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NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 UNITED STATES OF AMERICA,  
12 Plaintiff,

13 v.

14 GERALD RUBALCABA,  
a/k/a "Cuete,"  
15 a/k/a "Cinco Nueve,"  
16 JAMES MORADO,  
a/k/a "Tibbs,"  
17 CORNELIO TRISTAN,  
a/k/a "Corny,"  
18 TEX MARIN HERNANDEZ,  
DANIEL PEREZ,  
a/k/a "Stork,"  
19 SHELDON VILLANUEVA,  
a/k/a "Skip,"  
20 CEASAR RAMIREZ,  
a/k/a "Lobo,"  
21 RICO GARCIA,  
a/k/a "Smiley,"  
22 VIDAL FABELA,  
a/k/a "Spider,"  
23 JACOB ENRIQUEZ,  
a/k/a "Blackie,"  
24 HENRY CERVANTES,  
a/k/a "Happy,"  
25 DAVID M. ROCHA,  
a/k/a "Sir Dyno," and  
26 DIANA VASQUEZ,

27 Defendants.

Criminal No.: CR-00-0654-CRB

SECOND SUPERSEDING INDICTMENT

18 U.S.C. § 1962(d)  
Conspiracy to Conduct the Affairs of an  
Enterprise through a Pattern of Racketeering  
Activity [Count 1]

18 U.S.C. § 1962(c)  
Conduct of the Affairs of an Enterprise through a  
Pattern of Racketeering Activity [Count 2]

18 U.S.C. § 1959(a)(1)  
Murder in Aid of Racketeering Activity  
[Counts 4, 10, 13, 19, 23]

18 U.S.C. § 1959(a)(5)  
Conspiracy to Murder in Aid of Racketeering  
Activity [Counts 3, 6, 8, 9, 12, 15, 16, 18, 21, 22]

18 U.S.C. § 1959(a)(5)  
Attempted Murder in Aid of Racketeering  
Activity [Count 7, 17]

18 U.S.C. § 924(c)(1)  
Using and Carrying a Firearm During a Crime of  
Violence [Counts 5, 11, 14, 20, 24]

18 U.S.C. § 1512(b)(1)  
Tampering with a Witness [Count 25]

SAN FRANCISCO VENUE

UNDER SEAL

1 The Grand Jury charges:

2 BACKGROUND

3 At all times relevant to this indictment:

4 1. The Nuestra Familia was a criminal organization, founded in approximately 1965,  
5 which operated principally in Northern California and within California correctional institutions.  
6 The organization provided protection and security for its members and associates from rival  
7 organizations and gangs both inside and outside California correctional institutions, including the  
8 Mexican Mafia criminal organization, and unlawfully generated income and furnished financial  
9 support for its members, particularly incarcerated members. Members and associates of the Nuestra  
10 Familia engaged in acts of violence, including murder, robbery, extortion, and distribution of  
11 controlled substances on behalf of the organization, and all Nuestra Familia members were required,  
12 for life, to contribute twenty-five percent of any earnings, whether from lawful or unlawful means, to  
13 repositories known as Nuestra Familia "banks."

14 2. Individuals obtained membership in the Nuestra Familia upon sponsorship by a  
15 member and approval by high ranking members. Usually membership was approved only after a  
16 period of indoctrination by Nuestra Familia members in which prospects were schooled and then  
17 tested, sometimes referred to as "21 Questions" or "the Third Degree," about Nuestra Familia  
18 criminal activities, including the manufacture of prison weapons, or "shanks," and the commission  
19 of murder, robbery and drug dealing inside and outside of prison. Only those who evinced both a  
20 knowledge of, and willingness to participate in, these activities were eligible for membership. The  
21 perpetration of violence and other crimes was ordinarily a prerequisite to membership in the  
22 organization, and membership, once achieved, was for life, as symbolized by the organization's  
23 membership phrase, "blood in, blood out."

24 3. In approximately 1983, the leaders of the Nuestra Familia established an affiliate,  
25 subordinate organization called the Nuestra Raza. The principal purposes of the Nuestra Raza  
26 organization were to provide training and discipline to individuals who aspired to be promoted or  
27 "pulled" into the Nuestra Familia and to distract law enforcement from the activities of the Nuestra

1 Familia. Members of the Nuestra Raza, while incarcerated within California penal institutions,  
2 assumed responsibility generally to promote the criminal objectives of the Nuestra Familia. Among  
3 other things, they conducted Nuestra Familia functions in the common areas of California penal  
4 institutions on behalf of Nuestra Familia members who were isolated in segregated housing units,  
5 and, in return, they received protection from rival organizations. Members of the Nuestra Raza were  
6 associates, but not members, of the Nuestra Familia, and throughout most of the Nuestra Raza  
7 organization's existence its members were not required to "function" as Nuestra Familia members  
8 outside of prison. In about 1998, the leadership of the Nuestra Familia disbanded the Nuestra Raza  
9 largely because its members had become too autonomous, threatening the authority of the Nuestra  
10 Familia.

11 4. The Nuestra Familia was hierarchically structured according to a constitution, and  
12 consisted of hundreds of members and more than one-thousand associates, incarcerated and outside  
13 prison. The organization's ruling body, variously known as the "Organizational Governing Body"  
14 ("OGB") and "La Mesa," was comprised of inmates sometimes referred to as "generals" as well as  
15 other senior Nuestra Familia leaders in Pelican Bay State Prison, located in Crescent City, California.  
16 Outside of penal facilities, the Nuestra Familia was divided into geographic "regiments" managed by  
17 "regiment leaders"; these regiments served as the basic unit or crew through which the Nuestra  
18 Familia conducted much of its criminal activity. Subordinate to the members of the OGB were other  
19 members of the Nuestra Familia known by different titles or ranks such as "Category One,"  
20 "Category Two," and "Category Three," during one phase of the organization, and captains,  
21 lieutenants, and soldiers, during another phase. Each of these ranks entailed different and specific  
22 organizational responsibilities. Individual members of the Nuestra Familia were often referred to as  
23 a "Familiano" or "Carnal."

