

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA )  
 ) No.  
 v. )  
 ) Violation: Title 18, United States Code,  
LUIS MARTIN-CARO SANCHEZ ) Sections 1519 and 1623

**COUNT ONE**

The SPECIAL AUGUST 2015 GRAND JURY charges:

1. At times material to this indictment:

**Background**

a. Defendant LUIS MARTIN-CARO SANCHEZ was a Spanish citizen and resident of Madrid, Spain. MARTIN-CARO SANCHEZ served on the Board of Directors of his family's privately-owned company, invested in real estate and securities, and maintained a mobile telephone number ending in 3067, which was registered in Spain.

b. Potash Corporation of Saskatchewan Inc. (Potash) was headquartered in Canada and was among the world's largest fertilizer producers. Potash's stock was listed and traded on the New York and Toronto Stock Exchanges, and its options on the Chicago Board Options Exchange (CBOE) and other U.S. options exchanges.

c. BHP Billiton (BHP) was headquartered in Australia and was among the world's largest mining companies.

d. Interactive Brokers LLC (Interactive) was a global online brokerage firm headquartered in Connecticut. Among other things, Interactive offered customers the ability to trade equity call options on the CBOE. MARTIN-CARO SANCHEZ maintained a brokerage account at Interactive, which he opened on June 16, 2008.

e. Equity call options, such as those traded at the CBOE, gave the buyer the right, but not the obligation, to purchase a specific quantity of a company's stock at a set price (the "strike price") for a certain period of time (through "expiration"). Each option contract represented 100 shares of the company's stock. In general, a buyer purchased a call option (a "call") when the stock price was expected to rise, and sold a call option when the stock price was expected to fall. For example, one "September 2010 125" call on Potash stock gave the purchaser the right to buy 100 shares of Potash for \$125 per share before the call expired in mid-September 2010. If Potash stock traded above \$125 before the call expired, the call would be "in-the-money" by that amount, and the owner could either "exercise the call" and therefore acquire the stock at \$125 per share, or sell the call, which had increased in value. On the other hand, if Potash's stock price failed to reach the \$125 strike price before the call expired and the holder had not sold the option, the call would expire worthless. If the call's strike price was above the price at which the stock was trading at the time of purchase, the call would be "out-of-the-money" and it would be unprofitable to exercise the call by paying more for the stock than if it were purchased on a stock market.

f. The United States Securities and Exchange Commission (SEC) was an independent agency of the United States Government established by Congress to protect investors, maintain the fair and orderly functioning of securities markets, and facilitate capital formation. The SEC was primarily responsible for enforcement of United States federal securities laws, and had the authority to bring injunctive actions and civil law suits in United States District Court against fraudulent and manipulative practices in the securities markets. Stock trading on the New York Stock Exchange and equity options trading on the CBOE were subject to the SEC's regulatory and enforcement oversight and authority.

g. Individual A and MARTIN-CARO SANCHEZ were personal friends and maintained a business relationship. Individual A was a Spanish citizen employed as the Real Estate Managing Director for a private bank in Spain, and subscribed to and used a mobile telephone number ending in 0440, which was registered in Spain.

h. Individual B and MARTIN-CARO SANCHEZ were personal friends. Individual B was a Spanish citizen and the owner of a Spanish investment firm. Individual B was also a member of the Board of Directors for a Spanish clothing company and a Spanish textile company, and subscribed to and used a mobile telephone number ending in 5142, which was registered in Spain.

i. Individual C was a Spanish citizen living in Athens, Greece. Individual A and Individual C maintained a business relationship, including serving as officers at a Spanish licensing agency and content distributor. Individual C subscribed to and used a mobile telephone number ending in 5000, which was registered in Greece.

j. Individual D and MARTIN-CARO SANCHEZ were personal friends. Individual D was a Spanish citizen employed as a portfolio manager for a Spanish financial and brokerage firm, and subscribed to and used a mobile telephone number ending in 8253, which was registered in Spain.

k. Individual E and MARTIN-CARO SANCHEZ were personal friends. Individual E was a Spanish citizen employed as the head of private banking at a bank in Toledo, Spain, where MARTIN-CARO SANCHEZ maintained a personal account. Individual E subscribed to and used a mobile telephone number ending in 3150, which was registered in Spain.

