

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. _____
 :
 v. : Crim. No. 05-_____
 :
 TONINO LABELLA, :
 a/k/a "Tony" : 18 U.S.C. §§ 371, 1343,
 ROBERT MONTANI, : & 2
 VINCENT LANGELLA, and :
 MICHAEL GARBO :

I N D I C T M E N T

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

COUNT ONE
(Conspiracy to Commit Securities Fraud
and Wire Fraud)

Relevant Entities

1. At all times relevant to this Indictment:

a. Bryn Mawr Investment Group, Inc., also known as Valley Forge Securities, Inc. ("BMIG/VFS"), was a securities broker-dealer that offered a variety of brokerage services to customers throughout the United States. BMIG/VFS had its headquarters at 919 Conestoga Road, Rosemont, Pennsylvania. At various times relevant to this Indictment, BMIG/VFS operated the following additional offices:

i. During the period from in or around September 1999 to in or around January 2001, BMIG/VFS operated an office

located at 114 McClean Avenue, Staten Island, New York (the "Staten Island office").

ii. During the period from in or around August 1999 to in or around May 2000, BMIG/VFS operated an office located at 110 Williams Street, New York (the "Williams Street office").

iii. During the period from in or around January 2001 to in or around December 2001, BMIG/VFS operated an office located at 125 Maiden Lane, New York, New York (the "Maiden Lane office").

iv. During the period from in or around January 2001 to in or around December 2001, BMIG/VFS operated an office located at 719 E. Las Olas Boulevard, Ft. Lauderdale, Florida (the "Ft. Lauderdale office").

b. Lloyds Bahamas Securities, Ltd. was a Bahamian entity.

c. Briar Creek Investments was an entity controlled by defendant TONINO LABELLA, a/k/a "Tony."

d. Eagletech Communications, Inc. ("Eagletech") was a publicly-traded communications technology company.

e. Select Media Communications, Inc. ("SMTV") was a publicly-traded entertainment company.

f. Schroder & Co. was a clearing broker for the BMIG/VFS offices from in and around August 1999 to in and around

June 2001. In turn, Schroder & Co. cleared through LEWCO, located in Jersey City, New Jersey.

g. Bank of New York Clearing, also known as Pershing, located in Jersey City, New Jersey, was a clearing broker for all BMIG/VFS offices from in and around June 2001 to in or around December 2001.

h. Ledenhall Bank & Trust Company, Ltd. was a bank located in Nassau, Bahamas that issued Axxess International ATM/credit cards.

The Defendants

2. At all times relevant to this Indictment, unless otherwise indicated herein:

a. Defendant TONINO LABELLA, a/k/a "Tony," was the Chief Executive Officer of BMIG/VFS. Defendant LABELLA was also the beneficial owner of Lloyds Bahamas Securities Ltd. and Briar Creek Investments.

b. Defendant ROBERT MONTANI was the compliance officer, operations manager, and a broker employed at the headquarters of BMIG/VFS in Rosemont, Pennsylvania.

c. Defendant VINCENT LANGELLA was a broker at the BMIG/VFS Staten Island office.

d. Defendant MICHAEL GARBO was a broker at the BMIG/VFS Staten Island and Maiden Lane offices.

Certain Co-conspirators

3. At all times relevant to this Indictment, unless otherwise indicated:

a. "J.S.," who is named as a co-conspirator but not as a defendant herein, was a stock promoter.

b. "T.K.," who is named as a co-conspirator but not as a defendant herein, was the Managing Director of Lloyds Bahamas Securities, Inc. under the direction of defendant LABELLA.

c. "J.C.," who is named as a co-conspirator but not as a defendant herein, was the compliance officer and co-managed the BMIG/VFS Staten Island office from in or around September 1999 to in or around December 2000.

d. "A.R.," who is named as a co-conspirator but not as a defendant herein, was a broker and co-managed the BMIG/VFS Staten Island office during the period from in or around September 1999 to in or around December 2000.