24 5. The members of the OGB, and to a lesser extent other Nuestra Familia Category One  
25 leaders, or captains, were responsible for establishing regiments and gang policy, resolving intra-  
26 gang disputes among members and associates of the Nuestra Familia, approving new memberships  
27 in the organization and authorizing significant actions by members of the Nuestra Familia and

1 Nuestra Raza, including the commission of murder. The members of the OGB and other Nuestra  
2 Familia leaders supervised, supported, and protected the other members of the Nuestra Familia and  
3 Nuestra Raza; in return, these leaders received a share of the illegal and legal earnings of the Nuestra  
4 Familia members.

5 6. Maintaining discipline within, and allegiance to, the Nuestra Familia Organization  
6 was a constant concern and preoccupation of the Nuestra Familia leadership. Some members of the  
7 Nuestra Familia, particularly those outside of correctional institutions, sought to distance themselves  
8 or even withdraw from the organization. Others failed to earn and contribute money to the  
9 organization as generally required, or failed to fulfill specific instructions issued to them by leaders  
10 in Pelican Bay State Prison or regiment leaders on the streets. Members often vied with one another  
11 for control and influence. Some abused drugs in contravention of Nuestra Familia rules, while  
12 others committed serious crimes such as robbery or murder against fellow Nuestra Familia members  
13 without the proper authorization from the Nuestra Familia leadership.

14 7. To maintain discipline and allegiance, the Nuestra Familia leadership in Pelican Bay  
15 State Prison demanded frequent communication by members through assigned "channels."  
16 Incarcerated Nuestra Familia members and associates communicated with each other and with those  
17 outside of penal institutions via inmates passing into or out of correctional facilities and prison  
18 visitors. Coded letters and "micro-writings," known as "kites" or "wilas," often transcribed and  
19 forwarded by inmates' spouses and girlfriends and sometimes disguised as legal mail, were also used  
20 for communication among Nuestra Familia members and associates.

21 8. Through such communication, the Nuestra Familia leadership remained abreast of the  
22 activities of members and associates inside and outside of correctional facilities and issued new rules  
23 and directives. Individual members of the Nuestra Familia were often instructed to generate and  
24 contribute money to the organization, to establish regiments in different communities, and to commit  
25 various crimes, including murder. Those who refused to obey the rules or directives of the Nuestra  
26 Familia and those who sought to withdraw from the organization were ultimately deemed "no good"  
27 and thus subject to a "green light" which was an order that such person be killed.

1           9.       The Nuestra Familia, including its subordinate organization, the Nuestra Raza, as well  
2 as its leadership, membership, and associates, constituted an enterprise as defined and used in Title  
3 18, United States Code, Sections 1959(b)(2) and 1961(4), that is, a group of individuals associated in  
4 fact that engaged in, and the activities of which affected, interstate and foreign commerce  
5 (hereinafter collectively referred to as the "Nuestra Familia" or the "Nuestra Familia criminal  
6 enterprise"). The Nuestra Familia criminal enterprise, through its members and associates, engaged  
7 in racketeering activity as defined and used in Title 18, United States Code, Sections 1959(b)(1) and  
8 1961(1), namely, multiple acts involving murder and robbery in violation of California State law,  
9 and multiple acts involving the distribution of controlled substances in violation of Title 21, United  
10 States Code, Sections 841 and 846. The Nuestra Familia conducted its activities within the Northern  
11 District of California as well as other parts of California.

12           10.       Among the means and methods by which the defendants and their co-racketeers  
13 conducted and participated in the conduct of the affairs of the Nuestra Familia criminal enterprise  
14 were the following:

15           a.       Members and associates of the Nuestra Familia used the Nuestra Familia  
16 criminal enterprise to commit, and to attempt, conspire and threaten to commit, acts of violence,  
17 including murder and assault, to promote and protect the enterprise's criminal operation. Non-  
18 members and non-associates who threatened, impeded, or interfered with the enterprise's criminal  
19 activities, or the racketeering activities of its members and associates, were subject to assault and  
20 death. Drug dealers distributing controlled substances in areas controlled by the Nuestra Familia  
21 who refused to pay "rent," or a percentage of their earnings, to the Nuestra Familia and its associates  
22 were also subject to assault and murder. To enforce the rules of the Nuestra Familia criminal  
23 enterprise and to promote discipline, the members of the Nuestra Familia used the enterprise to  
24 assault and murder, and to attempt, conspire and threaten to assault and murder, those participants in  
25 the enterprise and others who violated the rules or posed a threat to the enterprise. The Nuestra  
26 Familia constitution provided in Article 2, Section 5: "AN AUTOMATIC DEATH SENTENCE  
27

1 WILL BE PUT ON A FAMILIANO THAT TURNS TRAITOR, COWARD, OR DESSERTER  
2 [sic].”

3 b. Members and associates of the Nuestra Familia committed robbery to generate  
4 income for the enterprise. That income was to be used by members for personal expenses and to  
5 purchase firearms, ammunition, pagers, automobiles and other items for use by the enterprise. All  
6 Nuestra Familia members were required to contribute twenty-five percent of the proceeds of such  
7 robberies to a Nuestra Familia “bank.” The members and associates of the Nuestra Familia  
8 perpetrated these robberies within residential and commercial establishments as well as against non-  
9 member and non-associate drug dealers. Residential robberies against drug dealers, known as “home  
10 invasions,” were committed to obtain money, drugs, firearms and other valuable goods from  
11 individuals who were often unwilling to report, or assist in the investigation of, these crimes.

