

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.
 : Criminal No. 12-
v. : 18 U.S.C. § 1349
KATHERINE FERRO :

I N F O R M A T I O N

The defendant having waived in open court prosecution by indictment, the United States Attorney for the District of New Jersey charges:

BACKGROUND

1. At various times relevant to this Information:
 - a. J.S., a co-conspirator not charged herein, resided in or around Woodcliff Lake, New Jersey, and operated businesses including S Investment and Development, LLC ("S Investment"), for which he served as an officer.
 - b. Defendant Katherine Ferro resided in Miami, Florida, was an attorney at law, and operated the Katherine Ferro Law Office (the "Ferro Law Office"). The Ferro Law Office, through defendant Katherine Ferro, provided legal representation to J.S. and S Investment. In or about August 2009, defendant Katherine Ferro was disbarred from the practice of law by the Supreme Court of Florida.
 - c. E.S., a co-conspirator not charged herein, resided in or around Woodcliff Lake, New Jersey, and was married to J.S.

d. J.N.S., resided in or around Woodcliff Lake, New Jersey, and was the son of E.S. and J.S. J.N.S. and E.S. shared a joint bank account at Bank of America, in Tampa, Florida, over which J.S. exercised control.

e. A.K. resided in New York, New York, and was a business associate of J.S.

f. K.C.1 resided in Houston, Texas, was a business associate of J.S., and operated an energy investment company.

g. T.C. resided in or around Upper Saddle River, New Jersey, and was a classmate and friend of J.N.S. T.C. invested approximately \$450,000 of his own money and the money of certain family members and friends with defendant Katherine Ferro and J.S.

h. K.C.2 resided in or around Upper Saddle River, New Jersey, and, through her son T.C., invested money with defendant Katherine Ferro and J.S.

i. Advanced Capital Commercial Group, Inc. ("ACCG") was a New York corporation with offices in Smithtown, New York, that operated, among other things, investment management services for clients.

j. M.S. resided in or around Farmingdale, New York, and was a client of ACCG, through which M.S. invested approximately \$250,000 with defendant Katherine Ferro, J.S., and S Investment.

k. A.P. resided in or around Northport, New York, and was a client of ACCG, through which A.P. invested approximately \$250,000 with defendant Katherine Ferro, J.S., and S Investment.

THE CONSPIRACY

2. From at least as early as in or about December 2006 through in or about November 2010, in Bergen County, in the District of New Jersey, and elsewhere, defendant

KATHERINE FERRO

did knowingly and intentionally conspire and agree with others to devise a scheme and artifice to defraud, and for obtaining money and property by means of materially false and fraudulent pretenses, representations, and promises, and, for the purpose of executing the scheme and artifice, to transmit and cause to be transmitted writings, signs, signals and sounds by means of wire, radio, and television communication in interstate commerce, contrary to Title 18, United States Code, Section 1343.

OBJECT OF THE CONSPIRACY

3. It was the object of the conspiracy to profit by inducing investments in various fraudulent investment projects, including, among others, a scheme to purchase and resell foreign D2 diesel fuel, by making material misrepresentations about those investment projects and how investment funds would be used.

MANNER AND MEANS OF THE CONSPIRACY

The Credit Card Factoring Scheme

4. It was part of the conspiracy that, in or about December 2006, J.S. began to mentor T.C. after T.C.'s father died. J.S. became acquainted with T.C. as a result of T.C.'s friendship with J.N.S., who was T.C.'s high school classmate at the time. As time passed, T.C. grew to trust and admire J.S. T.C. was particularly impressed by J.S.'s business activities and J.S.'s apparent success in business and financial matters.

5. It was further part of the conspiracy that, in or about early 2008, J.S. offered to help T.C. earn investment returns on certain insurance and other payments that T.C. received after T.C.'s father died. J.S. told T.C. that many small businesses were unable to qualify for traditional small business loans from banks and, instead, those small businesses often agreed to accept loans from a credit card factoring venture and repay those loans by assigning a percentage of the future credit card receivables the small business generated (the "Credit Card Factoring Venture"). J.S. told T.C. that J.S. was working with a business associate to operate the Credit Card Factoring Venture, which J.S. told T.C. provided \$100,000 loans to interested small businesses.

6. It was further part of the conspiracy that J.S. assured T.C. that J.S. had invested certain of his own personal funds in the Credit Card Factoring Venture, and urged T.C. to also invest.

