

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

ALFONSO PORTILLO,

Defendant.

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STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:  
SOUTHERN DISTRICT OF NEW YORK )

I, CEZARY K. TCHORZNICKI, pursuant to Title 28, United States Code, Section 1746, declare, under penalty of perjury, that I am a Special Agent with the Internal Revenue Service ("IRS") and further declare under penalty of perjury the following:

1. I have been an IRS Special Agent since approximately 1995, and I am currently assigned to the New York Organized Crime Drug Enforcement Task Force Strike Force. In my capacity as a Special Agent I have conducted various criminal investigations, including but not limited to money laundering investigations. Additionally, as part of my work at the IRS, I have received training regarding money laundering. The information contained in this declaration is based upon my personal knowledge and my review of documents and records gathered during the course of this investigation, as well as

information obtained, directly or indirectly, from other sources and agents. Because this declaration is being submitted for the limited purpose of establishing probable cause, it does not include all of the facts that I have learned during the course of the investigation. Where the contents of documents and the actions, statements and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

2. I make this declaration in support of the application by the United States of America for a post-indictment order restraining ALFONSO PORTILLO (the "Defendant"), and others from engaging in the transfer, sale, assignment, pledge, hypothecation, encumbrance, dissipation, distribution or movement of the contents of the following specific bank accounts:

- (a) Approximately €491,254.90 in Euros formerly on deposit in account numbers 948083 USD 252021011 (Retail: 1112820160); 948083 EUR 252021011 (Retail: 1112820160) 948083 USD 272001011; and 948083 EUR 272001011 at Banco Bilbao Vizcaya Argentaria in Paris, France (collectively the "BBVA Accounts") and currently held by the Chief High Court of Paris, France in the "Caisse De Depots Et Consignations, 15 Quai Anatole France 75700 Paris";
- (b) Any and all funds in the name of "Excell Life International S.A. Invest Dedie Police 50100118," currently or formerly held on deposit at any time between January 14, 2000 and the present in account numbers LU 87 07099040 3100 0EUR; LU 87 07099040 3100 0USD; and LU

87 07099040 3100 0GBP at UBS Luxembourg (collectively the "UBS Luxembourg Accounts"), including but not limited to the following:

- (i) €903,150.67 in Euros formerly on deposit in UBS Luxembourg account numbers LU 87 07099040 3100 0EUR; LU 87 07099040 3100 0USD; and LU 87 07099040 3100 0GBP, in the name of "Excell Life International S.A. Invest Dedie Police 50100118" and currently being held at Banque & Caisse D'Epargne De L'Etat in Luxembourg;
- (ii) \$10,831.55 in United States Dollars formerly on deposit in UBS Luxembourg account numbers LU 87 07099040 3100 0EUR; LU 87 07099040 3100 0USD; and LU 87 07099040 3100 0GBP, in the name of "Excell Life International S.A. Invest Dedie Police 50100118" and currently being held at Banque & Caisse D'Epargne De L'Etat in Luxembourg;
- (c) Any and all funds or bonds/investments currently or formerly on deposit at any time between January 14, 2000 and the present in Banque Audi (Suisse SA) account numbers 049345/001.000.978 and 0684500/001.000.978 (collectively the "Banque Audi Accounts")

(a through c collectively the "Target Accounts").<sup>1</sup> Because funds

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<sup>1</sup> Many of the Target Accounts bear the same account numbers as each other, and differ only with respect to the type of the currency that they will accept for deposit. For instance, BBVA Account # 948083 USD 252021011 (Retail: 1112820160) and BBVA Account # 948083 EUR 252021011 (Retail: 1112820160), defined *infra* as "BBVA Account 1-USD" and "BBVA Account 1-EUR," bear the same account numbers and are thus effectively the same account, except that BBVA Account 1-USD accepts dollars and BBVA Account 1-EUR accepts Euros.

in many of these accounts can be quickly and easily transferred, the requested Restraining Order is necessary and essential to preserve these assets pending the resolution of this matter. Without such an Order, these funds could be quickly dissipated or concealed.

