

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.
 :
 v. : Criminal No. 12-
 :
 JOSEPH SUAREZ, : 18 U.S.C. §1349 and § 2
 :
 a/k/a “Jose Gilberto Suarez”

INFORMATION

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. Defendant Joseph Suarez, a/k/a “Jose Gilberto Suarez,” 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. Katherine Ferro, a co-conspirator not charged herein, 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 Katherine Ferro, provided legal representation to Defendant Joseph Suarez and S Investment. In or about August 2009, 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 a relative of Defendant Joseph Suarez
 - d. J.N.S. resided in or around Woodcliff Lake, New Jersey, and was a relative of

E.S. and Defendant Joseph Suarez.

e. A.K. resided in New York, New York, and was a business associate of Defendant Joseph Suarez.

f. K.C.1 resided in Houston, Texas, was a business associate of Defendant Joseph Suarez, 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 Katherine Ferro and Defendant Joseph Suarez.

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

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 Katherine Ferro, Defendant Joseph Suarez, 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 Katherine Ferro, Defendant Joseph Suarez, 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, the defendant,

JOSEPH SUAREZ,

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 and Business Venture Scheme

4. It was part of the conspiracy that, in or about December 2006, defendant Joseph Suarez began to mentor T.C. after T.C.'s father died. Defendant Joseph Suarez 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 defendant Joseph Suarez. T.C. was particularly impressed by defendant Suarez's business activities as well as defendant Suarez's apparent success in business and financial matters.

5. It was further part of the conspiracy that, in or about early 2008, defendant Suarez offered to help T.C. earn investment returns on certain insurance and other payments that T.C.

received after T.C.'s father died. In addition to other business ventures presented to T.C., defendant Joseph Suarez 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"). Defendant Suarez told T.C. that he was working with a business associate to operate the Credit Card Factoring Venture, which defendant Suarez told T.C. provided \$100,000 loans to interested small businesses.

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

7. It was further part of the conspiracy that defendant Suarez presented T.C. with a promissory note dated March 15, 2008, which defendant Suarez told T.C., in substance and in part, that Katherine Ferro had drafted. The promissory note memorialized T.C.'s investment 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 defendant Suarez executed the promissory note, which E.S. signed as a witness. In signing the promissory note, T.C. relied on his close relationship with defendant Suarez and the material misrepresentations that defendant Suarez had made to T.C. concerning the Credit Card Factoring Venture and the return T.C.'s investment would yield.

8. It was further part of the conspiracy that, on or about March 17, 2008, at defendant Suarez'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 Suarez's wife, E.S. (the "E.S. Account").

9. It was further part of the conspiracy that, in or about July 2008, defendant Joseph Suarez paid T.C. approximately \$4,000 in cash, in satisfaction of the first quarterly interest payment that Suarez had promised to T.C. In or about October 2008, when the second quarterly interest payment was due, Defendant Joseph Suarez did not pay T.C. Instead, defendant Suarez 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 Defendant Joseph Suarez (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 defendant Suarez (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, Katherine Ferro, defendant Suarez, and E.S. withdrew and/or caused to be withdrawn, 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, defendant Joseph Suarez 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"). Defendant Suarez told A.K. that the D2 Investment Venture would earn billions of dollars and asked A.K. to invest \$300,000 in the venture. Defendant Suarez 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 defendant Suarez instructed A.K. to transfer by wire approximately \$185,000 to T-Company, a Russian company defendant Suarez alleged was a party to the D2 Investment Venture. On or about July 31, 2008, at defendant Suarez's instruction, A.K. caused a wire transfer of approximately \$185,000 to an account defendant Suarez alleged was associated with T-Company.

15. It was further part of the conspiracy that defendant Suarez asked A.K. to provide additional financial support for the D2 Investment Scheme by wiring approximately \$65,000 to Katherine Ferro. Defendant Joseph Suarez told A.K., in substance and in part, that 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 Defendant Joseph Suarez'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 Katherine Ferro (the "Ferro Trust Account").