7. It was further part of the conspiracy that J.S. presented T.C. with a promissory note dated March 15, 2008, which J.S. told T.C., in substance and in part, was drafted by defendant Katherine Ferro. The promissory note memorialized T.C.'s investment in the Credit Card Factoring Venture and the repayment terms, including the promises that T.C. would receive quarterly interest payments of \$4,000 on a \$100,000 investment and that T.C. would recover his entire \$100,000 principal at the end of one year. T.C. and J.S. executed the promissory note, which E.S. signed as a witness. T.C. did not retain counsel to review the promissory note or the investment plan J.S. recommended to T.C. Instead, T.C. relied on his close relationship with J.S. and the material misrepresentations J.S. made to T.C. concerning the Credit Card Factoring Venture and the return T.C.'s investment would earn.

8. It was further part of the conspiracy that, on or about March 17, 2008, at J.S.'s instruction, T.C. wired \$100,000 from T.C.'s bank account at TD Bank to a Wachovia Bank account ending with the digits 4416, which was registered to J.S.'s wife, E.S. (the "E.S. Account").

9. It was further part of the conspiracy that, in or about July 2008, J.S. paid T.C. approximately \$4,000 in cash, in satisfaction of the first quarterly interest payment J.S. promised T.C. In or about October 2008, when the second quarterly interest payment was due, J.S. did not pay T.C. Instead, J.S. invited T.C. to make an additional investment in the Credit Card Factoring Venture, which T.C. agreed to do.

10. It was further part of the conspiracy that, between on or about March 17, 2008 and on or about January 27, 2009, T.C. wired approximately \$225,000 to accounts controlled by J.S. (the "Credit Card Factoring Wires"). Specifically, between on or about March 17, 2008 and on or about October 9, 2008, T.C. wired approximately \$175,000 from his account and an account controlled by his mother, K.C.2, into the E.S. Account. On or about January 27, 2009, T.C. wired approximately \$50,000 from his TD Bank account in New Jersey to a Bank of America account in Tampa, Florida, ending with the digits 9182 and registered to E.S. and J.N.S. but controlled by J.S. (the "Mother/Son Joint Account").

11. It was further part of the conspiracy that, days after each of the Credit Card Factoring Wires were completed, defendant Katherine Ferro, J.S., and E.S. withdrew funds from the Mother/Son Joint Account and otherwise depleted T.C.'s investment funds for their personal use.

12. It was further part of the conspiracy that the accounts into which the Credit Card Factoring Wires were deposited did not have sufficient funds to cover the debits against them without T.C.'s investment funds.

The D2 Diesel Fuel Investment Scheme - Fraud on A.K.

13. It was further part of the conspiracy that, in or about early 2008, J.S. urged A.K., a friend and business associate, to consider investing in the purchase and sale of large volumes of foreign D2 diesel fuel (the "D2 Investment Venture"). J.S. told A.K. that the D2 Investment Venture would earn billions of dollars and asked A.K. to invest \$300,000 in the venture. J.S. promised to pay back A.K.'s \$300,000 within one month and that A.K. would earn 100% interest on the \$300,000 investment.

14. It was further part of the conspiracy that J.S. instructed A.K. to transfer by wire approximately \$185,000 to T-Company, a Russian company J.S. alleged was a party to the D2 Investment Venture. On or about July 31, 2008, at J.S.'s instruction, A.K. caused a wire transfer of approximately \$185,000 to an account J.S. alleged was associated with T-Company.

15. It was further part of the conspiracy that J.S. asked A.K. to provide additional financial support for the D2 Investment Scheme by wiring approximately \$65,000 to defendant Katherine Ferro. J.S. told A.K., in substance and in part, that

defendant Katherine Ferro would receive the \$65,000 in her attorney trust account and then transfer the funds to K.C.1, a business associate in Houston, Texas, in support of the D2 Investment Venture. On or about August 12, 2008, at J.S.'s instruction, A.K. caused a wire transfer of approximately \$65,000 from A.K.'s account in New York to an account at Bank of America, in Tampa, Florida, ending with the digits 5600 and registered to defendant Katherine Ferro (the "Ferro Trust Account").

16. It was further part of the conspiracy that, between August 12, 2008, and approximately December 9, 2008, defendant Katherine Ferro depleted the \$65,000 A.K. wired to the Ferro Trust Account, by using it to pay for expenses unrelated to the D2 Investment Venture, including by transferring the funds from the Ferro Trust Account into her law firm operating account, an account at Bank of America, in Tampa, Florida, ending with the digits 1814 and registered to defendant Katherine Ferro's law office (the "Ferro Law Firm Account").