3. There is probable cause to believe that the Target Accounts contain property involved in a conspiracy to commit money laundering, or property traceable to such property, in violation of Title 18, United States Code, Section 1956. As such, the contents of the Target Accounts are subject to forfeiture to the United States pursuant to Title 18 United States Code, Section 982(a)(1).

4. "[C]ourts in this district have held that '[t]he term "involved in" refers to property that is itself being laundered, as well as property used to facilitate a money laundering offense.'" *In re 650 Fifth Avenue and Related Props.*, 777 F. Supp. 2d 529, 563 (S.D.N.Y. 2011) (citation omitted).

#### I. BACKGROUND

##### A. The Charges

5. On or about December 1, 2009, Indictment 09 Cr. 1142 (the "Indictment") was filed under seal in the Southern District of New York, charging the Defendant with conspiring to launder money, in violation of Title 18, United States Code, Section 1956. A copy of the Indictment is attached to the

accompanying Application for Restraining Order as Exhibit A.

6. The Indictment contains a forfeiture allegation providing notice of the Government's intent to seek the forfeiture of all property, real and personal, involved in the money laundering offenses and all property traceable to such property.

7. On or about August 9, 2012, the Government filed with the Court, and caused to be served upon the Defendant, the Government's Forfeiture Bill of Particulars, which seeks the forfeiture of the Target Accounts. A copy of the Government's Forfeiture Bill of Particulars is attached to the accompanying Application for Restraining Order as Exhibit B.

B. The Money Laundering Conspiracy

8. As set forth in the Indictment, from at least on or about January 14, 2000 through on or about January 14, 2003, the Defendant served as the President of Guatemala. During the course of his Presidency, the Defendant exercised direct control over the country's two national banks and embezzled tens of millions of dollars worth of public funds. A portion of the funds embezzled by the Defendant and unindicted co-conspirators were laundered through bank accounts located, among other places, in the United States and Europe.

C. The 2000 Taiwan Donation

9. On or about January 10 and July 25, 2000, the

Government of Taiwan issued three checks, each in the amount of \$500,000, to the Government of Guatemala (the "2000 Donation Checks").

10. The 2000 Donation Checks were to be used for a program known as Bibliotecas Para La Paz ("Libraries for Peace"), a public project in Guatemala designed to purchase books for school libraries.

11. None of the checks issued by the Government of Taiwan were applied to the Libraries for Peace program. Instead, that money was diverted, in a series of transactions and transfers designed to conceal the source and origin of the funds, to accounts held at Banco Bilbao Vizcaya Argentaria in Paris, France ("BBVA") in the names of, and controlled by, the former wife and daughter of the Defendant.

12. On or about March 15, August 9, and August 17, 2000, respectively, the 2000 Donation Checks, each of which was endorsed by the Defendant, were deposited at Hamilton Bank, S.A. in Miami, Florida, in an account held by a Guatemalan bank known as Banco Promotor. The majority stockholder in Banco Promotor was a close associate and political supporter of the Defendant.

13. On or about August 24, 2000, three checks totaling \$1 million, each of which was drawn upon the Banco Promotor account at Hamilton Bank, S.A., were deposited at Riggs Bank, N.A. in an account held by an entity known as the Education

Holdings Company.

14. Subsequently, on or about March 24, 2003, a wire transfer in the amount of \$996,676 was made from the Education Holdings Company account at Riggs Bank into bank account number 948083 USD 252021011 (Retail: 1112820160) at BBVA ("BBVA Account 1-USD"), an account in the names of, and controlled by, the former wife and daughter of the Defendant. This bank account is one of the BBVA Accounts, which are among the Target Accounts. At all relevant times, all of the BBVA Accounts were in the names of, and controlled by, the former wife and daughter of the Defendant.

D. The UBS Luxembourg Accounts and the Banque Audi Accounts

15. Through at least in or about 2006, funds that the Defendant had caused to be transferred to the BBVA Accounts were further laundered through other bank accounts and financial institutions, namely the UBS Luxembourg Accounts and Banque Audi Accounts, which are also among the Target Accounts.