e. "F.P.," who is named as a co-conspirator but not as a defendant herein, co-managed and recruited brokers to work at the BMIG/VFS Staten Island office during the period from in or around September 1999 to in or around June 2000.

f. "A.K.," who is named as a co-conspirator but not as a defendant herein, was a broker and succeeded co-conspirators A.R. and J.C. as a co-manager of the BMIG/VFS Staten Island

office during the period from in or around April 2000 to in or around January 2001, and was the co-manager of the BMIG/VFS Maiden Lane office during the period from in on around January 2001 to in or around August 2001.

g. "J.F.," who is named as a co-conspirator but not as a defendant herein, was a broker and succeeded co-conspirators A.R. and J.C. as a co-manager of the BMIG/VFS Staten Island office during the period from April 2000 to January 2001 and was the co-manager of the BMIG/VFS Maiden Lane office during the period from in or around January 2001 to in or around August 2001.

h. "D.L.," who is named as a co-conspirator but not as a defendant herein, was an unlicensed broker employed at the Staten Island and Maiden Lane offices of BMIG/VFS.

i. "J.D.," who is named as a co-conspirator but not as a defendant herein, was a broker employed at the Staten Island and Maiden Lane offices of BMIG/VFS.

j. "R.H.," who is named as a co-conspirator but not as a defendant herein, was an unlicensed broker employed at the Staten Island and Maiden Lane offices of BMIG/VFS.

k. "C.N.," who is named as a co-conspirator but not as a defendant herein, was a broker employed at the Staten Island and Maiden Lane offices of BMIG/VFS.

l. "A.V.," who is named as a co-conspirator but not as

a defendant herein, was a broker at the headquarters of BMIG/VFS located in Rosemont, Pennsylvania.

m. "A.C.," who is named as a co-conspirator but not as a defendant herein, was a broker employed at the BMIG/VFS Ft. Lauderdale office.

n. "F.B.," who is named as a co-conspirator but not as a defendant herein, was a broker employed at the BMIG/VFS Ft. Lauderdale office.

The Conspiracy

4. From in or around August 1999 to in or around December 2001, in the District of New Jersey, and elsewhere, defendants

TONINO LABELLA, a/k/a "Tony,"
ROBERT MONTANI,
VINCENT LANGELLA,
and
MICHAEL GARBO

did knowingly and willfully conspire and agree with each other and others to commit offenses against the United States, that is:

a. by use of the means and instrumentalities of interstate commerce, the mails, and facilities of national securities exchanges, directly and indirectly, to knowingly and willfully use manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 (Rule "10b-5") in connection with the purchase and sale of Eagletech stock and SMTV stock by (i) employing devices, schemes, and artifices to defraud

members of the investing public; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices, and a course of business which operated and would operate as a fraud and deceit upon purchasers of Eagletech stock and SMTV stock and other members of the investing public, contrary to Title 15, United States Code, Sections 78j(b) and 78ff(a) and Rule 10b-5; and

b. to devise a scheme and artifice to defraud purchasers of Eagletech stock and SMTV stock and other members of the investing public, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and to use interstate wire communications for the purpose of executing such scheme and artifice, contrary to Title 18, United States Code, Section 1343.

Objects of the Conspiracy

5. It was an object of the conspiracy for defendant LABELLA and co-conspirator J.S. to acquire control of a large portion of the available shares of Eagletech and SMTV while concealing their ownership and control of the shares from the investing public.

6. It was a further object of the conspiracy to

offer BMIG/VFS brokers excessive, undisclosed commissions or "kickbacks" for selling shares of Eagletech and SMTV to members of the investing public, in order to artificially increase the price of Eagletech stock and SMTV stock and to profit from the manipulation of the prices of those stocks.

Means and Methods of the Conspiracy

7. Among the means and methods employed by the defendants and their co-conspirators to carry out the conspiracy and effect its unlawful objects were those set forth in Paragraphs 8 through 48 below.

The Manipulation of Eagletech Stock

8. In and around April 1999, co-conspirator J.S. and defendant LABELLA agreed to assist the founder of Eagletech Communications, in raising capital.

