

FILED by KS ELECTRONIC	D.C.
April 22, 2009	
STEVEN M. LARIMORE CLERK U.S. DIST. CT. S.D. OF FLA. - MIAMI	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. **09-20346-CR-MARTINEZ/BROWN**
18 U.S.C. §371

UNITED STATES OF AMERICA

vs.

JUAN DIAZ,

Defendant.

_____ /

INFORMATION

The United States Attorney charges that:

COUNT ONE
Conspiracy
(18 U.S.C. §371)

GENERAL ALLEGATIONS

At all times relevant to this Information:

1. The Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, *et seq.*, ("FCPA"), prohibited certain classes of persons and entities from corruptly making payments to foreign government officials to assist in obtaining or retaining business. Specifically, the FCPA prohibited certain corporations and individuals from willfully making use of any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of money or anything of value to any person, while knowing that all or a portion of such money or thing of value would be offered, given, or promised, directly or indirectly, to a foreign official to influence the foreign official in his or her official capacity, induce the foreign official to do or omit to do an act in violation of his or her lawful duty, or to secure any

improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person.

2. Telecommunications D'Haiti ("Haiti Teleco") is the Republic of Haiti's state-owned national telecommunications company. During the period relevant to this Information, Haiti Teleco was the only provider of local telephone service in Haiti. Various international telecommunications companies contracted with Haiti Teleco to allow those companies' customers to make calls to Haiti. Telecommunications companies paid Haiti Teleco a set rate for each minute of telephone calls to Haiti.

3. From in or around May 2001 to April 2003, Official A was the Director of International Relations of Haiti Teleco. In this position, it was Official A's responsibility to negotiate contracts with international telecommunications companies on behalf of Haiti Teleco. Official A was a "foreign official" as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(2).

4. From in or around March 2001 to June 2003, Official B was the General Director of Haiti Teleco. In this position, Official B oversaw all of Haiti Teleco and signed the contracts between Haiti Teleco and international telecommunications companies. Official B was a "foreign official" as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(2).

5. Company 1 was a privately owned U.S. telecommunications company that was incorporated in Florida and was headquartered in Miami, Florida. Company 1 executed a series of contracts with Haiti Teleco that allowed Company 1's customers to call Haiti. Company 1 was a "domestic concern" as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1).

6. Co-conspirator A was the President and Director of Company 1. In this position, Co-conspirator A negotiated and signed contracts with Haiti Teleco on behalf of Company 1. Co-

conspirator A had signatory authority over Company 1's bank accounts and had approximately an 80% ownership interest in Company 1. Co-conspirator A was a citizen of the United States. In light of the foregoing, Co-conspirator A was a "domestic concern" and an officer, employee, and agent of a domestic concern, as these terms are defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1).

7. Co-conspirator B was the Executive Vice President of Company 1. In this position, Co-conspirator B was in charge of overseeing Company 1's finances. Co-conspirator B had signatory authority over Company 1's bank accounts and had approximately a 20% ownership interest in Company 1. Co-conspirator B was a citizen of the United States. In light of the foregoing, Co-conspirator B was a "domestic concern" and an officer, employee, and agent of a domestic concern, as these terms are defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1).

8. Company 2 was a U.S. telecommunications company that was incorporated in Florida and had its principal place of business in Miami, Florida. Company 2 was the parent company of Company 3, which was also incorporated in Florida and had its principal place of business in Miami, Florida. Company 3 operated out of the same offices and shared some of the same personnel as Company 2. Company 2 and Company 3 executed a series of contracts with Haiti Teleco that allowed their customers to call Haiti. Company 2 and Company 3 were each a "domestic concern" as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1).

9. Co-conspirator C was the Vice President of both Company 2 and Company 3. In this position, Co-conspirator C, among others, negotiated and signed contracts with Haiti Teleco on behalf of Company 2 and Company 3. Co-conspirator C had signatory authority over Company 2's and Company 3's bank accounts. Co-conspirator C was a citizen of the United States. In light of the foregoing, Co-conspirator C was a "domestic concern" and an officer, employee, and agent of

a domestic concern, as these terms are defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1).