16. It was further part of the conspiracy that, between approximately August 12, 2008, and approximately December 9, 2008, 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 Katherine Ferro's law office (the "Ferro Law Firm Account").

17. It was further part of the conspiracy that, when A.K. asked Katherine Ferro for proof that A.K.'s \$65,000 investment was secure, 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. Katherine Ferro also provided A.K. with a copy of check number 1096, purportedly drawn on the Ferro Trust Account in the amount of \$65,000, which was payable to K.C.1 In or about July 2009, 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, defendant Joseph Suarez urged T.C. to also consider investing in the D2 Investment Venture. Defendant Suarez 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 defendant Suarez would begin paying T.C. interest within forty-five days. Defendant Suarez 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 defendant Joseph Suarez'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. and others traveled to Florida and met with Katherine Ferro. During the meal, Katherine Ferro spoke to T.C. about investments. Later, in or about April 2009, Katherine Ferro told T.C. that Katherine Ferro would speak with prospective investors in the D2 Investment Venture, to help T.C. convince them to invest. Katherine Ferro told T.C. that the money T.C. invested directly, and raised from other investors, would not be transferred out of Katherine Ferro's attorney trust account without T.C.'s permission. Katherine Ferro also told T.C. that if the D2 Investment Venture did not yield the expected results, Katherine Ferro would return the money to T.C. and the 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, Katherine Ferro, defendant Joseph Suarez, and their co-conspirators caused T.C. to wire approximately \$222,000, funds belonging to T.C. and investors he had solicited on defendant Suarez's behalf, to the Ferro Trust Account. During the same time period, Katherine Ferro disposed of nearly all of the \$222,000 that 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, defendant Joseph Suarez told T.C. that defendant Suarez was forced to extend the investment period for a week but promised that he would pay T.C. the following week.

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

amount of money in defendant Joseph Suarez's account, which Suarez falsely told T.C. was approximately \$28,000,000.

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

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

25. It was further part of the conspiracy that, defendant Joseph Suarez, Katherine Ferro, and their co-conspirators concealed from T.C. and others the fact that, on or about August 3, 2009, Katherine Ferro signed an "Unconditional Guilty Plea and Disbarment On Consent" agreement, in which 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 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 Joseph Suarez, Katherine Ferro, 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 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, defendant Suarez told T.C. that he was prepared to make large payments to T.C. and the investors T.C. had recruited to invest in the D2 Investment Venture. At defendant Suarez's instruction, T.C. visited defendant Suarez's home and picked up three checks from E.S., totaling approximately \$251,000, which were drawn on an account in E.S.'s name. The three checks purportedly were defendant Suarez's payment to T.C. and his investors for money owed. 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 had been 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, defendant Suarez paid T.C., in several installments, less than approximately \$50,000, which defendant Suarez offered as partial repayment of T.C.'s investment with him. During that period, defendant Suarez consistently promised to repay T.C. the remainder of the approximately \$450,000 that T.C. invested with defendant Suarez between in or about March 2008 and in or about June 2009, together with the interest defendant Suarez promised T.C.

D2 Diesel Fuel Investment Scheme - Fraud on the ACCG Victims

28. It was further part of the conspiracy that defendant Joseph Suarez, Katherine Ferro, 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 Suarez, Katherine Ferro, 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 on or about June 11, 2009 (the "ACCG Escrow Agreement"), between ACCG and Katherine Ferro, who purportedly served as the escrow agent for defendant Suarez. The ACCG Escrow Agreement stated, among other things, that 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, 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, 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 Joseph Suarez, Katherine Ferro, and their co-conspirators withdrew and caused the withdrawal of 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, Katherine Ferro informed ACCG's attorneys, in writing, that 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 defendant Joseph Suarez in the D2 Investment Venture. Katherine Ferro did not repay ACCG.

In violation of Title 18, United States Code, Sections 1349 and 2.



PAUL J. FISHMAN
UNITED STATES ATTORNEY