

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon.
	:	
v.	:	Crim. No. 16-
	:	
ANTONIO FASOLINO	:	18 U.S.C. §§ 1343, 1957 & 2

INDICTMENT

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

Counts One through Three
(Wire Fraud)

Background

1. At all times relevant to this Indictment:
 - a. Defendant ANTONIO FASOLINO ("FASOLINO") resided in New Jersey and owned and controlled several companies (the "Fasolino Companies").
 - b. The Fasolino Companies included, among others, Fasolino Foods USA, Inc., Fasolino Food Co., Inc., Fasolino Enterprises, Inc., and Fasolino Wine & Spirits, Inc. The Fasolino Companies were primarily engaged in the manufacture and distribution of food and beverage products.
 - c. Victim 1 was a resident of Kansas and owned or controlled several companies (the "Victim 1 Entities"). Certain of the Victim 1 Entities engaged in commercial lending to businesses. During the

period covered by this Indictment, Victim 1 and the Victim 1 Entities provided approximately \$1.3 million to certain Fasolino Companies.

- d. Victim 2 was a resident of Florida, and was an individual investor. During the period covered by this Indictment, Victim 2 provided approximately \$2.2 million to certain Fasolino Companies.
- e. Company A was business broker headquartered in New York.
- f. Company B was a retailer headquartered in Washington state.
- g. Company C was a retailer headquartered in Massachusetts.

2. From in or around January 2012 through in or around December 2012, defendant FASOLINO engaged in a business fraud scheme, pursuant to which he fraudulently obtained approximately \$3.5 million in loans from Victim 1 and Victim 2 (hereinafter, the "Victim Lenders"), by falsely representing, among other things, that the Fasolino Companies had been awarded lucrative contracts to sell large amounts of olive oil to Company B and Company C. In fact, neither Company B nor Company C had ever awarded either defendant FASOLINO or the Fasolino Companies any such contract.

3. Defendant FASOLINO made additional material misrepresentations to induce the Victim Lenders to provide him and his companies with funds. These included, among other things, representing to the Victim Lenders that their money would be used for specific business purposes; that the Fasolino Companies had certain amounts of gross receipts/sales and inventory; and that certain Fasolino Companies owed certain amounts of taxes based on these

amounts of gross receipts/sales. Defendant FASOLINO's representations were knowingly false when made, and he used the majority of Victim Lenders' money for purposes other than what he represented, including by using a substantial portion of their money for his own personal benefit.

The Scheme to Defraud

4. From in or around January 2012 through in or around December 2012, in the District of New Jersey and elsewhere, defendant

ANTONIO FASOLINO

did knowingly and intentionally devise and intend to devise a scheme and artifice to defraud victim lenders, including Victim Lender 1 and Victim Lender 2, and to obtain money by means of materially false and fraudulent pretenses, representations, and promises.

Object of the Scheme to Defraud

5. The object of defendant FASOLINO's scheme to defraud was for defendant FASOLINO to profit unlawfully by misrepresenting to Victim Lenders: (a) the creditworthiness of certain of the Fasolino Companies; and (b) that the loan proceeds would be used for certain specific business purposes while misappropriating the majority of Victim Lenders' money for his own personal and other uses.

Manner and Means of the Scheme

6. It was part of the scheme to defraud that, to induce the Victim Lenders to provide the business loans, defendant FASOLINO made a number of false representations regarding the size, financial health, and business

prospects of the Fasolino Companies. These false representations included, among other things:

- a. promotional materials and other documents about the Fasolino Companies;
- b. tax returns (which were never actually filed with the IRS) purporting that gross receipts and sales for one of the Fasolino Companies was more than approximately \$115 million for tax years 2009 and 2010 combined, and that that entity owed more than \$5.2 million in taxes in that time; and
- c. That certain of the Fasolino Companies had contracted with national retailers Company B and Company C to provide them with large quantities of olive oil.

7. It was further part of the scheme to defraud that defendant FASOLINO made certain misrepresentations to employees of Company A and others about his own personal history. These included falsely representing that defendant FASOLINO was not the subject of a particular prior criminal conviction about which the Victim Lenders were asking, when in fact he was.