9. To finance the capital investment in Eagletech, defendant LABELLA, defendant MONTANI, and co-conspirator A.V. raised more than one million dollars from private investors. Initially, however, defendants LABELLA and MONTANI and co-conspirator A.V. only purported to sell the private investors shares of Eagletech. At the time of these alleged sales, no shares of Eagletech were actually transferred to the private investors' brokerage accounts.

10. At the direction of defendants LABELLA and MONTANI, co-conspirator T.K. sent letters from Lloyds Bahamas Securities,

Inc., to the private investors confirming their purchases of shares of Eagletech at prices ranging from \$1.00 to \$2.00 per share.

11. Defendant LABELLA paid defendant MONTANI and co-conspirator A.V. approximately 25% commissions on these private sham sales. Defendant MONTANI and co-conspirator A.V. did not disclose the value of their commissions to their private investors. Defendant MONTANI earned approximately \$82,125 and co-conspirator A.V. earned approximately \$317,487 in commissions on the private sales.

12. In exchange for financing, and at the direction of co-conspirator J.S. and defendant LABELLA, Eagletech issued approximately 10 million shares of common stock. None of these shares were issued to the private investors. Instead, the shares were issued to co-conspirator J.S., defendant LABELLA, and their nominees. These shares were acquired by co-conspirator J.S. and defendant LABELLA for approximately 36 cents per share.

13. In addition, co-conspirator J.S. and defendant LABELLA required Eagletech to execute a series of "reverse stock splits" which had the effect of reducing the number of outstanding shares of Eagletech stock and increasing the percentage of Eagletech stock controlled by co-conspirator J.S. and defendant LABELLA. As a result, defendant LABELLA and co-conspirator J.S. controlled over 90% of the outstanding shares of Eagletech stock.

14. Defendant LABELLA and co-conspirator J.S., with co-conspirator T.K.'s assistance, transferred the Eagletech shares held by them and their nominees to entities controlled by defendant LABELLA. Specifically, from in and around August 1999 to in and around December 2000, defendant LABELLA transferred approximately 1,828,647 shares of Eagletech into various brokerage accounts at BMIG/VFS that he controlled, including an account in the name of Lloyds Bahamas Securities.

15. As to the private investors, defendants LABELLA and MONTANI and co-conspirators A.V. and T.K. purported to liquidate most of each private investor's Eagletech holdings by informing the private investors that BMIG/VFS had sold their Eagletech shares on their behalf for a small return. In reality, defendant LABELLA was holding the majority of the Eagletech shares in brokerage accounts he controlled, and profiting from the sales of these shares to the public.

16. To stimulate the sales of Eagletech stock to the investing public, defendant LABELLA offered brokers in the various BMIG/VFS offices commissions ranging from approximately 30% to approximately 50% on the sales of Eagletech stock to BMIG/VFS customers.

17. Defendant MONTANI sold more than 60,000 shares of Eagletech stock to his own BMIG/VFS retail customers in exchange for excessive commissions, or kickbacks, which he did not

disclose to his customers.

18. In and around September 1999, defendant LABELLA met with co-conspirators A.R., J.C., and F.P., who at the time collectively co-managed the BMIG/VFS Staten Island office. At this meeting, defendant LABELLA described to co-conspirators A.R., J.C., and F.P. a kickback scheme wherein he would pay the Staten Island office \$3 for each share of Eagletech stock sold by its brokers. At this time, Eagletech was selling for approximately \$6 per share on the Over-The-Counter Bulletin Board market. Pursuant to defendant LABELLA's kickback scheme, one dollar of the \$3/share kickback was paid to the broker who sold the Eagletech shares and the remaining two dollars was paid to co-conspirators J.C., A.R. and F.P.

19. Co-conspirators J.C., A.R., and F.P. agreed to participate in the broker-kickback scheme and relayed the scheme to certain brokers in the Staten Island office, including defendants VINCENT LANGELLA and MICHAEL GARBO.

