

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Criminal No. 12-
	:	
v.	:	18 U.S.C. §§ 1341, 1349, 1956(h)
	:	and 2.
JOSEPH BELASCO	:	
	:	

Indictment

The Grand Jury in and for the District of New Jersey,
sitting at Newark, charges that

Count One

**(Conspiracy to Commit Mail Fraud
- Title 18, United States Code, Section 1349)**

Background

1. At all times relevant to this Indictment:

a. Pepsi Bottling Group, formerly Pepsi-Cola, North America (hereinafter Pepsi) was an independent corporation formed in 1998 and headquartered in Somers, New York. It was the largest bottler of Pepsi products in the United States. Pepsi had one business unit and several service facilities in New Jersey.

b. Impact Cause Related Marketing Group (hereinafter Impact Marketing) was a business located in Essex County (1998-2006) and later Union County (2006-2008), New Jersey. It was a subsidiary of Culinary Holdings, Inc. (CHI) dba Culinary Ventures

Vending (hereinafter Culinary Ventures). Impact Marketing had a contractual agreement with Pepsi purportedly to furnish new "customer leads" for the sale of Pepsi's bottles, cans and fountain products.

c. Defendant JOSEPH BELASCO was the Chief Financial Officer for Culinary Ventures and Impact Marketing. He possessed a 43% ownership in both entities and also received a share of their net profits.

d. Coconspirator #1, a coconspirator not charged herein, was employed by Pepsi between 1989 and November 2008 as a Key Account Manager (KAM) and, as such, was given sales zones in which to target businesses for the sale of Pepsi products. He maintained offices, at various times, in Moonachie, Piscataway and Kearny, New Jersey.

e. Coconspirator #2, an unindicted coconspirator, was the Chief Operating Officer of Culinary Ventures. He possessed a 43% ownership in Culinary Ventures and Impact Marketing, and received a share of their net profits.

f. Coconspirator #3, an unindicted coconspirator, was the spouse of Coconspirator #1. Between approximately 1999 and 2008, she improperly received commission checks from Impact Marketing as issued by defendant JOSEPH BELASCO.

g. In or about March 1998, Coconspirator #1, as a Pepsi representative, signed a five year lead generating contract

(hereinafter "the contract") with defendant JOSEPH BELASCO which called for commissions and rebates to be paid by Pepsi to Impact Marketing, based upon the new leads developed and the volume of Pepsi products purchased by new customers. Commissions and rebates paid to Impact Marketing would continue for as long as the customer purchased product from Pepsi. Impact Marketing also improperly paid fees directly to Coconspirator #1 during the time period of 1999 until 2008. In April 2003, Coconspirator #1 and defendant JOSEPH BELASCO signed a ten year extension to "The Contract" with Pepsi.

h. Between in or about late 1998 and Spring 2004, monthly commission checks issued from Pepsi to Impact Marketing were mailed from the Pepsi headquarters in Somers, New York to the Impact Marketing offices in New Jersey. Quarterly rebate checks issued to Impact Marketing were mailed to the Pepsi Offices in New Jersey and were delivered to the defendant JOSEPH BELASCO by Coconspirator #1. Between approximately April 2004 and November 2008, monthly commission checks issued by Pepsi to Impact Marketing were mailed from a third party check printing company, located in Jacksonville, Florida to Impact Marketing in New Jersey. Quarterly rebate checks issued to Impact Marketing were mailed from Jacksonville, Florida to the Pepsi Offices in New Jersey and routinely hand delivered by Coconspirator #1 to the defendant JOSEPH BELASCO at Impact Marketing.

Scheme to Defraud

2. From in and about early 1998 through in an about November 2008, the defendant JOSEPH BELASCO, and the coconspirators identified above, and others, defrauded Pepsi of approximately \$2,900,000 dollars in commissions and rebates by falsely claiming that dozens of new customers were being generated by Impact Marketing, when in fact these customers were either already Pepsi customers or were being generated, directly or indirectly, by Coconspirator #1 or other Pepsi representatives.

The Conspiracy

3. From in or about March 1998 to in or about May 30, 2010, in Essex and Union Counties, in the District of New Jersey and elsewhere, defendant

JOSEPH BELASCO

knowingly and intentionally conspired and agreed with Coconspirators #1, #2, #3, and others, to devise a scheme and artifice to defraud Pepsi, and to obtain money and property from Pepsi by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing and attempting to execute the aforesaid scheme and artifice to defraud, to place in a post office and authorized depository for mail, and to cause to be delivered in accordance with directions thereon, certain mail matter as more fully described below, to be

sent and delivered by the United States Postal Service and commercial interstate carriers, contrary to Title 18, United States Code, Section 1341.