12 c. Members and associates of the Nuestra Familia distributed controlled  
13 substances to generate income for the enterprise. That income was to be used by members for  
14 personal expenses and to purchase firearms, ammunition, pagers, automobiles and other items for  
15 use by the enterprise. All Nuestra Familia members were required to contribute twenty-five percent  
16 of the proceeds of such drug dealing to a Nuestra Familia “bank.” The controlled substances  
17 distributed by members and associates of the enterprise included methamphetamine, heroin, cocaine,  
18 and marijuana.

19 11. The defendants GERALD RUBALCABA, a/k/a “Cuete” and “Cinco Nueve,” JAMES  
20 MORADO, a/k/a “Tibbs,” CORNELIO TRISTAN, a/k/a “Corny,” TEX MARIN HERNANDEZ,  
21 DANIEL PEREZ, a/k/a “Stork,” SHELDON VILLANUEVA, a/k/a “Skip,” CEASAR RAMIREZ,  
22 a/k/a “Lobo,” RICO GARCIA, a/k/a “Smiley,” VIDAL FABELA, a/k/a “Spider,” JACOB  
23 ENRIQUEZ, a/k/a “Blackie,” and HENRY CERVANTES, a/k/a “Happy,” were members of the  
24 Nuestra Familia.

25 12. The defendants DAVID M. ROCHA, a/k/a “Sir Dyno,” and DIANA VASQUEZ were  
26 associates of the Nuestra Familia.

27  
28

1 COUNT ONE: [18 U.S.C. § 1962(d)]

2 13. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
3 realleged and incorporated as if fully set forth herein.

4 14. From in or about and between 1981 and April 2001, both dates being approximate  
5 and inclusive, in the Northern District of California and elsewhere, the defendants

6 GERALD RUBALCABA,  
7 a/k/a "Cuete,"  
8 a/k/a "Cinco Nueve,"  
9 JAMES MORADO,  
10 a/k/a "Tibbs,"  
11 CORNELIO TRISTAN,  
12 a/k/a "Corny,"  
13 TEX MARIN HERNANDEZ,  
14 DANIEL PEREZ,  
15 a/k/a "Stork,"  
16 SHELDON VILLANUEVA,  
17 a/k/a "Skip,"  
18 CEASAR RAMIREZ,  
19 a/k/a "Lobo,"  
20 RICO GARCIA,  
21 a/k/a "Smiley,"  
22 VIDAL FABELA,  
23 a/k/a "Spider,"  
24 JACOB ENRIQUEZ,  
25 a/k/a "Blackie,"  
26 HENRY CERVANTES,  
27 a/k/a "Happy,"  
28 DAVID M. ROCHA,  
a/k/a "Sir Dyno," and  
DIANA VASQUEZ,

19 and other persons, known and unknown, being persons employed by and associated with an  
20 enterprise that engaged in, and the activities of which affected, interstate commerce, namely, the  
21 Nuestra Familia, knowingly and intentionally conspired to violate Title 18, United States Code,  
22 Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the  
23 affairs of the enterprise through a pattern of racketeering activity, as that term is defined in Title 18,  
24 United States Code, Sections 1961(1) and 1961(5), consisting of multiple acts involving:

25 (a) murder, in violation of California Penal Code Sections 31, 182, 184 and 187  
26 (Unlawful Killing of a Human Being with Malice Aforethought – Murder; and Conspiracy to  
27 Commit Murder);

1 (b) robbery, in violation of California Penal Code Sections 31, 182, 184 and 211  
2 (Robbery; and Conspiracy to Commit Robbery); and

3 (c) distribution of, possession with intent to distribute, and conspiracy to  
4 distribute a controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1),  
5 (b)(1) and 846, and Title 18, United States Code, Section 2.

6 It was a further part of the conspiracy that the defendants agreed that a conspirator  
7 would commit at least two acts of racketeering in the conduct of the affairs of the enterprise.

8 All in violation of Title 18, United States Code, Section 1962(d).

9  
10 COUNT TWO: [18 U.S.C. § 1962(c), 2]

11 15. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
12 realleged and incorporated as if fully set forth herein.

13 THE RACKETEERING OFFENSE

14 16. From in or about and between 1981 and April 2001, both dates being approximate  
15 and inclusive, in the Northern District of California and elsewhere, the defendants

16 GERALD RUBALCABA,  
a/k/a "Cuete,"

17 a/k/a "Cinco Nueve,"  
JAMES MORADO,

18 a/k/a "Tibbs,"

19 CORNELIO TRISTAN,

a/k/a "Corny,"

20 TEX MARIN HERNANDEZ,

DANIEL PEREZ,

a/k/a "Stork,"

21 SHELDON VILLANUEVA,

a/k/a "Skip,"

22 CEASAR RAMIREZ,

a/k/a "Lobo,"

23 RICO GARCIA,

a/k/a "Smiley,"

24 VIDAL FABELA,

a/k/a "Spider,"

25 JACOB ENRIQUEZ,

a/k/a "Blackie," and

26 HENRY CERVANTES,

a/k/a "Happy,"

1 and others, being persons employed by and associated with an enterprise that engaged in, and the  
2 activities of which affected, interstate commerce, namely, the Nuestra Familia, knowingly and  
3 intentionally did conduct and participate, directly and indirectly, in the conduct of the affairs of that  
4 enterprise through a pattern of racketeering activity, as that term is defined in Title 18, United States  
5 Code, Sections 1961(1) and 1961(5), and as set forth below.