20. Defendant VINCENT LANGELLA sold over 16,000 shares of Eagletech stock to BMIG/VFS customers in exchange for excessive commission kickbacks that he failed to disclose to his customers. In addition, defendant LANGELLA conducted unauthorized trades of Eagletech stock in customers' brokerage accounts and permitted other unregistered, unlicensed brokers to use his name or representative number to sell Eagletech stock to BMIG/VFS

customers in furtherance of the conspiracy.

21. Defendant MICHAEL GARBO sold over 60,000 shares of Eagletech stock to BMIG/VFS customers in exchange for excessive commission kickbacks that he failed to disclose to his customers. In addition, defendant GARBO permitted other unregistered, unlicensed brokers to use his name or representative number to sell Eagletech stock to BMIG/VFS customers in furtherance of the conspiracy.

22. The broker-conspirators employed at the Staten Island office used deceptive practices in furtherance of the Eagletech stock manipulation scheme, including exaggerating the projected appreciation of Eagletech stock, buying shares of Eagletech stock without customer approval, refusing BMIG/VFS customers' requests to sell Eagletech stock, and executing sales of Eagletech shares from customers' accounts only when the shares could be "crossed" with shares purchased by other customers.

23. The conspirators at the Staten Island Office used or caused the use of various instrumentalities of interstate commerce, including the following: telephonic solicitations of customers; facsimile transmissions of documents or "tickets" reflecting trades of Eagletech stock to the BMIG/VFS headquarters in Rosemont, Pennsylvania; and electronic communications regarding Eagletech trades sent by headquarters staff via computer to clearing firms, including clearing firms located in

New Jersey, and thereafter to a national securities exchange.

24. Co-conspirator J.C. and others periodically faxed tallies of the Eagletech shares sold by the brokers in the Staten Island office to defendant MONTANI at the Rosemont headquarters for the purpose of obtaining kickback payments from defendant LABELLA. Defendant MONTANI forwarded the information he received regarding Eagletech sales to co-conspirator T.K., defendant LABELLA and others in order to facilitate the payment of kickbacks to the brokers. In addition, defendant MONTANI directed the "crossing" of purchases and sales of Eagletech shares among BMIG/VFS customer accounts.

25. Defendant LABELLA paid kickbacks to J.C., A.R., F.P. and other brokers in the Staten Island office for the sales of Eagletech stock through various means, including checks issued from Briar Creek Investments and through wire transfers of funds.

26. From in and around August 1999 to in and around December 2000, the conspirators sold Eagletech stock to members of the investing public at prices ranging from 70 cents per share to approximately \$14 per share. Defendant LABELLA and other conspirators earned approximately \$12 million from the sale of Eagletech stock.

The Manipulation of SMTV Stock

27. In and around October 1999, defendant LABELLA and co-conspirator J.S. commenced a stock-manipulation scheme involving the stock of another publicly-traded company, Select Media Communications ("SMTV"). Defendant LABELLA and co-conspirator J.S. caused SMTV to issue 4.5 million unregistered shares of common stock to defendant LABELLA, co-conspirator J.S. and their nominees in exchange for \$1,000,000. In addition, defendant LABELLA and co-conspirator J.S. directed SMTV to execute a "reverse stock split," which caused the number of outstanding shares of SMTV to decrease. The result was that defendant LABELLA and co-conspirator J.S. controlled over 90% of the available shares of SMTV stock.

28. During the period from in and around January 2000 to in and around December 2001, defendant LABELLA and co-conspirator J.S. caused the transfer of approximately 1,421,805 shares of SMTV from their nominees to brokerage accounts controlled by defendant LABELLA. Defendant LABELLA then directed that SMTV shares from these accounts be sold to members of the investing public. As with the manipulation of Eagletech stock, defendant LABELLA offered BMIG/VFS brokers excessive commissions valued at approximately 50% of the total proceeds of the sales of SMTV stock.