17. It was further part of the conspiracy that, when A.K. asked defendant Katherine Ferro for proof that A.K.'s \$65,000 investment was secure, defendant Katherine Ferro told A.K., in substance and in part, that she had delivered the money to K.C.1, in support of the D2 Investment Venture, as planned. Defendant Katherine Ferro also provided A.K. with a copy of check number 1096, purportedly drawn on the Ferro Trust Account in the amount

of \$65,00, which was payable to K.C.1 In or about July 2009, defendant Katherine Ferro admitted to A.K. that she never delivered the \$65,000 check to K.C.1 and that it was never negotiated.

The D2 Diesel Fuel Investment Scheme - Fraud on T.C.

18. It was further part of the conspiracy that, in or about early 2009, J.S. urged T.C. to also consider investing in the the D2 Investment Venture. J.S. promised T.C., in substance and in part, that T.C.'s investment in the D2 Investment Venture would earn interest at an annual rate of 50% and that J.S. would begin paying T.C. interest within forty-five days. J.S. also described the D2 Investment Venture to T.C. as a "friends and family" investment opportunity and urged T.C. to recruit others, including T.C.'s friends, to invest. Based on J.S.'s representations, T.C. persuaded several others to invest, through T.C., in the D2 Investment Venture.

19. It was further part of the conspiracy that, in or about March 2009, T.C. traveled to Florida with others, where, among other things, T.C. had dinner with defendant Katherine Ferro and others. During the meal, defendant Katherine Ferro spoke to T.C. about investments. Later, in or about April 2009, defendant Katherine Ferro told T.C. that defendant Katherine Ferro would speak to any prospective investors to whom T.C. presented the D2 Investment Venture, to help T.C. convince them to invest. Defendant Katherine Ferro told T.C. that the money T.C. invested

and the money T.C. raised from other investors would not be transferred out of defendant Katherine Ferro's attorney trust account without T.C.'s permission. Defendant Katherine Ferro also told T.C. that if the D2 Investment Venture did not yield the results she expected, defendant Katherine Ferro would return T.C.'s money and the money T.C. raised from other investors.

20. It was further part of the conspiracy that, between on or about May 19, 2009 and on or about May 26, 2009, defendant Katherine Ferro, J.S., and their co-conspirators caused T.C. to wire approximately \$222,000 to the Ferro Trust Account. During the same time period, defendant Katherine Ferro disposed of nearly all of the \$222,000 T.C. wired into the Ferro Trust Account by transferring large amounts into other accounts.

21. It was further part of the conspiracy that, on or about July 15, 2009, when the first interest payment on the money T.C. had raised and invested in the D2 Investment Venture became due, J.S. told T.C. that J.S. was forced to extend the investment period for a week but promised that J.S. would pay T.C. the following week.

22. It was further part of the conspiracy that, thereafter, J.S. told T.C. that the D2 Investment Venture had been successful but that J.S.'s bank was preventing J.S. from repaying investors because the bank was concerned about, and being careful with, the

large amount of money in J.S.'s account, which J.S. falsely told T.C. was approximately \$28,000,000.

23. It was further part of the conspiracy that, in or about December 2009, J.S. told T.C. that the D2 Investment Venture repayment money was in an account controlled by J.S.'s accountant but that J.S.'s accountant could not withdraw the funds until January 2010. Later, J.S. told T.C. that J.S. had lost contact with J.S.'s accountant.

24. It was further part of the conspiracy that, several months later, J.S. told T.C. that the D2 Investment Venture repayment money was being held in the Ferro Trust Account. Thereafter, T.C. discovered that defendant Katherine Ferro had been disbarred from the Florida Bar. When T.C. confronted J.S. about defendant Katherine Ferro's disbarment, J.S. told T.C., in sum and substance, that defendant Katherine Ferro had not been disbarred but, rather, that defendant Katherine Ferro had voluntarily given up her law license to join J.S. in operating the D2 Investment Venture.