6 All in violation of Title 18, United States Code, Sections 1962(c) and 2.

7 THE PATTERN OF RACKETEERING ACTIVITY

8 17. The pattern of racketeering activity, as defined in Title 18, United States Code,  
9 Sections 1961(1) and 1961(5), consisted of the following acts:

10 Racketeering Act One

11 Conspiracy to Distribute Controlled Substances

12 18. From in or about and between 1981 and April 2001, both dates being approximate  
13 and inclusive, in the Northern District of California and elsewhere, the defendants

- 14 GERALD RUBALCABA,  
a/k/a "Cuete,"
- 15 a/k/a "Cinco Nueve,"
- 16 JAMES MORADO,  
a/k/a "Tibbs,"
- 17 CORNELIO TRISTAN,  
a/k/a "Corny,"
- 18 TEX MARIN HERNANDEZ,  
DANIEL PEREZ,  
a/k/a "Stork,"
- 19 SHELDON VILLANUEVA,  
a/k/a "Skip,"
- 20 CEASAR RAMIREZ,  
a/k/a "Lobo,"
- 21 RICO GARCIA,  
a/k/a "Smiley,"
- 22 VIDAL FABELA,  
a/k/a "Spider,"
- 23 JACOB ENRIQUEZ,  
a/k/a "Blackie," and
- 24 HENRY CERVANTES,  
a/k/a "Happy,"

25 and other persons, known and unknown, knowingly and intentionally conspired to commit the  
26 following offenses against the United States:  
27

1 a. knowingly and intentionally to distribute five kilograms or more, the exact  
2 quantity being unknown, of a mixture and substance containing a detectable quantity of cocaine, a  
3 Schedule II controlled substance;

4 b. knowingly and intentionally to distribute one kilogram or more, the exact  
5 quantity being unknown, of a mixture and substance containing a detectable amount of heroin, a  
6 Schedule I controlled substance; and

7 c. knowingly and intentionally to distribute 50 grams or more of  
8 methamphetamine, and 500 grams or more of a mixture and substance containing a detectable  
9 amount of methamphetamine, a Schedule II controlled substance.

10 All in violation of Title 21, United States Code, Sections 841(a)(1), (b)(1)(A) and 846.

11 Racketeering Act Two

12 Conspiracy to Commit Robbery

13 19. From in or about and between 1981 and April 2001, both dates being approximate  
14 and inclusive, in the Northern District of California and elsewhere, the defendants

- 15 GERALD RUBALCABA,  
a/k/a "Cuete,"
- 16 a/k/a "Cinco Nueve,"
- JAMES MORADO,  
a/k/a "Tibbs,"
- 17 CORNELIO TRISTAN,  
a/k/a "Corny,"
- 18 TEX MARIN HERNANDEZ,  
DANIEL PEREZ,  
a/k/a "Stork,"
- 19 SHELDON VILLANUEVA,  
a/k/a "Skip,"
- 20 CEASAR RAMIREZ,  
a/k/a "Lobo,"
- 21 RICO GARCIA,  
a/k/a "Smiley,"
- 22 VIDAL FABELA,  
a/k/a "Spider,"
- 23 JACOB ENRIQUEZ,  
a/k/a "Blackie," and
- 24 HENRY CERVANTES,  
a/k/a "Happy,"
- 25
- 26
- 27

1 and other persons, known and unknown, knowingly and intentionally conspired to commit robbery,  
2 and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation of  
3 California Penal Code Sections 31, 182, 184, and 211.

4 Racketeering Act Three

5 Conspiracy to Murder "Beto," "Stymie," and Other Members or Associates of the Mexican  
6 Mafia Criminal Organization

7 20. From on or about and between May 3, 1989, and May 5, 1989, both dates being  
8 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

9 SHELTON VILLANUEVA,  
10 a/k/a "Skip,"

11 and other persons, known and unknown, knowingly and intentionally conspired to murder "Beto,"  
12 "Stymie," and other unidentified individuals who were members or associates of the Mexican Mafia  
13 criminal organization and who were incarcerated in Corcoran State Prison, in Corcoran, California,  
14 and a co-conspirator committed an overt act in furtherance of the conspiracy, in violation of  
15 California Penal Code Sections 31, 182, 184 and 187.

16 Racketeering Act Four

17 21. The defendant named below committed the following acts involving murder and  
18 robbery, either one of which constitutes the commission of Racketeering Act Four:

19 a. Attempt to Murder Juan Hernandez-Lopez

20 22. On or about September 4, 1994, in the Northern District of California, the defendant

21 CEASAR RAMIREZ,  
22 a/k/a "Lobo,"

23 and others, knowingly and intentionally attempted to murder Juan Hernandez-Lopez, in violation of  
24 California Penal Code Sections 21a, 31, 664, and 187.

25 b. Robbery Against Juan Herandez-Lopez

26 23. On or about September 4, 1994, in the Northern District of California, the defendant

27 CEASAR RAMIREZ,  
28 a/k/a "Lobo,"

1 and others, knowingly and intentionally committed robbery against Juan Hernandez-Lopez, in  
2 violation of California Penal Code Sections 31, 211.

3 Racketeering Act Five

4 Solicitation to Murder Pablo Castaneda

5 24. On or about December 16, 1996, in the Northern District of California, the defendant

6 RICO GARCIA,  
a/k/a "Smiley,"

7 with the intent that the crime be committed, knowingly and intentionally solicited another to murder  
8 Pablo Castaneda, in violation of California Penal Code Sections 31, 653f, and 187.