Object of the Conspiracy to Defraud

4. It was the object of the conspiracy to generate for defendant JOSEPH BELASCO, Coconspirator #2 and Impact Marketing fraudulent commissions and rebates from Pepsi, and to provide for Coconspirators #1 and #3 an unlawful source of income which was in direct conflict with Coconspirator #1's employment at Pepsi.

Manner and Means

5. It was a part of the conspiracy to defraud that, in or about February 1998, Coconspirator #1 met with Coconspirator #2 and proposed a scheme to steal monies from Pepsi by improperly obtaining commissions and rebates, for Coconspirator #2, the defendant JOSEPH BELASCO and Impact Marketing, by falsely claiming to provide Pepsi with new customer leads; in return, Coconspirator #1 expected to share, along with Coconspirator #3, in the proceeds from these fraudulent commissions and rebates.

6. It was a further part of the conspiracy to defraud that, in or about March 1998, defendant JOSEPH BELASCO signed a contract with Coconspirator #1, as the Pepsi representative, which pledged commissions and rebates to Impact Marketing for leads which produced new customers purchasing Pepsi products.

7. It was a further part of the conspiracy to defraud that Coconspirator #1 intended to fraudulently assign to Impact Marketing the names of existing Pepsi customers and other newly acquired customers generated either by Coconspirator #1 or other Pepsi representatives. This scheme to defraud Pepsi generated approximately \$2,900,000 in unearned commissions and rebates for Impact Marketing, to the benefit of defendant JOSEPH BELASCO and Coconspirator #2.

8. It was a further part of the conspiracy to defraud that, subsequent to receiving these commission and rebate checks from Pepsi, defendant JOSEPH BELASCO would issue checks from Impact Marketing to Coconspirator #3 for consulting services never performed and to Coconspirator #1 for fees that were never earned and in conflict with his employment at Pepsi. From approximately May 1999 through November 2008, Coconspirator #1 and Coconspirator #3 received checks from defendant JOSEPH BELASCO and Impact Marketing, totaling approximately \$1.1 million.

9. In or about December 2008, Pepsi refused to honor any further requests by Impact Marketing for commissions and rebates based upon leads generated in the past, unless defendant JOSEPH BELASCO provided a detailed accounting of his customer referrals. Consequently, defendant JOSEPH BELASCO, Coconspirators #1 and #2 and others, formulated a plan whereby credit for past leads would be falsely attributed to individuals and entities who in fact had

no association with Impact Marketing, chief among them being P.G., a deceased friend of defendant JOSEPH BELASCO. The intent of the plan was to prevent Pepsi from determining who generated any particular lead, or the ability to confront specific individuals, in particular P.G., concerning their efforts to generate new customers.

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

Count Two through Six

(Substantive Mail Fraud Counts)

1. The allegations set forth in Paragraphs 1 and 2, and 4 through 9 of Count One of this Indictment are hereby realleged as if fully set forth herein.

2. From in or about January 2007 through in or about May 2010, in the District of New Jersey, and elsewhere, defendant

JOSEPH BELASCO

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud Pepsi and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises.

3. It was the object of the scheme to generate fraudulent commissions and rebates for defendant JOSEPH BELASCO and others, from Pepsi, purportedly for providing sales leads for new customers who would purchase Pepsi products, when in fact such customers were either already Pepsi customers or were generated by others.

4. On or about the dates set forth below, in Essex and Union Counties, in the District of New Jersey and elsewhere, for the purpose of executing and attempting to execute the scheme and artifice, as set forth in Paragraphs 1 and 2, and 4 through 9 of Count One and paragraphs 2 and 3 of this Count, defendant

JOSEPH BELASCO

knowingly placed and caused to be placed in post offices and authorized depositories for mail matter, certain matters and things to be sent and delivered by the U.S. Postal Service, and deposited and caused to be deposited certain matters and things to be sent and delivered by private and commercial interstate carriers, according to the directions thereon, that is, checks, each constituting the payment to Impact Marketing and defendant JOSEPH BELASCO, and mailed on or about the following dates, and in the following amounts:

Count	Payee	Check Date & Approx Date of Mailing	Approximate Amount of the Check
TWO	Impact Marketing	June 26, 2007	\$27,299.15
THREE	Impact Marketing	Jan 29, 2008	\$30,699.40
FOUR	Impact Marketing -Joe Belasco	April 7, 2008	\$22,234.52
FIVE	Impact Marketing	June 24, 2008	\$26,839.50
SIX	Impact Marketing	Sept 16, 2008	\$29,092.80

In violation of Title 18, United States Code, Section 1341 and Section 2.