10. The defendant **JUAN DIAZ** was a citizen of the United States and served as an intermediary for Companies 1, 2, and 3 in their business dealings with Official A and Haiti Teleco. In or about November 2001, **DIAZ** opened a small business checking account number XXXXXX3506 at Kislak National Bank in the name of JD Locator Services ("JD Locator"). On or about August 19, 2002, **DIAZ** incorporated JD Locator in Florida and listed its principal address as located in Miami, Florida. In light of the foregoing, **DIAZ** is a "domestic concern" and an agent of a domestic concern as these terms are defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1).

THE CONSPIRACY

11. From in or around November 2001, and continuing through in or around October 2003, in the Southern District of Florida, and elsewhere, the defendant,

JUAN DIAZ,

did willfully, that is, with the intent to further the objects of the conspiracy, and knowingly conspire and agree with Co-conspirators A, B, and C, Companies 1, 2, and 3, and other persons known and unknown to the United States Attorney, to commit an offense against the United States, that is:

(1) to corruptly make use of the mails and means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of any money, offer, gift, promise to give, and authorization of the giving of anything of value to any foreign official for purposes of: (a) influencing acts and decisions of such foreign official in his official capacity; (b) inducing such foreign official to do and omit to do acts in violation of the lawful duty of such official; and (c) securing an improper advantage, in order to assist **DIAZ**, Co-conspirators A, B, and C, Companies 1, 2, and 3, and others known and unknown to the United

States Attorney, in obtaining and retaining business for and with, and directing business to Companies 1, 2, and 3 and himself, contrary to the Foreign Corrupt Practices Act, Title 15, United States Code, Section 78dd-2(a);

(2) to knowingly conduct a financial transaction affecting interstate and foreign commerce, which in fact involved the proceeds of specified unlawful activity, that is, a felony violation of the Foreign Corrupt Practices Act, Title 15, United States Code, Section 78dd-2(a), knowing that the property involved in the financial transaction represented the proceeds of some form of unlawful activity, and that the financial transaction was designed, in whole and in part, to conceal and disguise the nature, the location, the source, the ownership, and the control of the proceeds of said specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

PURPOSE OF THE CONSPIRACY

12. The purpose of the conspiracy was for the defendant and his co-conspirators to unjustly enrich themselves by providing concealed bribes to Officials A and B in exchange for business advantages to Companies 1, 2, and 3, including, but not limited to, issuing preferred telecommunications rates, reducing the number of minutes for which payment was owed (effectively reducing the per minute rate), and giving a variety of credits toward owed sums. It was further a purpose of the conspiracy for the defendant and his co-conspirators to knowingly conduct financial transactions with the proceeds of the bribe payments knowing that said transactions would conceal the nature of the bribe proceeds to Officials A and B.

MANNER AND MEANS OF THE CONSPIRACY

The manner and means by which **JUAN DIAZ** and his Co-conspirators sought to accomplish the objects and purposes of the conspiracy included, among other things, the following:

13. **JUAN DIAZ** would serve as the intermediary for delivering bribe payments to Official A from Company 1 and Company 2 in exchange for Official A reducing the effective rate that these companies would have to pay for their customers to make calls to Haiti.

14. **JUAN DIAZ** would open bank accounts in the name of J.D. Locator at Kislak National Bank in Miami, Florida and would use this account to receive wire transfers and deposit checks from Company 1 and Company 2.

15. **JUAN DIAZ**, at Official A's direction, would wire said funds to Official A's bank account, issue checks payable to Official A, withdraw cash and give it to Official A, and send funds to family members of Officials A and B and others.

16. **JUAN DIAZ** would retain as payment for his services 5-10% of the funds transferred to JD Locator's account. **DIAZ** retained such payments from in or around November 2001 through in or around October 2003. Over the course of the conspiracy, **DIAZ** received over \$1,000,000.00 in the J.D. locator account.

17. To conceal the true nature of the payments to Officials A and B, Company 1 would falsely record in its books and records the payments to JD Locator as "commissions." Similarly, Company 2 would falsely list moneys sent to JD Locator as vendor payments in its books and records.

18. **JUAN DIAZ** would, in an effort to conceal the true nature of the payments to Officials A and B, make false notations, such as fabricated invoice reference numbers, in the memo section of the checks he wrote from JD Locator's bank account to Official A.

