

# NEWS

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United States Department of Justice  
U.S. Attorney, District of New Jersey  
402 East State Street, Room 430  
Trenton, New Jersey 08608

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***Paul J. Fishman, U.S. Attorney***

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***More Information?*** Contact the Assistant U.S. Attorney or other contact listed below to see if more information is available.

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FOR IMMEDIATE RELEASE

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Florida Man and Driver Guilty of All Counts for Their Roles in a \$30 Million  
International Bank Fraud and Identity Theft Ring

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(More)

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TRENTON – A jury today convicted a Miami Beach, Fla., man and his driver for their roles in a telemarketing fraud and identity theft scheme that attempted to defraud financial institutions and their account holders throughout the United States of millions of dollars through the unauthorized debit of customer bank accounts, U.S. Attorney Paul J. Fishman announced.

Robert Sacks, 51, and his driver, Diego Hernandez, 32, a Venezuelan citizen residing in Miami, were convicted of all counts in which they are named in the 42-count Superseding Indictment. Sacks was convicted of one count of conspiracy to commit mail and wire fraud; one count of conspiracy to commit bank fraud; 18 counts of substantive wire fraud; four counts of mail fraud; and 18 counts of aggravated identity theft. Hernandez was convicted of three counts each of aggravated identify theft and wire fraud, in addition to the aforementioned conspiracy counts.

Sacks and Hernandez are the final two remaining defendants out of 17 charged in connection with an international bank fraud ring busted for attempting to debit well over 100,000 customer accounts for more than \$30 million. The other 15 co-conspirators from Canada, New Jersey, Florida, Colorado and Michigan already have pled guilty for their participation in the conspiracy.

“These defendants defrauded thousands of innocent citizens out of millions of dollars,” said Fishman. “I am pleased they will be held accountable thanks to the hard work of dedicated investigators and prosecutors who uncovered this complex criminal scheme.”

The case was tried by Assistant U.S. Attorneys John J. Hoffman and Peter Katz of the Criminal Division in Trenton.

The Superseding Indictment, which was returned by a federal grand jury on Oct. 8, 2009, describes a scheme in which the two defendants and other co-conspirators pretended to operate a telemarketing business, but instead simply withdrew or attempted to withdraw funds from over 100,000 bank accounts throughout the United States without the authorization or knowledge of account holders. Thousands of these victims, many of whom are elderly and infirm, reside in New Jersey.

In convicting Sacks and Hernandez, the jury found that they participated in an elaborate trans-border fraud scheme in which their co-conspirators obtained lists of individuals’ names and bank account information. Then, under the pretense that these individuals had purchased items through a telemarketing business, drew money out of the victims’ bank accounts, or attempted to do so.

During the trial, the jury heard testimony and viewed evidence about how co-conspirators Siamak Saleki, 43, and Jan Ludvik, 26, a.k.a. “Thomas Palmer,” both of Montreal, were responsible for collecting and providing the names and personal banking account information of unsuspecting consumers to their co-conspirators in the United States. Sacks and Hernandez, and other co-conspirators, then charged the accounts of these unwitting victims

using false and fraudulent demand drafts (checks not actually written by the customers, but instead generated by the co-conspirators), or Account Clearinghouse (“ACH”) debits (electronic withdrawals). The majority of these fraudulent transactions subsequently were reversed through the banking system because they were drawn upon accounts that were nonexistent, closed, contained insufficient funds, or because customers alerted their bank in time to reverse the transaction. A smaller yet still significant percentage of the debits and withdrawals were not returned to the bank because the victim did not alert the bank in time to reverse the transaction.

Sacks and Hernandez, along with seven of the co-defendants, were arrested on Dec. 10, 2008, by Inspectors with the U.S. Postal Inspection Service and Special Agents with the U.S. Secret Service.

The jury deliberated for approximately 6 hours before returning a verdict. U.S. District Chief Judge Garrett E. Brown, Jr., who presided over the 5-week trial, scheduled both defendants’ sentencing for June 8.

The count of conspiracy to commit mail and wire fraud carries a maximum statutory penalty of 20 years in prison and a fine of \$1 million or twice the aggregate loss to the victims or gain to the defendants. The count of conspiracy to commit bank fraud carries a maximum statutory penalty of 30 years in prison and a fine of \$1 million or twice the aggregate loss to the victims or gain to the defendants. Each count of mail and wire fraud carries a maximum statutory penalty of 20 years in prison and a fine of \$1 million or twice the aggregate loss to the victims or gain to the defendants. Each count of aggravated identity theft carries a statutorily mandated penalty of 2 years in prison, plus a fine of \$250,000.

Additionally, with today’s conviction, the government will seek forfeiture of cash, bank account assets and property in a sum equal to \$7 million, which represents the total amount of proceeds illegally gained through the defendants’ scheme. The government already has seized close to \$2 million in illegal proceeds.

In determining an actual sentence, Judge Brown will consult the advisory U.S. Sentencing Guidelines, which provide appropriate sentencing ranges that take into account the severity and characteristics of the offense, the defendant's criminal history, if any, and other factors. The judge, however, is not bound by those guidelines in determining a sentence.

Parole has been abolished in the federal system. Defendants who are given custodial terms must serve nearly all that time.

Fishman credited Postal Inspectors with the Newark Division of the U.S. Postal Inspection Service, under the direction of Inspector in Charge David Collins, and Postal Inspectors with the Denver Division, under the direction of Postal Inspector in Charge Shawn Tiller; Secret Service Agents in Miami, Fla., under the direction of Special Agent in Charge Michael K. Fithen, with the investigation leading to the Indictment.

Fishman gave special thanks to the Assistant U.S. Attorneys in the Southern District of Florida, under the direction of U.S. Attorney Jeffrey H. Sloman; the Middle District of Florida, under the direction of U.S. Attorney A. Brian Albritton; and the District of Colorado, under the direction of U.S. Attorney David M. Gaouette, for their fine work on the case.

The government is represented by Assistant U.S. Attorneys John J. Hoffman and Peter Katz of the Criminal Division in Trenton.

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Defense Attorneys:

Sacks - George Parnham, Esq., Houston Texas; Jacob Laufer, Esq., New York; Edward Sapone, Esq., New York, NY; Dee McWilliams, Esq., Houston Texas.

Hernandez - Robert Haney, Esq. Princeton, NJ