9 Racketeering Act Six

10 25. The defendant named below committed the following acts involving murder, either  
11 one of which constitutes the commission of Racketeering Act Six:

12 a. Conspiracy to Murder Salvador Castaneda, a/k/a "Little Man"

13 26. From in or about and between January 1997 and March 7, 1997, both dates being  
14 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

15 CEASAR RAMIREZ,  
a/k/a "Lobo,"

16 and other persons, known and unknown, knowingly and intentionally conspired to murder Salvador  
17 Castaneda, a/k/a "Little Man," and a co-conspirator committed an overt act in furtherance of the  
18 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

19 b. Murder of Salvador Castaneda, a/k/a "Little Man"

20 27. On or about March 7, 1997, in the Northern District of California and elsewhere, the  
21 defendant

22 CEASAR RAMIREZ,  
a/k/a "Lobo,"

23 unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise willfully  
24 participate in the murder of Salvador Castaneda, a/k/a "Little Man," in violation of California Penal  
25 Code Sections 31 and 187.  
26

1 Racketeering Act Seven

2 28. The defendant named below committed the following acts involving murder, either  
3 one of which constitutes the commission of Racketeering Act Seven:

4 a. Conspiracy to Murder Kenneth Smith, a/k/a "Shitty Smitty"

5 29. From in or about and between 1997 and January 8, 1998, both dates being  
6 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

7 DANIEL PEREZ,  
8 a/k/a "Stork,"

9 and other persons, known and unknown, knowingly and intentionally conspired to murder Kenneth  
10 Smith, a/k/a "Shitty Smitty," and a co-conspirator committed an overt act in furtherance of the  
11 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

12 b. Attempt to Murder Kenneth Smith, a/k/a "Shitty Smitty"

13 30. On or about January 8, 1998, in the Northern District of California, the defendant

14 DANIEL PEREZ,  
15 a/k/a "Stork,"

16 and others, knowingly and intentionally attempted to murder Kenneth Smith, a/k/a "Shitty Smitty,"  
17 in violation of California Penal Code Sections 21a, 31, 664, and 187.

18 Racketeering Act Eight

19 Conspiracy to Murder Guillermo Morales Diaz, a/k/a "Memo"

20 31. From in or about and between January 1998 and August 1998, both dates being  
21 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

22 RICO GARCIA,  
23 a/k/a "Smiley,"

24 and other persons, known and unknown, knowingly and intentionally conspired to murder Guillermo  
25 Morales Diaz, a/k/a "Memo," and a co-conspirator committed an overt act in furtherance of the  
26 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

27 Racketeering Act Nine

1           32.     The defendant named below committed the following acts involving murder, either  
2 one of which constitutes the commission of Racketeering Act Nine:

3           a.     Conspiracy to Murder Vincent Garcia-Sanchez, a/k/a "Chente" and "Little  
4                 Chente"

5           33.     From in or about and between February 1998 and March 6, 1998, both dates being  
6 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

7                                 RICO GARCIA,  
8                                 a/k/a "Smiley,"

9 and other persons, known and unknown, knowingly and intentionally conspired to murder Vincent  
10 Garcia-Sanchez, a/k/a "Chente" and "Little Chente," and a co-conspirator committed an overt act in  
11 furtherance of the conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

12           b.     Murder of Vincent Garcia-Sanchez, a/k/a "Chente" and "Little Chente"

13           34.     On or about March 6, 1998, in the Northern District of California, the defendant

14                                 RICO GARCIA,  
15                                 a/k/a "Smiley,"

16 and others, unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise  
17 willfully participate in the murder of Vincent Garcia-Sanchez, a/k/a "Chente" and "Little Chente," in  
18 violation of California Penal Code Sections 31 and 187.

19 Racketeering Act Ten

20           35.     The defendants named below committed the following acts involving murder, either  
21 one of which constitutes the commission of Racketeering Act Ten:

22           a.     Conspiracy to Murder Michael Castillo, a/k/a "Miguel Castillo" and "Mikeo"

23           36.     From in or about and between June 1998 and August 15, 1998, both dates being  
24 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

25                                 TEX MARIN HERNANDEZ,  
26                                 CEASAR RAMIREZ,  
27                                 a/k/a "Lobo," and  
28                                 RICO GARCIA,  
                                  a/k/a "Smiley,"

1 and other persons, known and unknown, knowingly and intentionally conspired to murder Michael  
2 Castillo, a/k/a "Miguel Castillo" and "Mikeo," and a co-conspirator committed an overt act in  
3 furtherance of the conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

4 b. Murder of Michael Castillo, a/k/a "Miguel Castillo" and "Mikeo"

5 37. On or about August 15, 1998, in the Northern District of California and elsewhere,  
6 the defendants

7 TEX MARIN HERNANDEZ,  
8 CEASAR RAMIREZ,  
9 a/k/a "Lobo," and  
RICO GARCIA,  
a/k/a "Smiley,"

10 and others, unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise  
11 willfully participate in the murder of Michael Castillo, a/k/a "Miguel Castillo" and "Mikeo," in  
12 violation of California Penal Code Sections 31 and 187.