19. **JUAN DIAZ** would cash bribery checks in amounts at or below \$10,000 to avoid the obligation to file a Currency Transaction Report with the bank, as is required by banking regulations and federal law.

OVERT ACTS

In furtherance of the conspiracy and to achieve the objects and purposes thereof, the Co-conspirators committed and caused to be committed in the Southern District of Florida and elsewhere, the following overt acts, among others:

On or about the following dates, Co-conspirator A and Co-conspirator B caused the following checks to be issued from Company 1's bank account made payable to JD Locator Services:

Overt Act	Approximate Date	Signed by	Amount
1.	November 2, 2001	Co-conspirator B	\$6,375
2.	November 30, 2001	Co-conspirator A	\$30,000
3.	January 18, 2002	Co-conspirator B	\$20,000
4.	January 24, 2002	Co-conspirator B	\$20,000
5.	February 8, 2002	Co-conspirator B	\$40,000
6.	April 12, 2002	Co-conspirator B	\$33,818.50
7.	May 10, 2002	Co-conspirator B	\$25,000
8.	July 15, 2002	Co-conspirator B	\$3,000
9.	July 17, 2002	Co-conspirator A	\$40,000

10.	July 24, 2002	Co-conspirator B	\$50,000
11.	August 1, 2002	Co-conspirator B	\$40,000
12.	August 12, 2002	Co-conspirator B	\$3,000
13.	August 14, 2002	Co-conspirator B	\$50,000
14.	November 7, 2002	Co-conspirator B	\$45,000
15.	November 22, 2002	Co-conspirator A	\$45,000
16.	January 22, 2002	Co-conspirator B	\$50,000
17.	January 30, 2002	Co-conspirator A	\$50,000
18.	February 24, 2003	Co-conspirator B	\$25,000
19.	March 14, 2003	Co-conspirator B	\$25,000
20.	March 24, 2003	Co-conspirator B	\$25,000
21.	March 28, 2003	Co-conspirator B	\$25,000
22.	June 10, 2003	Co-conspirator A	\$3,000

23. On or about February 4, 2002, Co-conspirator A and Co-conspirator B caused a wire transfer in the amount of \$20,000 to be sent from Company 1 to JD Locator.

On or about the following dates, Co-conspirator C caused the following checks to be issued from Company 2's bank account payable to JD Locator:

Overt Act	Approximate Date	Amount
24.	December 20, 2001	\$22,500
25.	January 7, 2002	\$140,000
26.	May 16, 2002	\$61,308.42
27.	July 15, 2002	\$34,993.81
28.	August 12, 2002	\$60,000
29.	August 8, 2003	\$15,000

On or about the following dates, **JUAN DIAZ** caused the following checks to be issued from JD Locator's bank account, payable to Official A:

Overt Act	Approximate Date	Amount	Memo
30.	August 21, 2002	\$69,750	Inv 57645
31.	November 21, 2002	\$4,900	Inv 4571
32.	November 26, 2002	\$4,950	Inv 21575
33.	December 9, 2002	\$4,800	Inv 21603
34.	December 11, 2002	\$4,800	Inv 21614
35.	December 30, 2002	\$2,465	Inv 21654
36.	February 5, 2003	\$4,900	Inv 037351
37.	February 10, 2003	\$2,380	Inv 037382
38.	February 12, 2003	\$4,900	Inv 037402
39.	February 19, 2003	\$4,900	Inv 037453
40.	February 24, 2003	\$3,700	Inv 037492
41.	March 26, 2003	\$4,500	Inv 037536
42.	March 28, 2003	\$4,500	Inv 037579
43.	April 9, 2003	\$4,500	Inv 037612
44.	April 16, 2003	\$4,500	Inv 037647
45.	April 28, 2003	\$4,500	Inv 037725

On or about the following dates, **JUAN DIAZ** caused the following wire transfers to be made from JD Locator's bank account to the Miami bank account of Official A:

Overt Act	Approximate Date	Amount
46.	August 21, 2002	\$58,223.00
47.	November 21, 2002	\$33,000.00
48.	November 26, 2002	\$46,500.00

49.	December 9, 2002	\$37,200.00
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50. On or about August 15, 2003, **JUAN DIAZ** cashed a check made payable to himself from the JD Locator account for \$9,000, which funds he then tendered to Official A.