29. Defendant MONTANI sold over 200,000 shares of SMTV

stock to BMIG/VFS customers in exchange for undisclosed, excessive commissions. In addition, defendant MONTANI directed the crossing of customer trades of SMTV stock and facilitated the payment of broker kickbacks as described above in connection with the scheme to manipulate Eagletech stock.

30. In and around January 2000, defendant LABELLA met with co-conspirators A.R., J.C., and F.P. and offered to pay co-conspirators J.C., A.R., and F.P. and the brokers in the Staten Island office the 50% commission on the sale of SMTV stock. As with the manipulation of Eagletech stock, co-conspirators J.C., A.R., and F.P. accepted defendant LABELLA's proposal and relayed the offer to certain brokers in the Staten Island office, including defendants LANGELLA and GARBO.

31. Defendant LANGELLA sold over 50,000 shares of SMTV stock to BMIG/VFS customers in exchange for undisclosed, excessive commissions and allowed other unregistered, unlicensed brokers to use his name or representative number to sell shares of SMTV to BMIG/VFS customers in furtherance of the conspiracy.

32. Defendant GARBO sold over 58,000 shares of SMTV stock to BMIG/VFS customers in exchange for undisclosed, excessive commissions and allowed unregistered, unlicensed brokers to use his name or representative number to sell shares of SMTV to BMIG/VFS customers in furtherance of the conspiracy.

33. In addition, in and around August 1999, co-conspirator

F.P., defendant GARBO and others, opened the BMIG Williams Street office. Co-conspirator F.P., defendant GARBO and others continued to perpetrate the Eagletech and SMTV manipulations described herein at the Williams Street office until in and around May 2000.

34. As with the manipulation of Eagletech stock, the conspirator-brokers used deceptive sales tactics to sell SMTV stock to BMIG/VFS customers, including exaggerating the projected appreciation of SMTV stock, buying shares of SMTV stock without customer approval, refusing to sell SMTV stock upon the requests of the customers, and executing the sale of shares of SMTV from a customers account only when the shares could be crossed with shares being purchased by another customer. In addition, as with the manipulation of Eagletech stock, the conspirators used or caused the use of various instrumentalities of interstate commerce as set forth above in Paragraph 23 in connection with the scheme to manipulate Eagletech stock.

35. Defendant LABELLA paid kickbacks to J.C., A.R., F.P. and other broker-conspirators for the sales of SMTV stock through various means, including checks issued from Briar Creek Investments and through wires transfers.

36. During the period from March 2000 through in and around December 2001, defendant LABELLA and others earned approximately \$4 million from the sale of SMTV stock to members of the

investing public.

The Use of
Bahamian Axxess International Cards

37. In and around February 2000, during the perpetration of the schemes to manipulate Eagletech and SMTV stocks, defendant LABELLA met with co-conspirators J.C., A.R., and F.P. and informed them, in substance, that they were to begin using Axxess International ATM/credit cards that would be linked to Bahamian bank accounts. Defendant LABELLA further stated that he would cause all future kickback payments to be deposited into these off-shore accounts and that the conspirators were to withdraw or obtain the funds through the Axxess ATM cards. Defendant LABELLA further stated that the use of the cards would reduce their "paper trail" and would enable the conspirators to avoid the payment of income taxes on the income they derived from the Axxess cards.

38. Thereafter, at the direction of defendant LABELLA and with the assistance of co-conspirator T.K., defendant MONTANI, co-conspirators J.C., A.R., F.P., A.K., J.F. and others obtained Axxess cards issued by Ledenhall Bank and Trust Company, Ltd., in Nassau, Bahamas.

39. Thereafter, defendant MONTANI and other conspirators contacted co-conspirator T.K. and informed him of the amounts of money to be applied to their Axxess accounts as payment for

kickbacks. Co-conspirator T.K. then obtained authorization from defendant LABELLA to apply the requested amounts to the specified Axxess accounts, and caused the appropriate amounts to be applied to the conspirators' Axxess accounts.