### **BHP's Attempted Acquisition Of Potash**

l. In August 2010, BHP's Board of Directors determined to make a tender offer to acquire all of Potash's common stock. On August 3 BHP's CEO contacted Potash's CEO and scheduled a face-to-face meeting for August 12 in Chicago, Illinois. At that time, BHP's CEO did not disclose the purpose of the meeting to the CEO of Potash.

m. On August 4 BHP approached several investment banks, including Banco Santander, S.A. (Santander), headquartered in Spain, to determine whether they could support an approximately \$40 billion underwriting in connection with BHP's planned acquisition of Potash. BHP told the banks that its acquisition plan was confidential, and that it needed a response by August 11.

n. On August 9 Santander approved the financing commitment, communicated that to BHP, and executed a confidentiality agreement. Shortly thereafter, three other investment banks provided similar financing commitments to BHP and also executed confidentiality agreements.

o. On August 12 BHP's CEO met with Potash's CEO and presented BHP's proposal to acquire Potash for a total of \$38.6 billion. BHP delivered letters to Potash summarizing the acquisition proposal, and setting forth BHP's financing facilities, the due diligence conducted, and certain undertakings that BHP would be prepared to take in connection with the proposed acquisition. Potash's CEO responded that Potash was not for sale.

p. On August 13 Potash's Board of Directors met to discuss the BHP offer and retained advisors to analyze the proposed acquisition.

q. On August 16 Potash's Board determined to reject the offer.

r. On August 17 Potash informed BHP that the acquisition proposal grossly undervalued Potash and that the acquisition did not serve the best interests of the company's

shareholders. At 6:00 a.m. Eastern Daylight Time (EDT), Potash publicly announced that its Board had received and rejected BHP's unsolicited offer to purchase its common stock for \$38.6 billion in cash, or \$130 per share, which amounted to a 16% premium to the closing price of Potash's stock on the previous day. At 8:30 a.m. EDT, Potash held an investor conference call to discuss BHP's unsolicited offer. That day Potash's share price soared, opening at \$143.11 and closing at \$143.17, up \$31.02, or 27.7%, from the previous day's closing price of \$112.15.

s. On August 18 BHP publicly disclosed that it had commenced a nearly \$40 billion hostile bid for all of Potash's outstanding common shares.

### **Potash Trades and Communications**

t. On August 11 MARTIN-CARO SANCHEZ's Interactive account had a net equity value of approximately \$30,503 and he was not authorized to trade options in the account.

u. On August 12 and 13, before the proposed acquisition of Potash was made public, MARTIN-CARO SANCHEZ obtained authorization to trade options in his Interactive account, transferred funds into the account, and paid \$47,499 to purchase 331 out-of-the-money September 125 call options with an expiration date of September 18, 2010, when Potash stock was trading in a range of \$106.56 to \$112.88 per share. Prior to those purchases, MARTIN-CARO SANCHEZ had never traded U.S. stock or options in his Interactive account or purchased Potash securities in any brokerage account.

v. MARTIN-CARO SANCHEZ had dozens of communications with others who traded Potash call options, or communicated with persons who traded Potash call options, in the days surrounding his purchases of those options. Specifically, MARTIN-CARO SANCHEZ and Individuals A, B, C, and D engaged in the following series of communications leading up to the

purchases and sales of Potash securities between August 7 and 17, 2010 (all times U.S. Eastern Daylight Time):

**August 7 – 9**

1) Between August 7 and August 9, Individual A made five telephone calls to Individual B. On the morning of August 9, Individual B purchased 330 Potash September 125 call options.

2) On August 9 Individual A made three telephone calls to MARTIN-CARO SANCHEZ. Prior to those calls, Individual A and MARTIN-CARO SANCHEZ had not communicated through their mobile telephones in more than a month.

3) On August 9 Individual A also called Individual C.