51. On or about August 19, 2003, **JUAN DIAZ** cashed a check made payable to himself from the JD Locator account for \$5,000, which funds he then tendered to Official A.

All in violation of Title 18, United States Code, Section 371.

NOTICE OF FORFEITURE

1. Pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 21 United States Code Section 853, and Title 28, United States Code, Section 2461, and in accordance with the procedures set forth in Fed. R. Crim. P. 32.2, upon conviction of **JUAN DIAZ** for the offense charged in Count One of this Information, the defendant shall forfeit to the United States any property, real or personal, which constitutes proceeds traceable to the Title 18, United States Code, Section 371 conspiracy to commit a violation of the Foreign Corrupt Practices Act, Title 15, United States Code, Section 78dd-2, a specified unlawful activity as defined in Title 18, United States Code, Section 1956(c)(7), which is \$1,028,851.95 in United States currency.

Substitute Assets Provision

2. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

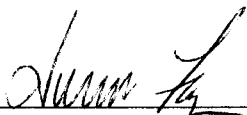
- (i) cannot be located upon the exercise of due diligence;
- (ii) has been transferred or sold to, or deposited with, a third party;
- (iii) has been placed beyond the jurisdiction of the court;
- (iv) has been substantially diminished in value; or

(v) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States pursuant to Title 21, United States Code, Section 853(p) as incorporated by Title 28, United States Code, Section 2461(c) to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY



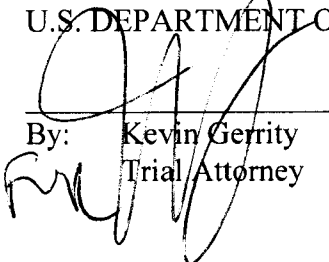
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STEVEN A. TYRRELL, CHIEF
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FRAUD SECTION, CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE



By: Nicola J. Mrazek
Trial Attorney

RICHARD WEBER, CHIEF
LAUREL LOOMIS RIMON, DEPUTY CHIEF
ASSET FORFEITURE AND MONEY LAUNDERING SECTION, CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE



By: Kevin Gerrity
Trial Attorney

UNITED STATES OF AMERICA

CASE NO. _____

vs.

JUAN DIAZ,

CERTIFICATE OF TRIAL ATTORNEY*

Defendant.

Superseding Case Information:

Court Division: (Select One)

x Miami _____ Key West _____
 _____ FTL _____ WPB _____ FTP _____

New Defendant(s)

Yes _____ No _____

Number of New Defendants _____

Total number of counts _____

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.

- Interpreter: (Yes or No) No
List language and/or dialect _____

- This case will take 0 days for the parties to try.

- Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

I	0 to 5 days	<u>X</u>	Petty	_____
II	6 to 10 days	_____	Minor	_____
III	11 to 20 days	_____	Misdem.	_____
IV	21 to 60 days	_____	Felony	<u>X</u>
V	61 days and over	_____		

- Has this case been previously filed in this District Court? (Yes or No) No

If yes:

Judge: _____

Case No. _____

(Attach copy of dispositive order)

Has a complaint been filed in this matter?

(Yes or No)

No

If yes:

Magistrate Case No. _____

Related Miscellaneous numbers: _____

Defendant(s) in federal custody as of _____

Defendant(s) in state custody as of _____

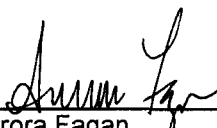
Rule 20 from the _____

District of _____

Is this a potential death penalty case? (Yes or No) No

- Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? _____ Yes X No

- Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? _____ Yes X No


 Aurora Fagan
 ASSISTANT UNITED STATES ATTORNEY
 Florida Bar No. 188591

*Penalty Sheet(s) attached

REV 4/8/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: Juan Diaz **Case No:** _____

Count 1

18 U. S. C. § 371

Conspiracy to Violate the Foreign Corrupt Practices Act and to Commit Money Laundering

***Max Penalty:** 5 years' imprisonment

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**