40. On numerous occasions, co-conspirators J.C., A.R., F.P., A.K., and J.F. withdrew cash using their Axxess cards and used these funds to pay kickbacks to the broker-conspirators and themselves. In addition, defendant LABELLA and MONTANI used Axxess cards issued to them to obtain the proceeds of the stock scheme.

Change in Management of Staten Island BMIG/VFS Office

41. In or around June 2000, co-conspirator F.P. left the BMIB/VFS Staten Island office. Co-conspirators A.R. and J.C. continued to run the Staten Island office until in or around April 2000. At that time, co-conspirators A.K. and J.F. took over the management of the Staten Island BMIG/VFS office. Defendant LABELLA caused Axxess cards to be issued to A.K. and J.F. Co-conspirators A.K. and J.F. hired additional licensed and unlicensed brokers to work at the Staten Island Office, including co-conspirators D.L., R.H., J.D., and C.N.

42. Defendant LABELLA continued to pay kickbacks to the co-conspirators, including co-conspirators A.K. and J.F. In addition, co-conspirators A.K. and J.F. used Axxess cards to obtain funds to pay kickbacks to the brokers under their

supervision, including D.L., R.H., J.D. and C.N., for the sale of Eagletech and SMTV stock to BMIG/VFS customers.

43. In and around January 2001, co-conspirators A.K. and J.F. and the brokers under their supervision moved their offices and established the BMIG/VFS Maiden Lane office. Defendants LABELLA and MONTANI, acting together with co-conspirators A.K., J.F. and others, continued to carry out the broker-kickback scheme at the Maiden Lane office until in and around September 2001 when the Maiden Lane BMIG/VFS office closed.

44. Defendant MONTANI continued to monitor the sales of shares of Eagletech and SMTV by A.K., J.F., and other brokers at the Staten Island and Maiden Lane offices. Defendant MONTANI continued to direct the crossing of customer trades and facilitate the payment of broker kickbacks as described above.

The Florida BMIG/VFS Office

45. In and around the end of 2000, defendant LABELLA and co-conspirator J.S. established the BMIG/VFS Ft. Lauderdale office, where they employed co-conspirator F.B. as a broker.

46. In and around February 2001, Defendant LABELLA and co-conspirator J.S. recruited co-conspirator A.C. to join the Ft. Lauderdale BMIG/VFS office. Defendant LABELLA offered and paid co-conspirator A.C. kickbacks in exchange for selling SMTV stock to BMIG/VFS customers.

47. During the period from in and around February 2001 to

in and around December 2001, co-conspirator A.C. sold over 140,000 shares of SMTV stock to BMIG/VFS customers in exchange for excessive commission kickbacks which he failed to disclose to his customers.

48. From late 2000 to in and around December 2001, co-conspirator F.B. sold over 170,000 shares of SMTV to BMIG/VFS customers in exchange for excessive commission kickbacks he failed to disclose to his customers.

Overt Acts

49. In furtherance of the conspiracy and in order to effect the objects thereof, the defendants and their co-conspirators committed the following overt acts in the District of New Jersey and elsewhere:

a. On or about January 13, 2000, defendant GARBO, or a member of the conspiracy using GARBO's representative number with GARBO's consent, sold 6,100 shares of Eagletech stock to a customer herein referred to as "Customer K.L." for \$41,279.

b. On a date in and around February 2000, defendant LANGELLA or a member of the conspiracy using LANGELLA's name and representative number with his consent, sold 2500 shares of SMTV stock to a customer herein referred to as "Customer J.M." for \$14,000.

c. On or about February 1, 2000, defendant LANGELLA, or a member of the conspiracy using LANGELLA'S representative number with LANGELLA'S consent, sold 5,750 shares of Eagletech stock to a customer herein referred to as "Customer S.F." for \$39,455.

d. On or about July 25, 2000, defendant MONTANI sold 500 shares of Eagletech to a customer herein referred to as "Customer J.S." for \$18,741.50.

e. In or around August 2000, defendant MONTANI spoke on the telephone with a BMIG/VFS customer in Barrington, New

Jersey herein referred to as "Customer P.V." and refused Customer P.V.'s request to sell his shares of SMTV.

f. In or around May 2001, defendant LABELLA went with co-conspirator A.C. to a strip club located in New Jersey near Routes 1 & 9, where the two discussed A.C. joining the BMIG/VFS Ft. Lauderdale office and earning kickbacks from the sale of SMTV stock.

g. On or about May 12, 2001, in Atlantic City, New Jersey, co-conspirator J.F. used his Axxess International card to obtain approximately \$23,000 representing the proceeds of the stock scheme charged herein.