13 Racketeering Act Eleven

14 Conspiracy to Murder Lisa Rocha and Sophie Rocha

15 38. From in or about and between October 1998 and November 1, 1998, both dates being  
16 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

17 CEASAR RAMIREZ,  
18 a/k/a "Lobo," and  
RICO GARCIA,  
a/k/a "Smiley,"

19 and other persons, known and unknown, knowingly and intentionally conspired to murder Lisa  
20 Rocha and Sophie Rocha, and a co-conspirator committed an overt act in furtherance of the  
21 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

22 Racketeering Act Twelve

23 39. The defendant named below committed the following acts involving murder, either  
24 one of which constitutes the commission of Racketeering Act Twelve:

25 a. Conspiracy to Murder Hector Gallegos



1 and others, unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise  
2 willfully participate in the murder of Geronimo Garza, Jr., in violation of California Penal Code  
3 Sections 31 and 187.

4 Racketeering Act Fourteen

5 Distribution of a Controlled Substance

6 45. On or about December 8, 1998, in the Northern District of California, the defendant

7 CEASAR RAMIREZ,  
8 a/k/a "Lobo,"

9 and others, knowingly and intentionally distributed 50 grams or more of methamphetamine, and 50  
10 grams or more of a mixture and substance containing a detectable amount of methamphetamine, a  
11 Schedule II controlled substance, in violation of Title 21, United States Code, Section 841(a)(1),  
12 (b)(1)(A), (b)(1)(B) and Title 18, United States Code, Section 2.

13 Racketeering Act Fifteen

14 46. The defendant named below committed the following acts involving murder, either  
15 one of which constitutes the commission of Racketeering Act Fifteen:

16 a. Conspiracy to Murder Miguel Gabriel, a/k/a "Cricket"

17 47. From in or about and between December 1998 and February 1999, both dates being  
18 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

19 CORNELIO TRISTAN,  
20 a/k/a "Corny,"

21 and other persons, known and unknown, knowingly and intentionally conspired to murder Miguel  
22 Gabriel, a/k/a "Cricket," and a co-conspirator committed an overt act in furtherance of the  
23 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

24 b. Solicitation to Murder Miguel Gabriel, a/k/a "Cricket"

25 48. From in or about and between February 22, 1999, and February 26, 1999, both dates  
26 being approximate and inclusive, in the Northern District of California, the defendant

27 CORNELIO TRISTAN,  
28 a/k/a "Corny,"

1 with the intent that the crime be committed, knowingly and intentionally solicited another to murder  
2 Miguel Gabriel, a/k/a "Cricket," in violation of California Penal Code Sections 31, 653f, and 187.

3 Racketeering Act Sixteen

4 49. The defendants named below committed the following acts involving murder, either  
5 one of which constitutes the commission of Racketeering Act Sixteen:

6 a. Conspiracy to Murder Robert Viramontes, a/k/a "Brown Bob"

7 50. From in or about and between January 1998 and April 19, 1999, both dates being  
8 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

9 GERALD RUBALCABA,  
10 a/k/a "Cuete,"  
11 a/k/a "Cinco Nueve,"  
12 VIDAL FABELA,  
13 a/k/a "Spider,"  
14 JACOB ENRIQUEZ,  
15 a/k/a "Blackie," and  
16 HENRY CERVANTES,  
17 a/k/a "Happy,"

18 and other persons, known and unknown, knowingly and intentionally conspired to murder Robert  
19 Viramontes, a/k/a "Brown Bob," and a co-conspirator committed an overt act in furtherance of the  
20 conspiracy, in violation of California Penal Code Sections 31, 182, 184 and 187.

21 b. Murder of Robert Viramontes, a/k/a "Brown Bob"

22 51. On or about April 19, 1999, in the Northern District of California, the defendants

23 GERALD RUBALCABA,  
24 a/k/a "Cuete,"  
25 a/k/a "Cinco Nueve," and  
26 JACOB ENRIQUEZ,  
27 a/k/a "Blackie,"

28 and others, unlawfully, and with malice aforethought, did aid, abet, advise, encourage and otherwise  
willfully participate in the murder of Robert Viramontes, a/k/a "Brown Bob," in violation of  
California Penal Code Sections 31 and 187.

Racketeering Act Seventeen

Tampering with A Witness





1 58. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
2 realleged and incorporated as if fully set forth herein.

3 59. From in or about and between 1997 and January 8, 1998, both dates being  
4 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

5 DANIEL PEREZ,  
6 a/k/a "Stork,"

7 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
8 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
9 knowingly and intentionally conspired to murder Kenneth Smith, a/k/a "Shitty Smitty," and a co-  
10 conspirator committed an overt act in furtherance of the conspiracy, in violation of California Penal  
11 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182  
12 and 184 (Conspiracy to Commit Murder) and 31.

13 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

14 COUNT SEVEN: [18 U.S.C. §§ 1959(a)(5), 2]

15 60. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
16 realleged and incorporated as if fully set forth herein.

17 61. On or about January 8, 1998, in the Northern District of California, the defendant

18 DANIEL PEREZ,  
19 a/k/a "Stork,"

20 for the purpose of gaining entrance to, and maintaining and increasing his position in, the Nuestra  
21 Familia, an enterprise engaged in racketeering activity, knowingly and intentionally attempted to  
22 murder Kenneth Smith, a/k/a "Shitty Smitty," in violation of California Penal Code Sections 187  
23 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 21a and 664 (Attempt to  
24 Commit a Crime) and 31.

25 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

26  
27 COUNT EIGHT: [18 U.S.C. § 1959(a)(5), 2]



1 COUNT TEN: [18 U.S.C. §§ 1959(a)(1), 2]

2 66. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
3 realleged and incorporated as if fully set forth herein.

4 67. On or about March 6, 1998, in the Northern District of California and elsewhere, the  
5 defendant

6 RICO GARCIA,  
7 a/k/a "Smiley,"

8 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
9 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
10 knowingly and intentionally murdered Vincent Garcia-Sanchez, a/k/a "Chente" and "Little Chente,"  
11 in violation of California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice  
12 Aforethought – Murder) and 31.