**August 10**

4) On August 10 Individual C sent an email to his brokerage firm in Zurich, Switzerland, with instructions to buy \$400,000 of Potash September 125 call options. Several hours later, at 10:13 a.m., Individual A called Individual C, and at 10:31 a.m. Individual C purchased 900 Potash September 125 call options.

**August 11**

5) At 5:53 a.m. on August 11 Individual A sent a text message to MARTIN-CARO SANCHEZ. Seven minutes later, at 6:00 a.m., MARTIN-CARO SANCHEZ requested permission from Interactive via email to purchase Potash call options in his account, but received error messages and was not able to trade. At 6:10 a.m. Individual A made a 12 minute call to MARTIN-CARO SANCHEZ, and at 6:28 a.m. MARTIN-CARO SANCHEZ transferred €1,000 to the Interactive account in which he eventually purchased Potash options.

6) At 6:56 a.m. and 6:58 a.m. MARTIN-CARO SANCHEZ made two calls to Individual E, and at 7:05 a.m. €40,000 was transferred from MARTIN-CARO SANCHEZ's personal brokerage account at Individual E's bank into his personal bank account at Banco Pastor, S.A.

7) At 8:10 a.m. MARTIN-CARO SANCHEZ called Individual D. Later that day, Individual D purchased 190 Potash September 125 call options. Prior to that call MARTIN-CARO SANCHEZ had not called Individual D on his mobile telephone in almost one month.

8) At 10.57 a.m. Individual C purchased an additional 900 Potash September 125 call options.

9) At 12.18 p.m. Individual A texted MARTIN-CARO SANCHEZ, and at 12:48 p.m. MARTIN-CARO SANCHEZ telephoned Individual A in a call that lasted 6 minutes and 56 seconds. Less than 15 minutes later, MARTIN-CARO SANCHEZ contacted Interactive customer service and inquired about his ability to trade U.S. equity options. When he was advised that he was not authorized to trade options in his account, he asked Interactive to expedite option trading approval.

10) Later that night, Individual A also made two calls to Individual B.

### **August 12**

11) Early on August 12 Interactive granted MARTIN-CARO SANCHEZ permission to trade U.S. options in his account. At 6:52 a.m. MARTIN-CARO SANCHEZ called Individual A, and at 6:53 a.m. and 7:06 a.m. MARTIN-CARO SANCHEZ made two calls to Individual D.

12) Between 9:42 a.m. and 10:16 a.m. MARTIN-CARO SANCHEZ purchased 141 Potash September 125 call options through Interactive over the CBOE. Immediately thereafter, Individual D purchased 3,000 Potash shares for an account that he managed.

13) Between 10:17 a.m. and 10:29 a.m. MARTIN-CARO SANCHEZ and Individual A exchanged three text messages and one telephone call, and at 10:42 MARTIN-CARO SANCHEZ also called Individual D. At 11:02 a.m. MARTIN-CARO SANCHEZ requested that €25,000 be transferred from his Banco Pastor bank account to his Interactive brokerage account, and from 11:53 a.m. to 11:56 a.m. he purchased 20 more Potash September 125 call options.

14) Over the next few hours, Individual D purchased 2,000 more Potash shares for an account that he managed.

### **August 13**

15) At 2:16 a.m. on August 13, Interactive credited €25,000 to MARTIN-CARO SANCHEZ's account from his Banco Pastor account. At 9:38 a.m. MARTIN-CARO SANCHEZ purchased an additional 53 Potash September 125 call options.

16) Over the next few hours, MARTIN-CARO SANCHEZ exchanged three telephone calls with Individual A. MARTIN-CARO SANCHEZ then purchased another 117 Potash September 125 call options. Less than four minutes after the last purchase he texted Individual A, who responded immediately.

### **August 17**

17) At 6:00 a.m. on August 17 Potash publicly announced that it had received and rejected BHP's offer to purchase Potash for \$38.6 billion or \$130 per share.

18) In the hours following the announcement, Individual A called MARTIN-CARO SANCHEZ three times, and between 10:28 a.m. and 11:55 a.m.