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

COUNT TWO
(Wire Fraud)

1. Paragraphs 1 through 3 and 5 through 49 of Count One of this Indictment are realleged as if set forth in full herein.

2. In or around August 2000, in the District of New Jersey, and elsewhere, defendants

TONINO LABELLA, a/k/a "Tony"
and
ROBERT MONTANI

did knowingly and willfully devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses, representations and promises as set forth in the incorporated paragraphs of Count One, and for the purpose of executing such scheme and artifice, transmitted and caused to be transmitted by means of wire communication in interstate commerce, writings, signs, and signals, that is, a telephone call between defendant MONTANI and BMIG/VFS Customer P.V. of Barrington, New Jersey, wherein defendant MONTANI refused Customer P.V.'s request to sell shares of SMTV held by Customer P.V.

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

COUNT THREE
(Wire Fraud)

1. Paragraphs 1 through 3 and 5 through 49 of Count One of this Indictment are realleged as if set forth in full herein.

2. In or around February 2000, in the District of New Jersey, and elsewhere, defendants

TONINO LABELLA, a/k/a "Tony"
and
VINCENT LANGELLA

did knowingly and willfully devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses, representations and promises as set forth in the incorporated paragraphs of Count One, and for the purpose of executing such scheme and artifice, transmitted and caused to be transmitted by means of wire communication in interstate commerce, writings, signs, and signals, that is, a telephone call between defendant LANGELLA and a BMIG/VFS customer herein referred to as "Customer J.M." of Laurence Harbor, New Jersey, wherein defendant LANGELLA solicited Customer J.M. to buy 2,500 shares of SMTV.

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

COUNT FOUR
(Wire Fraud)

1. Paragraphs 1 through 3 and 5 through 49 of Count One of this Indictment are realleged as if set forth in full herein.

2. On or about May 12, 2001, in the District of New Jersey, and elsewhere, defendant

TONINO LABELLA,
a/k/a "Tony"

did knowingly and willfully devise a scheme and artifice to defraud and to obtain money by means of false and fraudulent pretenses, representations and promises as set forth in the incorporated paragraphs of Count One, and for the purpose of executing such scheme and artifice, transmitted and caused to be transmitted by means of wire communication in interstate commerce, writings, signs, and signals, that is, the electronic transfer of approximately \$23,000 to co-conspirator J.F. via J.F.'s Axxess International card.

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

COUNT FIVE

(Conspiracy to Impair and Impede the Internal Revenue Service)

1. Paragraphs 1 through 3 and 5 through 49 of Count One of this Indictment are realleged as if set forth in full herein.

2. During 2000, co-conspirators J.C. and A.R. were principals in a corporation known as the R.C.P. Group, which they used to operate the Staten Island BMIG/VFS office.

3. During 2000 and 2001, co-conspirators A.K. and J.F. were principals in a corporation known as the J.A. Group, which they used to operate the Staten Island and Maiden Lane BMIG/VFS offices.

4. From in and around March 1999 to in and around December 2001, in the District of New Jersey and elsewhere, defendant

TONINO LABELLA,
a/k/a "Tony,"

did knowingly and willfully conspire and agree with co-conspirators J.S., J.C., A.R., F.P., A.K., J.F. and others to defraud the United States by impeding, impairing, obstructing and defeating the lawful governmental functions of the Internal Revenue Service of the Treasury Department to ascertain, compute, assess, and collect income taxes.

Object of the Conspiracy

5. It was the object of the conspiracy for the conspirators to obtain income from the use of Axxess International credit cards and conceal this income from the Internal Revenue Service.