13 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

14 COUNT ELEVEN: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

15 68. On or about March 6, 1998, in the Northern District of California and elsewhere, the  
16 defendant

17 RICO GARCIA,  
18 a/k/a "Smiley,"

19 and other persons, known and unknown, did knowingly and intentionally use and carry a firearm  
20 during and in relation to a crime of violence for which the defendant may be prosecuted in a court of  
21 the United States, namely, murder in aid of racketeering activity, as alleged in Count Ten of this  
22 Second Superseding Indictment, and, in doing so, discharged said firearm and caused the death of a  
23 person through the use of said firearm under circumstances constituting murder as defined in Title  
24 18, United States Code, Section 1111.

25 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

26  
27 COUNT TWELVE: [18 U.S.C. § 1959(a)(5), 2]



1 violation of California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice  
2 Aforethought – Murder) and 31.

3 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

4  
5 COUNT FOURTEEN: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

6 73. On or about August 15, 1998, in the Northern District of California and elsewhere,  
7 the defendants

8 TEX MARIN HERNANDEZ,  
9 CEASAR RAMIREZ,  
10 a/k/a "Lobo," and  
RICO GARCIA,  
a/k/a "Smiley,"

11 did knowingly and intentionally use and carry a firearm during and in relation to a crime of violence  
12 for which the defendants may be prosecuted in a court of the United States, namely, murder in aid of  
13 racketeering activity, as alleged in Count Thirteen of this Second Superseding Indictment, and, in  
14 doing so, discharged said firearm and caused the death of a person through the use of said firearm  
15 under circumstances constituting murder as defined in Title 18, United States Code, Section 1111.

16 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

17  
18 COUNT FIFTEEN: [18 U.S.C. § 1959(a)(5), 2]

19 74. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
20 realleged and incorporated as if fully set forth herein.

21 75. From in or about and between October 1998 and November 1, 1998, both dates being  
22 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

23 CEASAR RAMIREZ,  
24 a/k/a "Lobo," and  
RICO GARCIA,  
25 a/k/a "Smiley,"

26 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
27 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,

1 knowingly and intentionally conspired to murder Lisa Rocha and Sophie Rocha, and a co-conspirator  
2 committed an overt act in furtherance of the conspiracy, in violation of California Penal Code  
3 Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182 and  
4 184 (Conspiracy to Commit Murder) and 31.

5 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

6  
7 COUNT SIXTEEN: [18 U.S.C. § 1959(a)(5), 2]

8 76. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
9 realleged and incorporated as if fully set forth herein.

10 77. From on or about and between October 27, 1998, and November 1, 1998, both dates  
11 being approximate and inclusive, in the Northern District of California and elsewhere, the defendant

12 RICO GARCIA,  
13 a/k/a "Smiley,"

14 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
15 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
16 knowingly and intentionally conspired to murder Hector Gallegos, and a co-conspirator committed  
17 an overt act in furtherance of the conspiracy, in violation of California Penal Code Sections 187  
18 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182 and 184 (Conspiracy  
19 to Commit Murder) and 31.

20 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

21 COUNT SEVENTEEN: [18 U.S.C. §§ 1959(a)(5), 2]

22 78. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
23 realleged and incorporated as if fully set forth herein.

24 79. On or about October 30, 1998, in the Northern District of California, the defendant

25 RICO GARCIA,  
26 a/k/a "Smiley,"

1 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
2 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
3 knowingly and intentionally attempted to murder Hector Gallegos, in violation of California Penal  
4 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 21a  
5 and 664 (Attempt to Commit a Crime) and 31.

6 All in violation of Title 18, United States Code, Sections 1959(a)(5) and 2.

7  
8 COUNT EIGHTEEN: [18 U.S.C. § 1959(a)(5), 2]

9 80. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
10 realleged and incorporated as if fully set forth herein.

11 81. On or about November 1, 1998, in the Northern District of California and elsewhere,  
12 the defendant

13 RICO GARCIA,  
14 a/k/a "Smiley,"

15 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
16 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
17 knowingly and intentionally conspired to murder Geronimo Garza, Jr., and a co-conspirator  
18 committed an overt act in furtherance of the conspiracy, in violation of California Penal Code  
19 Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182 and  
20 184 (Conspiracy to Commit Murder) and 31.

21 All in violation of Title 18, United States Code, Section 1959(a)(5) and 2.

22 COUNT NINETEEN: [18 U.S.C. §§ 1959(a)(1), 2]

23 82. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
24 realleged and incorporated as if fully set forth herein.

25 83. On or about November 1, 1998, in the Northern District of California and elsewhere,  
26 the defendant

1 RICO GARCIA,  
2 a/k/a "Smiley,"

3 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
4 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
5 knowingly and intentionally murdered Geronimo Garza, Jr., in violation of California Penal Code  
6 Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder) and 31.

7 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

8 COUNT TWENTY: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

9 84. On or about November 1, 1998, in the Northern District of California and elsewhere,  
10 the defendant

11 RICO GARCIA,  
12 a/k/a "Smiley,"

13 and other persons, known and unknown, did knowingly and intentionally use and carry a firearm  
14 during and in relation to a crime of violence for which the defendant may be prosecuted in a court of  
15 the United States, namely, murder in aid of racketeering activity, as alleged in Count Nineteen of this  
16 Second Superseding Indictment, and, in doing so, discharged said firearm and caused the death of a  
17 person through the use of said firearm under circumstances constituting murder as defined in Title  
18 18, United States Code, Section 1111.