MARTIN-CARO SANCHEZ sold his entire position of 331 Potash call options while he and Individual A exchanged text messages. MARTIN-CARO SANCHEZ realized net profits of approximately \$496,953, a return of approximately 1,046% on his investment in five days.

19) Also during that time, Individual B sold all 330 of his Potash call option and realized net profits of approximately \$540,493, or 1,043% profit on his investment in eight days.

20) In addition, that morning Individual A made two telephone calls to Individual C, who later that day sold all 1,800 of his Potash call options, realizing net profits of \$3,117,949, or 1,576% profit on his investment in seven days.

21) Finally, MARTIN-CARO SANCHEZ had several communications with Individual D, who sold all 190 of his Potash call options on August 17, and all his Potash stock that day and on August 19. Individual D realized net profits of \$287,690 on the options and approximately \$165,000 on the stock, or approximately 1249% on his option investment and 29.6% on his stock investment in six days.

### **August 18**

w. At 3:39 a.m. on August 18, MARTIN-CARO SANCHEZ sent a request to Interactive to transfer €412,000 to his Banco Pastor bank account. Later that day at 12:41 p.m., MARTIN-CARO SANCHEZ had a telephone conversation lasting approximately four minutes with Individual A.

x. That afternoon at 12:44 p.m., Interactive's compliance department sent an e-mail to MARTIN-CARO SANCHEZ notifying him that it was "conducting a routine review related to recent trading activity in [his] IB account." Interactive temporarily froze withdrawals from the account and allowed him to liquidate existing positions but not to establish any new positions. The e-mail also stated that Interactive compliance would contact him once the review was complete.

Despite being advised that his account was under review by Interactive's compliance department, MARTIN-CARO SANCHEZ made further attempts throughout that day and the next few days to transfer his Potash trading proceeds to his personal accounts in Spain. Those requests were all rejected by Interactive.

### **The SEC Civil Action**

y. After beginning its review of MARTIN-CARO SANCHEZ's trading, Interactive contacted the SEC, and on August 20, 2010, the SEC filed an emergency action in the United States District Court for the Northern District of Illinois against MARTIN-CARO SANCHEZ and another individual, *SEC v. Garcia, et al.*, 10-cv-5266 (N.D.IL.), charging him with insider trading in Potash securities and seeking a Temporary Restraining Order (TRO). That afternoon the Court entered the TRO, which, among other things, temporarily restrained MARTIN-CARO SANCHEZ from future violations of Sections 10(b) and 14(e) of the Securities Exchange Act of 1934 and Rules 10b-5 and 14e-3, froze his Interactive brokerage account, authorized expedited discovery, and enjoined him from directly or indirectly destroying, concealing, altering, or disposing of any communications, records, documents, correspondence, accounts, statements, files, electronically stored information, or other property related to the allegations in the Complaint regarding the trading of Potash securities.

z. Immediately after the TRO was issued, at 4:23 p.m. on August 20 (10:23 p.m. Madrid time), the SEC sent MARTIN-CARO SANCHEZ an email notifying him that the SEC had sued him for insider trading and obtained a TRO, and providing him an electronic copy of the TRO.

aa. The next morning, at 6:41 a.m. August 21 (12:41 p.m. Madrid time), MARTIN-CARO SANCHEZ called Individual A on their respective mobile phones. This was the

first telephone communication they had on those phones since MARTIN-CARO SANCHEZ sold his Potash options on August 17. Over the next two days, MARTIN-CARO SANCHEZ and Individual A exchanged 18 telephone calls and two text messages.

bb. On August 25 MARTIN-CARO SANCHEZ travelled to the United States, appeared at a Court hearing in his case, and submitted to the jurisdiction of the District Court.

cc. Immediately following the Court hearing, MARTIN-CARO SANCHEZ voluntarily appeared for an interview at the SEC's offices in Chicago, Illinois with SEC staff from its Division of Enforcement and special agents from the Federal Bureau of Investigation (FBI). Before the interview began, MARTIN-CARO SANCHEZ was advised that the SEC was a federal civil agency and the FBI was a federal criminal agency. He was further advised that he had the right to be represented by an attorney at the interview, that he could refuse to answer any questions, that information he provided could be shared with other criminal or civil authorities, and that he could not knowingly provide false information. MARTIN-CARO SANCHEZ indicated that he understood and voluntarily provided the following information:

1) He acknowledged that he purchased 331 Potash September 125 call options on August 12 and August 13.