Means and Methods of the Conspiracy

6. Among the means and methods employed by defendant LABELLA and his co-conspirators to carry out the conspiracy and effect its unlawful object were those set forth in Paragraphs 7 through 16 below.

7. As described in the incorporated paragraphs of Count One, defendant LABELLA directed certain co-conspirators, including J.S., J.C., A.R., and A.K., to use Axxess International ATM/credit cards to obtain the proceeds of the stock manipulation scheme set forth in Count One.

8. In and around March 1999, defendant LABELLA stated in substance to co-conspirator J.S. that J.S. could obtain proceeds of their stock manipulation through the use of an Axxess card and that J.S. would not have to pay taxes on that income.

9. In and around February of 2000, defendant LABELLA stated in substance to co-conspirators J.C., A.R. and others that the use of the Axxess cards would enable the conspirators to avoid payment of income taxes on the income they derived from the Axxess cards.

10. Defendant LABELLA personally used Axxess International credit cards to obtain proceeds of the stock manipulation scheme and caused Axxess cards to be issued to co-conspirators J.S., J.C., A.R., and A.K., all of whom derived income from the use of the cards.

11. Co-conspirator J.S. failed to disclose and report the income he received through his Axxess International credit card on his personal tax return for the year 1999.

12. Co-conspirators J.C. and A.R. failed to disclose and report the income they received through their Axxess International cards on the corporate tax return for the R.C.P. Group and on their individual income tax returns for the year 2000.

13. Co-conspirators A.K. and J.F. failed to disclose and report the income they received through their Axxess International credit card on the corporate tax returns for the J.A. Group for the years 2000 and 2001. In addition, co-conspirator A.K. failed to disclose and report the income he received through his Axxess International credit card on his personal returns for 2000 and 2001.

14. As a result of the conspirators' failure to disclose and report the income they received through the use of their Axxess International credit cards, the conspirators' tax returns substantially understated their income.

15. The income the co-conspirators failed to report on personal and business returns for the years 1999, 2000 and 2001 exceeded \$400,000.

Overt Acts

16. In furtherance of the conspiracy and in order to effect the object thereof, defendant LABELLA and his co-conspirators committed the following overt acts in the District of New Jersey and elsewhere:

a. In or around February 2000, during the perpetration of the scheme set forth in the incorporated paragraphs of Count One, defendant LABELLA met with co-conspirators J.C., A.R., and F.P. in Staten Island and informed them, in substance, that they were to use Axxess International ATM/credit cards linked to off-shore bank accounts to obtain money for kickback payments to brokers.

b. On or about February 3, 2001, in Atlantic City, New Jersey, co-conspirator A.K. obtained \$8,160, representing undisclosed income, by using his Axxess International card.

In violation of Title 18, United States Code, Section 371.

FORFEITURE ALLEGATION

1. Upon conviction of one or more of the offenses alleged in Counts One, Two, Three and Four of this Indictment, defendants TONINO LABELLA, a/k/a "Tony," ROBERT MONTANI, VINCENT LANGELLA, and MICHAEL GARBO shall forfeit to the United States pursuant to 18 U.S.C. Section 981(a)(1)(C) and 28 U.S.C. Section 2461(c) any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations, including but not limited to the following:

a. MONEY JUDGMENT: A sum equal to \$16,000,000 in United States currency, representing the amount of proceeds obtained as a result of the offense(s) set forth in Counts One, Two, Three and Four for which the defendants are jointly and severally liable.

2. If the above-described forfeitable property, as a result of any act or omissions of the defendant(s):

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- 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;
it is the intent of the United States, pursuant to 21 U.S.C.
section 853(p) as incorporated by 28 U.S.C. Section 2461(c), to
seek forfeiture of any other property of said defendants up to
the value of the forfeitable property described above in
paragraph 1(a).

A TRUE BILL

FOREPERSON

CHRISTOPHER J. CHRISTIE
UNITED STATES ATTORNEY