18, United States Code, Section 2.

COUNT 4
[Conspiracy to Engage in Money Laundering]

1. Paragraphs 1 through 7, and 9 through 20 of Count 1 of this Indictment are incorporated as if set forth herein.

2. From in or about January 2004 to in or about December 2007, in Atlantic County, in the District of New Jersey, and elsewhere, the defendant,

FABIO GARCIA,

knowing that property involved in the financial transactions represented the proceeds of some form of unlawful activity, and knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity intentionally conspired and agreed with others to conduct such financial transactions which in fact involved the proceeds of specified unlawful activity, specifically the transfer, delivery, and other disposition of United States currency that was the proceeds of the distribution of heroin, contrary to Title 18, United States Code, Section 1956(a)(1)(B)(i).

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

FORFEITURE ALLEGATION

1. Upon conviction of the offense alleged in Count 1 of this Indictment, defendant Fabio Garcia, shall forfeit to the United States pursuant to 21 U.S.C. § 853, any property constituting, and derived from, any proceeds that Fabio Garcia obtained, directly and indirectly, as the result of such violation, including but not limited to the following:

a. A sum of money equal to \$111,470 in United States currency, representing the amount of proceeds obtained as a result of the offense, in violation of 21 U.S.C. § 846.

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

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

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

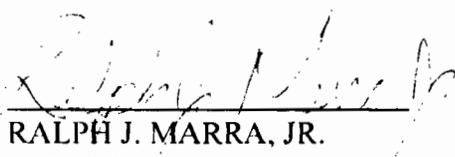
(c) has been placed beyond the jurisdiction of the court;

(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 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

A TRUE BILL



RALPH J. MARRA, JR.
United States Attorney

CASE NUMBER: _____

**United States District Court
District of New Jersey**

UNITED STATES OF AMERICA

v.

FABIO GARCIA

INDICTMENT FOR

21 U.S.C. §§ 841 and 846
18 U.S.C. §§ 1014 and 2
18 U.S.C. § 1956
21 U.S.C. § 853

A True Bill.

Foreperson

RALPH J. MARRA, JR.
*ACTING U.S. ATTORNEY
NEWARK, NEW JERSEY*

JASON M. RICHARDSON
*ASSISTANT U.S. ATTORNEY
856-757-5026*