2) He acknowledged that he sold the Potash call options on August 17, the day of the BHP takeover announcement, and said that he did not speak with anyone about the announcement before he sold the options.

3) He stated that he not tell anyone that he purchased Potash options, but that he had told people that he sold them for a profit.

4) He stated that he did not know anyone else who ever bought Potash options.

dd. On August 26, 2010, pursuant to the TRO and Rule 33 of the Federal Rules of Civil Procedure, the SEC served MARTIN-CARO SANCHEZ with its First Set of Interrogatories in its civil suit against him, including requiring him to answer the following questions:

1) Interrogatory No. 2: “Identify all bank accounts that you hold, have held or have used since January 1, 2005, including but not limited to, the name of the account, the account number, and the firm, including its address, at which the account is or was held.”

2) Interrogatory No. 6: “Identify all communications that you have had with any individual about Potash or BHP (including, without limitation, BHP’s proposal for Potash’s shares) since January 1, 2010. Include in your answer a complete and detailed description of each communication, including who was involved, when it took place, and the substance of the communication.”

ee. On August 26, 2010, pursuant to the TRO and Federal Rules of Civil Procedure 26 and 34, the SEC also served MARTIN-CARO SANCHEZ with its First Request for the Production of Documents and Things in its civil suit against him, including requiring him to produce the following:

1) Document Request No. 12: “All documents relating to any account at a bank or other financial institution (including foreign accounts) held in your name, or in which you have had any control and/or direct or indirect beneficial interest during the period January 1, 2005 to the present, including but not limited to account opening documents and bank statements.”

ff. On November 19, 2010, MARTIN-CARO SANCHEZ provided his Answers and Objections to the SEC’s Interrogatories and certified under oath that they were truthful.

1) In response to Interrogatory No. 2, MARTIN-CARO SANCHEZ stated that he would compile his records regarding all bank accounts that he held or had used since January 1,

2005, and allow the SEC to examine, audit, and make copies of those records, by producing “documents responsive to this Interrogatory in accordance with Fed. R. Civ. P. 33(d).”

2) In response to Interrogatory No. 6, MARTIN-CARO SANCHEZ stated that “other than the referral conversation with Interactive Brokers,” he had no communications with anyone about Potash or BHP since January 1, 2010.

gg. Pursuant to the TRO and Federal Rule of Civil Procedure 26(e), MARTIN-CARO SANCHEZ had a continuing legal obligation to produce documents demanded by the SEC and to supplement his responses to the SEC’s Interrogatories and document requests “in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect.” This continuing obligation extended throughout the course of the SEC’s lawsuit, which ended with a final judgment Order on December 28, 2011.

hh. During the course of the SEC lawsuit, MARTIN-CARO SANCHEZ maintained account number CH \*\*\*872W at UBS AG Bank in Zurich, Switzerland, in the name of “Luis Martin Caro.”

ii. On November 30 and December 13, 2010, Individual B sent €50,000 on each date from his personal brokerage account at Credit Suisse Ltd., Nassau, Bahamas, to MARTIN-CARO SANCHEZ’s UBS AG bank account in Zurich, Switzerland. This €100,000 came directly from the proceeds of Individual B’s Potash option sales, which Individual B maintained in U.S. dollars in his Credit Suisse account. Before each €50,000 payment, Individual B provided written directions to his broker to convert a sufficient amount of dollars to Euros to fund the payments, and to transfer the funds to MARTIN-CARO SANCHEZ’s UBS AG account. The €100,000 transfer to MARTIN-CARO SANCHEZ comprised approximately 23% of Individual B’s net proceeds from his Potash options sales.