19 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

20  
21 COUNT TWENTY-ONE: [18 U.S.C. § 1959(a)(5), 2]

22 85. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
23 realleged and incorporated as if fully set forth herein.

24 86. From in or about and between December 1998 and February 1999, both dates being  
25 approximate and inclusive, in the Northern District of California and elsewhere, the defendant

26 CORNELIO TRISTAN,  
27 a/k/a "Corny,"

1 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
2 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
3 knowingly and intentionally conspired to murder Miguel Gabriel, a/k/a "Cricket," and a co-  
4 conspirator committed an overt act in furtherance of the conspiracy, in violation of California Penal  
5 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182  
6 and 184 (Conspiracy to Commit Murder) and 31.

7 All in violation of Title 18, United States Code, Section 1959(a)(5) and 2.

8  
9 COUNT TWENTY-TWO: [18 U.S.C. § 1959(a)(5), 2]

10 87. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
11 realleged and incorporated as if fully set forth herein.

12 88. From in or about and between January 1998 and April 19, 1999, both dates being  
13 approximate and inclusive, in the Northern District of California and elsewhere, the defendants

14 GERALD RUBALCABA,  
15 a/k/a "Cuete,"  
16 a/k/a "Cinco Nueve,"  
17 VIDAL FABELA,  
18 a/k/a "Spider,"  
19 JACOB ENRIQUEZ,  
20 a/k/a "Blackie," and  
21 HENRY CERVANTES,  
22 a/k/a "Happy,"

23 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
24 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
25 knowingly and intentionally conspired to murder Robert Viramontes, a/k/a "Brown Bob," and a co-  
26 conspirator committed an overt act in furtherance of the conspiracy, in violation of California Penal  
27 Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought – Murder), 182  
28 and 184 (Conspiracy to Commit Murder) and 31.

All in violation of Title 18, United States Code, Section 1959(a)(5) and 2.

29  
30 COUNT TWENTY-THREE: [18 U.S.C. §§ 1959(a)(1), 2]

1 89. Paragraphs one through twelve of this Second Superseding Indictment are hereby  
2 realleged and incorporated as if fully set forth herein.

3 90. On or about April 19, 1999, in the Northern District of California and elsewhere, the  
4 defendants

5 GERALD RUBALCABA,  
6 a/k/a "Cuete,"  
7 a/k/a "Cinco Nueve,"  
8 VIDAL FABELA,  
9 a/k/a "Spider,"  
10 JACOB ENRIQUEZ,  
11 a/k/a "Blackie," and  
12 HENRY CERVANTES,  
13 a/k/a "Happy,"

14 and other persons, known and unknown, for the purpose of gaining entrance to, and maintaining and  
15 increasing their positions in, the Nuestra Familia, an enterprise engaged in racketeering activity,  
16 knowingly and intentionally murdered Robert Viramontes, a/k/a "Brown Bob," in violation of  
17 California Penal Code Sections 187 (Unlawful Killing of a Human Being with Malice Aforethought  
18 - Murder) and 31.

19 All in violation of Title 18, United States Code, Sections 1959(a)(1) and 2.

20 COUNT TWENTY-FOUR: [18 U.S.C. §§ 924(c)(1), (j)(1), 2]

21 91. On or about April 19, 1999, in the Northern District of California and elsewhere, the  
22 defendants

23 GERALD RUBALCABA,  
24 a/k/a "Cuete,"  
25 a/k/a "Cinco Nueve,"  
26 VIDAL FABELA,  
27 a/k/a "Spider,"  
28 JACOB ENRIQUEZ,  
a/k/a "Blackie," and  
HENRY CERVANTES,  
a/k/a "Happy,"

and other persons, known and unknown, did knowingly and intentionally use and carry a firearm  
during and in relation to a crime of violence for which the defendants may be prosecuted in a court  
of the United States, namely, murder in aid of racketeering activity, as alleged in Count Twenty-

1 Three of this Second Superseding Indictment, and, in doing so, discharged said firearm and caused  
2 the death of a person through the use of said firearm under circumstances constituting murder as  
3 defined in Title 18, United States Code, Section 1111.

4 All in violation of Title 18, United States Code, Sections 924(c)(1), (j)(1) and 2.

5  
6 COUNT TWENTY-FIVE: [18 U.S.C. § 1512(b)(1), 2]

7 92. In or about and between April 2000 and January 2001, both dates being approximate  
8 and inclusive, in the Northern District of California and elsewhere, the defendant

9 RICO GARCIA,  
10 a/k/a "Smiley,"

11 did knowingly, intentionally, and corruptly persuade Paul Jimmy Salcido, and attempt to do so, with  
12 the intent to influence the testimony of Paul Jimmy Salcido in an official proceeding, namely, the  
13 trial of the defendant, RICO GARCIA, a/k/a "Smiley," in the United States District Court for the  
14 Northern District of California for the offenses alleged in Counts Twelve, Thirteen, and Fourteen of  
15 this Second Superseding Indictment.

16 All in violation of Title 18, United States Code, Section 1512(b)(1) and 2.

17  
18 DATED:

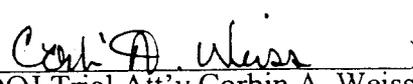
A TRUE BILL.

19 4-19-01

20   
FOREPERSON

21 ROBERT S. MUELLER, III  
22 United States Attorney

23   
24 DAVID SHAPIRO  
Chief, Criminal Division

25 (Approved as to form: )  
26 DOJ Trial Att'y Corbin A. Weiss  
27 AUSA Steven F. Gruel