

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon.
 :
 : Crim. No. 11-
v. :
 : 15 U.S.C. §§ 78j(b) and
 : 78ff; 17 C.F.R. 240.10b-5
ROBERTO TORRES : 18 U.S.C. § 2

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:

THE DEFENDANT AND OTHER PARTIES

1. At all times relevant to this Information:
 - a. Capitol Investment USA, Inc. ("Capitol"), a Florida corporation with offices in Miami Beach, Florida, was a purported wholesale grocery distribution business.
 - b. Defendant ROBERTO TORRES worked as Capitol's Chief Financial Officer.
 - c. Capitol was run by Nevin Shapiro, who was Capitol's founder, owner and Chief Executive Officer. As CEO, Nevin Shapiro controlled all aspects of Capitol's business, which also employed a number of additional individuals. From in or around

January 2005 to in or around November 2009, Nevin Shapiro, defendant ROBERTO TORRES and their co-schemers induced investors to provide Nevin Shapiro and Capitol with hundreds of millions of dollars, promising that the money would be used to fund Capitol's grocery distribution business - through which Capitol would purportedly purchase merchandise which would then be resold at a profit. However, during this time, Capitol had virtually no active wholesale grocery business. Instead, Capitol operated an investment scheme commonly known as a "Ponzi" scheme, in which new investors' funds are utilized to pay previous investors in the absence of any underlying security, legitimate investment vehicle or other commodity. Pursuant to this scheme, Nevin Shapiro, ROBERTO TORRES, and others used the money provided by investors (i) to pay earlier investors in order to further the fraud; and (ii) for Nevin Shapiro's personal benefit.

d. An individual who is named as a co-schemer but not as a defendant herein ("UC 2") worked as an accountant at Capitol.

e. An individual who is named as a co-schemer but not as a defendant herein ("UC 3") worked as a bookkeeper at Capitol.

THE SCHEME TO DEFRAUD

2. From in or around January 2005 to in or around November 2009, in the District of New Jersey, and elsewhere, defendant

ROBERTO TORRES

by use of the means and instrumentalities of interstate commerce, the mails, and facilities of national securities exchanges, directly and indirectly, knowingly and willfully used manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 (Rule "10b-5") in connection with the purchase and sale of securities by (i) employing devices, schemes, and artifices to defraud members of the investing public; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and a course of business which operated and would operate as a fraud and deceit upon Capitol investors, in violation of Title 15, United States Code, Sections 78j(b) and 78ff(a) and Title 17, Code of Federal Regulations, Section 240-10b-5.

OBJECT OF THE SCHEME TO DEFRAUD

3. The object of the scheme to defraud was for Nevin Shapiro, defendant ROBERTO TORRES, UC 2, UC 3 and others to fraudulently obtain hundreds of millions of dollars from Capitol investors in New Jersey and elsewhere by falsely claiming that

the money was going to be used to fund Capitol's grocery distribution business when, in fact, the money was intended to be used and was used to pay earlier investors in order to further the fraud and for Nevin Shapiro's personal benefit.

MANNER AND MEANS OF THE SCHEME TO DEFRAUD

The manner and means by which Nevin Shapiro, defendant ROBERTO TORRES, UC 2, UC 3 and others sought to accomplish the object of the scheme to defraud included, among other things, the following:

4. Nevin Shapiro, defendant ROBERTO TORRES, UC 2, UC 3 and others made and caused to be made numerous false statements, false representations, and material omissions regarding the profitability of Capitol's purported grocery distribution business to fraudulently induce investors to provide Nevin Shapiro and Capitol with millions of dollars, when in fact Capitol had virtually no sales or profit during the relevant time period.

5. Nevin Shapiro, defendant ROBERTO TORRES, UC 2, UC 3 and others made and caused to be made to potential investors numerous false statements and representations that the investors' money would be used to fund Capitol's grocery diversion business, including by using the funds to buy grocery products and resell them at a profit, when in fact Nevin Shapiro, defendant ROBERTO TORRES, UC 2, UC 3 and others intended to use, and did use, the funds to repay earlier investors and for Nevin Shapiro's own

personal benefit.

6. On numerous occasions, to induce investors to invest money in Capitol, defendant ROBERTO TORRES, UC 2, UC 3 and others, at Nevin Shapiro's direction, created and showed to potential investors fraudulent documents falsely touting the profitability of Capitol's purported grocery wholesale business, including, among other things:

a. financial statements, including profit and loss statements, which falsely represented that Capitol's wholesale grocery business was generating tens of millions of dollars in sales;

b. business income tax returns for Nevin Shapiro and Capitol that falsely reflected tens of millions of dollars in sales for Capitol; and

c. numerous invoices falsely reflecting transactions purportedly entered into between Capitol and other companies in the wholesale grocery business and purporting to show Capitol's sources of product and income.

7. As a further inducement for investors to invest money in Capitol, Nevin Shapiro, defendant ROBERTO TORRES, UC 2, UC 3 and others provided and caused to be provided to investors documents, including promissory notes, joint venture agreements, and other evidence of indebtedness, that reflected the amount of the investors' investment in Capitol and falsely promised specific returns, in the form of interest ranging from 10 percent to 26

percent on an annualized basis, according to a schedule that varied from a matter of days up to one year.

8. Based on these false statements and representations and material omissions, investors in New Jersey and throughout the United States sent money to Nevin Shapiro and Capitol that was then deposited into Capitol's bank accounts and into Nevin Shapiro's personal bank accounts. During the time period relevant to this Information, Nevin Shapiro and Capitol raised at least approximately \$880 million in this fashion.

9. Contrary to the statements and omissions described above, Capitol did not have a profitable wholesale grocery business and Nevin Shapiro, defendant ROBERTO TORRES, UC 2, UC 3 and others did not use investor money to fund Capitol's grocery business as promised. Specifically:

a. Capitol had virtually no active wholesale grocery business during the time period relevant to this Information;

b. Nevin Shapiro and Capitol did not produce tens of millions of dollars in yearly sales based on any legitimate business activity. In fact, Capitol had virtually no business sales, and a vast majority of the money that came into Capitol was through the solicitation of investor money;

c. Capitol did not have the sources of product and income reflected on the invoices. In fact, Capitol conducted virtually no legitimate business transactions during the time period relevant to this Information; and

d. The proceeds of the fraud were in fact used primarily (i) to make payments to investors in order to gain their confidence so as to encourage the investors to provide additional funds to Nevin Shapiro and Capitol and to avoid detection of the fraudulent scheme ("lulling payments"), (ii) to fund Nevin Shapiro's lavish lifestyle, and (iii) to make payments to certain individuals who recruited additional investors to invest with Capitol.

In violation of Title 15, United States Code, Sections 78j(b) and 78ff(a) and Title 17, Code of Federal Regulations, Section 240-10b-5, and Title 18, United States Code, Section 2.

PAUL J. FISHMAN
United States Attorney