jj. On November 3, 2010, April 7, 2011, May 17, 2011, and June 9, 2011, MARTIN-CARO SANCHEZ produced documents in response to the SEC's Interrogatories and Document Requests, including bank, brokerage, and mobile telephone records. His final document production on June 9, 2011 was accompanied by a cover letter from his attorney to the SEC stating that although MARTIN-CARO SANCHEZ "has already produced vast amounts of financial information for 2010" in "a good faith attempt to resolve any remaining issues, we include additional documents."

kk. MARTIN-CARO SANCHEZ intentionally withheld and concealed from the SEC all information, records, and documents relating to the UBS AG bank account in which he received the two €50,000 payments from Individual B on November 30 and December 13, 2010. The SEC did not discover the existence of this bank account and the two €50,000 payments from Individual B until January 6, 2014, more than two years after its lawsuit against MARTIN-CARO SANCHEZ had ended.

2. Between on or about November 30, 2010 and December 28, 2011, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

LUIS MARTIN-CARO SANCHEZ,

defendant herein, did knowingly conceal and cover up records and documents with the intent to impede, obstruct, and influence the proper administration of a matter within the jurisdiction of the United States Securities and Exchange Commission, an agency of the United States, by concealing in response to Document Request No. 12 in the civil case the SEC filed against him in the United States District Court for the Northern District of Illinois, *SEC v. Garcia, et al.*, 10-cv-5266 (N.D.IL.), that he maintained and controlled account number CH \*\*\*872W at UBS AG bank in Zurich, Switzerland in the name of "Luis Martin Caro," into which he had received

two payments of €50,000 each from Individual B on November 30 and December 13, 2010, said funds being directly derived from Individual B's sale of Potash September 125 call options on August 17, 2010.

In violation of Title 18, United States Code, Section 1519.

## COUNT TWO

The SPECIAL AUGUST 2015 GRAND JURY further alleges:

1. Paragraph 1 of Count One is incorporated here.
2. Between August 20, 2010 and December 28, 2011, the United States Securities and Exchange Commission, an agency within the executive branch of the Government of the United States, was investigating MARTIN-CARO SANCHEZ and others for potential violations of the United States securities laws, rules, and regulations, including for potential insider trading in Potash securities in connection with the attempted acquisition of Potash by BHP in August 2010.
3. The following matters, among others, were material to the investigation, and to the civil lawsuit brought against MARTIN-CARO SANCHEZ by the SEC in August 2010, *SEC v. Garcia, et al.*, 10-cv-5266 (N.D.IL.):
  - a. who, if anyone, MARTIN-CARO SANCHEZ spoke to or communicated with regarding the purchase and sale of Potash securities between approximately August 9 and 25, 2010.
  - b. who, if anyone, MARTIN-CARO SANCHEZ knew that bought Potash securities between approximately August 9 and 17, 2010.
4. During the course of its lawsuit, on July 1, 2011 the SEC conducted a telephonic deposition of MARTIN-CARO SANCHEZ, who was duly sworn by a court reporter. MARTIN-CARO SANCHEZ was in Spain during the deposition, while his attorneys, the SEC staff, the court reporter, and an interpreter were in Chicago, Illinois.
5. On July 1, 2011, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

LUIS MARTIN-CARO SANCHEZ,



defendant herein, while under oath did knowingly make materially false declarations in a proceeding ancillary to the case of *SEC v. Garcia, et al.*, 10-cv-5266 (N.D.IL.), in the United States District Court of the Northern District of Illinois, when he denied knowing anyone who ever purchased Potash securities in 2010 or 2011. Specifically, in response to questions by the SEC in his deposition, MARTIN-CARO SANCHEZ stated:

Q. Do you know anyone who has ever bought Potash securities, and from – at any point in 2010 or 2011?

A. No, I don't know of anyone.

Whereas, in truth and in fact, as MARTIN-CARO SANCHEZ then well knew, this statement was false because, among other things:

a. from August 11 through August 18, 2010, MARTIN-CARO SANCHEZ made eight telephone calls to Individual D, and shortly after each telephone call Individual D traded Potash securities; and

b. on November 30 and December 13, 2010, Individual B sent €50,000 on each date from his personal brokerage account at Credit Suisse Ltd., Nassau, Bahamas, to MARTIN-CARO SANCHEZ's UBS AG bank account in Zurich, Switzerland, these funds coming directly from the proceeds of Individual B's Potash option sales.