25. It was further part of the conspiracy that, defendant Katherine Ferro, J.S., and their co-conspirators concealed from T.C. and others the fact that on or about August 3, 2009, defendant Katherine Ferro signed an "Unconditional Guilty Plea and Disbarment On Consent" agreement, in which defendant Katherine Ferro admitted that she: (i) issued at least three checks from

her attorney trust account that were returned due to insufficient funds; (ii) failed to preserve client funds in accordance with the requirements of the Florida Bar; and (iii) used monies in her trust account for personal use without the consent or knowledge of her clients; and that defendant Katherine Ferro's conduct violated the rules regulating the Florida Bar, including the rules prohibiting lawyers from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, and the rules regulating attorney trust accounts. Defendant Katherine Ferro, J.S., and their co-conspirators also concealed from T.C. and others that, on or about September 3, 2009, the Supreme Court of Florida issued an Order memorializing defendant Katherine Ferro's unconditional guilty plea and disbarment on consent from the Florida Bar for a period of five years.

26. It was further part of the conspiracy that, in or about September 2009, J.S. told T.C. that J.S. was prepared to make large payments to T.C. and the investors T.C. had recruited to invest in the D2 Investment Venture. At J.S.'s instruction, T.C. visited J.S.'s home and picked up three checks from E.S., which were drawn on an account in E.S.'s name. The three checks were in the amounts of approximately \$118,000, approximately \$120,000, and approximately \$13,000. All three checks were returned to the depositors by the issuing bank because of insufficient funds in

the account on which the checks had been drawn. That account was closed before the three checks were issued.

27. It was further part of the conspiracy that between in or about June 2009 and on or about November 3, 2010, J.S. paid T.C. several payments aggregating less than approximately \$50,000, which J.S. offered as partial repayment of T.C.'s investment with J.S. and to lull T.C. from contacting law enforcement agents. During that period, J.S. consistently promised to repay T.C. the remainder of the approximately \$450,000 that T.C. invested with J.S. between in or about March 2008 and in or about June 2009, together with the interest J.S. promised T.C.

D2 Diesel Fuel Investment Scheme - Fraud on the ACCG Victims

28. It was further part of the conspiracy that defendant Katherine Ferro, J.S., and their co-conspirators persuaded other victims to invest in the D2 Investment Venture, including M.S. and A.P., who invested an aggregate of approximately \$500,000 through ACCG.

29. It was further part of the conspiracy that, on or about June 12, 2009, defendant Katherine Ferro, J.S., and their co-conspirators caused ACCG, through its attorneys, to wire approximately \$500,000 in investment funds contributed to ACCG by M.S. and A.P., into the Ferro Trust Account (the "ACCG Investment").

30. It was further part of the conspiracy that the ACCG Investment was made pursuant to an escrow agreement, dated June

11, 2009 (the "ACCG Escrow Agreement"), between ACCG and defendant Katherine Ferro, who served as the escrow agent for J.S. The terms of the ACCG Escrow Agreement stated, among other things, that defendant Katherine Ferro would not remove or transfer the ACCG Investment from the Ferro Trust Account without the express written consent of ACCG. The ACCG Escrow Agreement also stated, among other things that: (i) the ACCG Investment would not be used to pay for any products associated with the D2 Investment Venture; (ii) the ACCG Investment would remain in the Ferro Trust Account for the duration of the D2 Investment Venture transaction period; (iii) the ACCG Investment would not be "encumbered, pledged, or hypothecated in any manner"; and (iv) the ACCG Investment would be refunded in full if the D2 Investment Venture transaction did not close within 30 days of the execution of the ACCG Escrow Agreement.

31. It was further part of the conspiracy that days after receiving the ACCG Investment, defendant Katherine Ferro transferred substantially all of the ACCG Investment from the Ferro Trust Account - which was overdrawn on or about June 1, 2009 - to the Ferro Law Firm Account. Specifically, between on or about June 12, 2009, and on or about June 18, 2009, defendant Katherine Ferro withdrew more than \$9,000 in cash from the Ferro Trust Account and transferred approximately \$489,000 from the Ferro Trust Account to the Ferro Law Firm Account.

32. It was further part of the conspiracy that, between on or about June 12, 2009, and on or about June 25, 2009, defendant Katherine Ferro, J.S., and their co-conspirators withdrew funds from the Ferro Law Firm Account and depleted the ACCG Investment for personal use.

33. It was further part of the conspiracy that, on or about August 14, 2009, defendant Katherine Ferro informed ACCG's attorneys, in writing, that defendant Katherine Ferro intended to return the ACCG Investment to ACCG on or about August 17, 2009, and would no longer serve as the escrow agent for J.S. in the D2 Investment Venture. Defendant Katherine Ferro did not repay ACCG.

In violation of Title 18, United States Code, Section 1349.

A handwritten signature in blue ink, reading "Paul J. Fishman", written over a horizontal line.

PAUL J. FISHMAN
UNITED STATES ATTORNEY