Count Seven
(Conspiracy to Commit Money Laundering)

1. The allegations set forth in Paragraphs 1 and 2, and 4 through 9 of Count One of this Indictment are hereby realleged as if fully set forth herein.

The Conspiracy

2. From in or about March 1998 to in or about December 2008, in Essex and Union Counties, in the District of New Jersey and elsewhere, defendant

JOSEPH BELASCO,

knowing that the property involved in the financial transactions represented the proceeds of some form of unlawful activity, and (a) with the intent to promote the carrying on of such specified unlawful activity, contrary to Title 18, United States Code, Section 1956(a)(1)(A)(i), and (b) 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 the specified unlawful activity, contrary to Title 18, United States Code, Section 1956(a)(1)(B)(i), knowingly conspired and agreed with Co-Conspirators #1, #2 and #3, and others to conduct financial transactions affecting interstate and foreign commerce, which financial transactions involved the proceeds of specified unlawful activity, namely, mail fraud, contrary to Title 18, United States Code, Section 1341.

Object of the Conspiracy

3. It was an object of the conspiracy for defendant JOSEPH BELASCO to pass on from Impact Marketing a portion of the proceeds of the mail fraud scheme against Pepsi to Coconspirators #1 and #3, in order to assure the continued operation of the scheme.

4. It was further an object of the conspiracy for defendant JOSEPH BELASCO and his co-conspirators to engage in financial transactions with the proceeds of the mail fraud scheme in order to conceal and disguise the nature, location, source, ownership, and control of the proceeds of such scheme.

Manner and Means of the Conspiracy

5. It was part of the conspiracy to defraud that, after defendant JOSEPH BELASCO fraudulently obtained money from Pepsi, he would draft checks from Impact Marketing to Coconspirator #3, under her maiden name, for services not provided. In addition, he also issued checks to Coconspirator #1 for fees that were unearned and in conflict with Coconspirator #1's employment at Pepsi. In total, defendant JOSEPH BELASCO laundered approximately \$1.1 million dollars by issuing the aforesaid checks.

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

FIRST FORFEITURE ALLEGATION

1. The allegations contained in all paragraphs of Counts 1 through 6 of this Indictment are realleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to defendant JOSEPH BELASCO that, upon conviction of the offenses charged in Counts 1 through 6 of this Indictment, the government will seek forfeiture, in accordance with Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 981(a)(1)(C), of any and all property, real or personal, that constitutes or is derived from proceeds traceable to the violations of Title 18, United States Code, Sections 1341 and 1349, alleged in Counts 1 through 6 of this Indictment, including but not limited to a sum of money equal to at least approximately \$2,900,000 in United States currency.

3. If by any act or omission of defendant JOSEPH BELASCO, any of the property subject to forfeiture described in paragraph 2 herein:

- 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 subdivided without difficulty

the United States will be entitled to forfeiture of substitute property up to the value of the forfeitable property described above in paragraph 2 pursuant to Title 21, United States Code Section 853(p), as incorporated by Title 28, United States Code, Section 2461 (c).

SECOND FORFEITURE ALLEGATION

1. The allegations contained in all paragraphs of Count 7 of this Indictment are realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to Title 18, United States Code, Section 982.

2. The United States hereby gives notice to defendant JOSEPH BELASCO that, upon conviction of the offense charged in Count 7 of the Indictment, the government will seek forfeiture, pursuant to Title 18, United States Code, Section 982(a)(1), of any and all property, real or personal, involved in the violation of Title 18, United States Code, Section 1956, alleged in Count 7 of this Indictment, and all property traceable to such property, including but not limited to a sum of money equal to at least approximately \$1,100,000 in United States currency.

3. If by any act or omission of defendant JOSEPH BELASCO, any of the property subject to forfeiture described in paragraph 2 herein:

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, the United States of America will be entitled to forfeiture of substitute property up to the value of the property described above in paragraph 2, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b) (1).

A True Bill

Foreperson



PAUL J. FISHMAN
United States Attorney