8. It was further part of the scheme to defraud that, contrary to the representations that defendant FASOLINO made to the Victim Lenders, and without their knowledge, defendant FASOLINO did not use the majority of loan funds for the specific business purposes he had presented to the Victim Lenders. Instead, he used the Victim Lenders' money to fund his brokerage

accounts and pay his own personal expenses, among other things. For example:

- a. On or about November 15, 2012, the same day that defendant FASOLINO and the Fasolino Companies received approximately \$2.2 million from Victim Lender 2, defendant FASOLINO transferred approximately \$240,000 to a securities trading account that he controlled.
- b. On or about November 19, 2012, and December 4, 2012, defendant FASOLINO transferred approximately \$1 million more to his securities trading account.
- c. Defendant FASOLINO also diverted the Victim Lenders' funds to pay for, among other things, personal expenses such as car and mortgage payments, apartment rentals, a wedding, college tuition and credit card payments.

9. It was further part of the scheme to defraud that after the Victim Lenders had provided defendant FASOLINO with their money, and after he had spent it in ways inconsistent with the parties' agreements, defendant FASOLINO made further fraudulent misrepresentations to the Victim Lenders. These included providing to Company A, who acted as the collateral agent for Victim Lenders 1 and 2, fraudulently altered bank records that purported to show that one of the Fasolino Companies possessed millions of dollars in its bank accounts, when in fact the accounts held just a few dollars.

Execution of the Scheme

10. On or about the dates set forth below, in the District of New Jersey and elsewhere, for the purpose of executing and attempting to execute this scheme and artifice to defraud, defendant

ANTONIO FASOLINO

did knowingly and intentionally transmit and cause to be transmitted by means of wire communications in interstate and foreign commerce the following writings, signs, signals, pictures and sounds, each constituting a separate count of this Indictment:

Count	Approximate Date	Description
One	August 31, 2012	Wire transfer in the amount of approximately \$1,225,000 from a bank account in Kansas to a bank account controlled by defendant FASOLINO in New Jersey
Two	October 1, 2012	Email communication in interstate commerce from defendant FASOLINO in New Jersey to Individual 1 in Illinois regarding defendant FASOLINO's background
Three	November 15, 2012	Wire transfer in the amount of approximately \$2,257,500 from a bank account in New York to a bank account controlled by defendant FASOLINO in New Jersey

In violation of Title 18, United States Code, Sections 1343 and 2.

Count 4
(Transacting in Criminal Proceeds)

1. The allegations set forth in Paragraphs 1 through 3 and 6 through 10 of Counts One through Three of this Indictment are hereby repeated, realleged and incorporated as if fully set forth herein.

2. On or about September 5, 2012, in the District of New Jersey, and elsewhere, defendant

ANTONIO FASOLINO

knowingly engaged and attempted to engage in a monetary transaction affecting interstate commerce in criminally derived property of a value greater than \$10,000, that is the wire transfer of approximately \$500,000 from a checking account ending in 5403 to a brokerage account in the name of defendant FASOLINO's wife ending in 1715, such property having been derived from specified unlawful activity, that is wire fraud, in violation of Title 18, United States Code, Sections 1343 and 2.

In violation of Title 18, United States Code, Section 1957 and Section 2.

Forfeiture Allegations

1. The allegations contained in Counts One through Four of this Indictment are hereby realleged and incorporated by reference for the purpose of noticing forfeitures pursuant to Title 18, United States Code, Section 981(a)(1)(A) & (C), and Title 28, United States Code, Section 2461(c).

2. The United States hereby gives notice to the defendant that, upon conviction of the offenses charged in Counts One through Four, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 981(a)(1)(A) & (C), and Title 28, United States Code, Section 2461(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 1343 and 1957 and 2, alleged in Counts One through Four of this Indictment.

Substitute Assets Provision

3. If by any act or omission of the defendant, any of the property subject to forfeiture described above:

- 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 of America will be entitled to forfeiture of substitute property up to the value of the property described

incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL

FOREPERSON

A handwritten signature in cursive script, appearing to read "Paul J. Fishman", written over a horizontal line.

PAUL J. FISHMAN
United States Attorney