

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT

BY: COMPLAINT INFORMATION INDICTMENT
 SUPERSEDING

OFFENSE CHARGED

VIOLATION: Aiding and Abetting Securities Fraud, Title 18, United States Code, Sections 1348, 2
PENALTY: 25 Years imprisonment; \$250,000 fine (or twice gain/loss) restitution; 5 years supervised release; \$100 special assessment.

E-filing

- Petty
- Minor
- Misdemeanor
- Felony

Name of District Court and/or Judge/Magistrate Location
**NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

DEFENDANT - U.S.

DAVID SCOTT CACCHIONE

DISTRICT COURT NUMBER

CR 09

**0296
DEFENDANT**

JSW

PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

person is awaiting trial in another Federal or State Court, give name of court

this person/proceeding is transferred from another district per (circle one) FRCrp 20, 21, or 40. Show District

this is a reprosecution of charges previously dismissed which were dismissed on motion of:
 U.S. ATTORNEY DEFENSE } SHOW DOCKET NO.

this prosecution relates to a pending case involving this same defendant } MAGISTRATE CASE NO.

prior proceedings or appearance(s) before U.S. Magistrate regarding this defendant were recorded under }

Name and Office of Person Furnishing Information on this form
 U.S. Attorney Other U.S. Agency

Name of Assistant U.S. Attorney (if assigned) TIMOTHY P. CRUDO

IS NOT IN CUSTODY

- Has not been arrested, pending outcome this proceeding.
- 1) If not detained give date any prior summons was served on above charges
- 2) Is a Fugitive
- 3) Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) On this charge
- 5) On another conviction } Federal State
- 6) Awaiting trial on other charges
If answer to (6) is "Yes", show name of institution

Has detainer been filed? Yes No } If "Yes" give date filed

DATE OF ARREST Month/Day/Year

Or... if Arresting Agency & Warrant were not

DATE TRANSFERRED TO U.S. CUSTODY Month/Day/Year

This report amends AO 257 previously submitted

ADDITIONAL INFORMATION OR COMMENTS

PROCESS:

SUMMONS NO PROCESS* WARRANT

If Summons, complete following:
 Arraignment Initial Appearance

Defendant Address:

Bail Amount: _____

* Where defendant previously apprehended on complaint, no new summons or warrant needed, since Magistrate has scheduled arraignment

Date/Time: _____ Before Judge: _____

Comments:

E-filing

FILED
09 MAR 24 AM 10:25
RICHARD L. ...
CLERK U.S. DISTRICT COURT
SAN FRANCISCO, CALIFORNIA

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JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
v.
DAVID SCOTT CACCHIONE,
Defendant.

CK 09
No.

0206

JSW

VIOLATION: Aiding and Abetting
Securities Fraud, 18 U.S.C. §§ 1348, 2

SAN FRANCISCO VENUE

INFORMATION

The United States Attorney charges:

Between in or about August 2007, and continuing through and including on or about
March 2008, in the Northern District of California, and elsewhere, the defendant

DAVID SCOTT CACCHIONE

did knowingly and intentionally aid and abet a scheme and artifice to defraud lenders and
guarantees in connection with a security in violation of Title 18, United States Code § 1348.

Beginning in or about December 2005 and continuing until in or about June 2008,
CACCHIONE was a managing director at an investment brokerage firm in San Francisco,
California. In that position, CACCHIONE held a position of trust and confidence and owed a

1 fiduciary duty to the brokerage firm and its clients. That fiduciary duty included the obligation to
2 act in the best interests of the brokerage firm's clients, including the obligation not to disclose a
3 client's account information unless authorized by the client.

4 Beginning in or about August 2007 and continuing until in or about March 2008,
5 CACCHIONE improperly obtained from the brokerage firm copies of client account statements
6 and wrongfully provided those statements without authorization to a third party known to the
7 United States Attorney. CACCHIONE knew that he was not authorized to provide these
8 statements. In addition, CACCHIONE signed falsified Account Control Agreements, which gave
9 the appearance that the third party owned and controlled these client accounts when in fact he did
10 not. The securities reflected on the statements and subject to the Account Control Agreements
11 were registered under section 12, and the securities' issuers were required to file reports under
12 section 15(d), of the Securities Exchange Act of 1934.

13 The third party falsified the account statements provided by CACCHIONE to give the
14 appearance that the third party owned or controlled the accounts and the securities held therein.
15 The third party then used the falsified account statements and the Account Control Agreements
16 to apply for and guarantee loans from a number of persons and entities in connection with
17 various ventures, including the purchase of an interest in a major national sports league franchise.
18 To do so the third person transmitted the falsified statements to lenders and guarantees and, using
19 the false Account Control Agreements, purported to pledge the securities held in those accounts.
20 These fraudulent account statements and Account Control Agreements materially misrepresented
21 the third party's true financial condition.

22 At the times he provided the account statements to and signed the false Account Control
23 Agreements for the third party, CACCHIONE knew that his conduct was wrongful.

24 CACCHIONE further knew at the time that the third party intended to falsify the account
25 statements provided by CACCHIONE, that the third party intended to and did transmit the
26 falsified account statements and Account Control Statements to lenders and guarantees to obtain
27 loans, that the third party intended to and did purport to pledge the securities reflected in the

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1 account statements, and that the fraudulent account statements and false Account Control
2 Agreements materially misrepresented the third party's true financial condition.

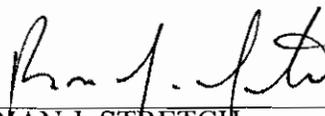
3 On or about the dates listed below, within the Northern District of California and
4 elsewhere, the third party, for the purpose of executing said scheme and artifice to defraud, did
5 knowingly cause the fraudulent brokerage account statements to be transmitted as follows:

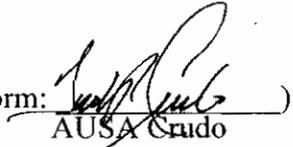
<u>Approximate Date</u>	<u>Transmitted to</u>	<u>Approximate Amount of Loan/Guarantee</u>
August 31, 2007	Zion's First National Bank	\$14.9 million (guarantee)
September 25, 2007	The Private Bank of the Peninsula	\$1 million
October 4, 2007	Heritage Bank of Commerce	\$1 million
October 23, 2007	Craig Leipold	\$10 million
October 29, 2007	AEG Facilities, Inc.	\$7 million
November 16, 2007	Modern Bank	\$10 million
November 28, 2007	DGB Investments, Inc.	\$3 million
December 7, 2007	CIT Group, Inc.	\$40 million (guarantee)
December 18, 2007	Pacific Capital Bank, dba South Valley National Bank	\$1.85 million
December 24, 2007	Heritage Bank of Commerce	\$4 million
January 29, 2008	United American Bank	\$1.75 million
February 13, 2008	Valley Community Bank	\$4.25 million
April 22, 2008	Security Pacific Bank	\$5 million

20 All in violation of Title 18, United States Code §§ 1348, 2.

22 DATED: March 24 2009

JOSEPH P. RUSSONIELLO
United States Attorney

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24 
25 BRIAN J. STRETCH
26 Chief, Criminal Division

27 (Approved as to form: )

AUSA Crudo