In violation of Title 18, United States Code, Section 1623.

### COUNT THREE

The SPECIAL AUGUST 2015 GRAND JURY further alleges:

1. Paragraph 1 of Count One, and Paragraphs 2 through 4 of Count Two, are incorporated here.

2. During the July 1, 2011 deposition an SEC attorney introduced as an exhibit a true and correct copy of the August 2010 mobile telephone records that MARTIN-CARO SANCHEZ had produced to the SEC. The SEC attorney asked MARTIN-CARO SANCHEZ to identify five telephone numbers that he called on August 11, 2010, and provided him a copy of those telephone records to examine while answering the questions.

3. On July 1, 2011, at Chicago, in the Northern District of Illinois, Eastern Division, and elsewhere,

MARTIN-CARO SANCHEZ,

defendant herein, while under oath did knowingly make materially false declarations in a proceeding ancillary to the case of *SEC v. Garcia, et al.*, 10-cv-5266 (N.D.IL.), in the United States District Court of the Northern District of Illinois, when he denied knowing the telephone numbers of Individuals A and D. Specifically, in response to questions by the SEC in his deposition, MARTIN-CARO SANCHEZ stated:

Q. Okay. I want to put in front of you the telephone records you gave us, Mr. Sanchez. And it's Exhibit 14. And I want to ask you about five phone numbers to see if you can remember whose numbers they are.

A. Okay.

...

Q. And all of the numbers I am going to ask you about, you called on August 11th . . . you can use this document to jog your memory, but I will just read the number. And if you want, then I could correspond it with an entry on the phone bill, if that would help you. So are you ready for the first number?

A. Yes.

Q. And perhaps you want to write it down, if that would be easier for you.

A. One moment, please. I have to get a pencil and paper. Okay. Tell me.

Q. \*\*\*\*\*3150.

A. Okay.

Q. Why don't we start with that. Does that sound familiar?

A. Yes, it sounds familiar.

Q. Can you tell me whose number it is?

A. It's Individual E.

Q. Okay. The next number: \*\*\*\*\*8253. Do you know whose phone number that is?

A. No.

Q. What about \*\*\*\*\*0440?

A. \*\*\*\*\*0-

Q. 440.

A. I don't recall.

Q. Okay. The next one: \*\*\*\*\*3757.

A. Yes. \*\*\* –

Q. – \*\*3757

A. Okay. I think that the number for my attorney.

Q. And what's the name of your attorney?

A. Individual F.

Q. The last number is \*\*\*\*\*2423.

A. Okay. Could you repeat that again?

Q. Sure. \*\*\*\*\*2423.

A. That's my ex-wife.

Whereas, in truth and in fact, as MARTIN-CARO SANCHEZ then well knew, his statement that he did not know who the telephone number ending in 0440 belonged to was false because, among other things:

a. between August 9 through August 17, 2010, MARTIN-CARO SANCHEZ communicated with Individual A at least 29 times through their mobile telephones, and

b. at 12:41 p.m. Madrid time on August 21, 2010, the day after the SEC received its emergency TRO against MARTIN-CARO SANCHEZ and sent him a copy of the Order, he called Individual A at that telephone number, and exchanged 18 telephone calls and two text messages with him over the next two days using that number.

In addition, in truth and in fact, as MARTIN-CARO SANCHEZ then well knew, his statement that he did not recall who the telephone number ending in 8253 belonged to was also false because, among other things:

c. from August 11 through August 18, 2010, MARTIN-CARO SANCHEZ made eight telephone calls to Individual D at that number, and shortly after each call Individual D traded Potash securities.

In violation of Title 18, United States Code, Section 1623.

A TRUE BILL:

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FOREPERSON

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UNITED STATES ATTORNEY