

b. Typically in such a call, GARCIA further falsely represented that he had "forgotten" the username and password needed to access the subject business's bank account on-line through the bank's Internet banking system, and asked the representative to provide him with this information;

c. On those occasions when GARCIA succeeded in obtaining the login information needed to access the subject business's bank account on-line, GARCIA used this access to withdraw funds from the compromised account; and

d. GARCIA caused these withdrawals to be made by issuing checks and wire transfers from the compromised accounts to himself and to co-conspirators not named herein.

3. In total, through this scheme, KHADDY GARCIA, a/k/a "Mike," a/k/a "Miguel Garcia," fraudulently obtained on-line access to more than 20 different business bank accounts, from which he attempted to withdraw over \$1.5 million, and ultimately succeeded in withdrawing over \$200,000.

STATUTORY ALLEGATIONS

4. From in or about February 2011, up to and including in or about January 2012, KHADDY GARCIA, a/k/a "Mike," a/k/a "Miguel Garcia," the defendant, in the Southern District of New York and elsewhere, knowingly executed a scheme and artifice to defraud financial institutions, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and to

obtain moneys, funds, credits, assets, securities, and other property owned by, and under the custody and control of, such financial institutions, by means of false and fraudulent pretenses, representations, and promises, to wit, GARCIA fraudulently represented himself to be the owner or agent of various businesses in order to obtain on-line access to the businesses' bank accounts and, upon obtaining such access, fraudulently withdraw funds from the compromised accounts.

(Title 18, United States Code, Section 1344.)

COUNT TWO
(Wire Fraud)

The United States Attorney further charges:

BACKGROUND

5. From on or about December 20, 2011, up to and including on or about December 28, 2011, KHADDY GARCIA, a/k/a "Mike," a/k/a "Miguel Garcia," the defendant, engaged in a scheme to defraud a venture capital firm located in New York, New York (the "Venture Capital Firm") of \$2 million.

6. Among the means and methods by which KHADDY GARCIA, a/k/a "Mike," a/k/a "Miguel Garcia," the defendant, executed this scheme were the following:

a. On or about December 20, 2011, GARCIA learned that the owner of the Venture Capital Firm (the "Owner") had initiated a wire transfer of \$2 million (the "Subject Funds") to

a bank account maintained for the Venture Capital Firm by a clearing firm (the "Clearing Firm").

b. From on or about December 21, 2011, up to and including on or about December 28, 2011, GARCIA made numerous phone calls to the Owner and agents of the Owner, in which GARCIA falsely identified himself to be a representative from the Clearing Firm named "Mike."

c. Over the course of these calls, GARCIA fraudulently represented to the Owner and his agents that the Subject Funds had been deposited into the wrong account at the Clearing Firm and needed to be re-wired to a different account at the Clearing Firm, for which GARCIA gave certain routing and account information (the "Fraudulent Account").

d. In fact, the Fraudulent Account had been opened by a co-conspirator not named herein and was controlled by GARCIA.

STATUTORY ALLEGATIONS

7. From on or about December 20, 2011, up to and including on or about December 28, 2011, in the Southern District of New York and elsewhere, KHADDY GARCIA, a/k/a "Mike," a/k/a "Miguel Garcia," the defendant, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, knowingly transmitted

and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, GARCIA made multiple interstate telephone calls to the Owner and others in a fraudulent attempt to cause the Owner to wire \$2 million to an account that GARCIA secretly controlled.

(Title 18, United States Code, Section 1343.)

FORFEITURE ALLEGATION

8. As a result of committing the bank fraud and wire fraud offenses alleged in Counts One and Two of this Information, KHADDY GARCIA, the defendant, shall forfeit to the United States, pursuant to Title 18, United States Code, Sections 981(a)(1)(C) and 982(a)(2)(B) and Title 28, United States Code, Section 2461, any and all property constituting and derived from proceeds obtained directly and indirectly as the result of the offenses, including but not limited to a sum of United States currency representing the amount of proceeds obtained as a result of the offenses alleged in Counts One and Two of this Information.

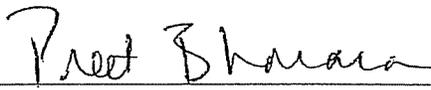
Substitute Asset Provision

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

- (1) cannot be located upon the exercise of due diligence;
- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) 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) and Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the above-described forfeitable property.

(Title 18, United States Code, Sections 981 and 982;
Title 21, United States Code, Section 853;
Title 28, United States Code, Section 2461.)



PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

KHADDY GARCIA,

Defendant.

INFORMATION

12 Cr.

(18 U.S.C. §§ 1344 & 1343)

PREET BHARARA
United States Attorney.