16. On or about April 28, 2003, a wire transfer in the amount of \$1,001,507.57 was made from one of the BBVA Accounts to one of the UBS Luxembourg Accounts, which account was held by an entity known as Excell Life International. The specific investment account to which the wire transfer was made was in the name of the Defendant's former wife.

17. On or about August 5, 2004, a wire transfer in the

amount of \$337,976.16 was made from one of the BBVA Accounts to one of the Banco Audi Accounts, which was held in the name of the Defendant's former wife and daughter.

18. On or about August 5, 2004, a wire transfer in the amount of €1,234,439.81 was made from one of the BBVA Accounts to one of the Banco Audi Accounts.

E. Money Movement

19. Throughout the conspiracy period, a series of transfers and withdrawals were made from BBVA Account 1-USD into bank accounts held in the names of, or controlled by, the Defendant's former wife and daughter, as the following chart illustrates:

Date	Amount	Originating Account	Destination Account
04/15/03	\$990,000 (USD)	BBVA Account 1-USD	BBVA Account # 948083 USD 272001011 ("BBVA Account 2-USD")
04/28/03	\$1,000,000 (USD)	BBVA Account 2-USD	BBVA Account 1-USD
04/28/03	\$1,001,507.57 (USD)	BBVA Account 1-USD	UBS Account # LU 87 07099040 3100 0USD ("UBS Account-USD") <sup>1</sup>
05/13/03	\$1,000,000 (USD)	USB Account-USD	UBS Account # LU 87 07099040 3100 0EUR ("UBS Account-EUR") <sup>2</sup>
08/02/04	\$337,976.16 (USD)	BBVA Account 1-USD	Banque Audi Suisse SA Account # 049345/001.000.978 ("Banque Audi



			Account 1") <sup>3</sup>
08/02/04	€1,236,300.00 (EUR)	BBVA Account # 948083 EUR 252021011 (Retail: 1112820160) ("BBVA Account 1-EUR")	Banque Audi Account 1 <sup>4</sup>
10/22/04	£41,617.56 (GBP)	UBS Account # LU 87 07099040 3100 0GBP ("UBS Account-GBP")	UBS Account-EUR <sup>5</sup>
08/16/05	€1,000,000.00 (EUR)	Banque Audi Account 1	Banque Audi Suisse SA Account # 0684500/001.000.97 8 ("Banque Audi Account 2")
08/25/06	€450,000 (EUR)	BBVA Account 1-EUR	BBVA Account # 948083 EUR 272001011 ("BBVA Account 2-EUR")

<sup>1</sup> Although \$1,001,507.57 was moved from BBVA Account 1-USD, only \$1,000,000 was deposited into UBS Account-USD. It is suspected that the \$1,507.57 difference is as a result of wire transfer fees charged. Additionally, according to the bank records, this transaction did not post in UBS Account-USD until 05/14/03.

<sup>2</sup> When the funds were moved into this account they were converted from United States dollars into Euros and thus the total deposited into UBS Account-EUR on 05/13/03 was €864,659.22.

<sup>3</sup> When the funds were moved into this account they were converted from United States dollars into Euros and thus the total deposited into deposited into Banque Audi Account 1 was €278,252.46. Additionally, this transaction did not post in Banque Audi Account 1 until 08/05/04.

<sup>4</sup> Although €1,236,300 was moved from BBVA Account 1-EUR, only €1,234,439.81 was deposited into Banque Audi Account 1. It is suspected that the \$1,860.19 difference is as a result of wire transfer fees charged. Additionally, this transaction did not post in Banque Audi Account 1 until 08/05/04.

<sup>5</sup> When the funds were moved into this account they were converted from Great Britain Pounds into Euros and thus the total deposited into UBS Account-EUR was €59,586.88.

**II. PROBABLE CAUSE EXISTS TO BELIEVE THAT  
THE TARGET ACCOUNTS ARE SUBJECT TO FORFEITURE**

20. Above, I described facts establishing probable cause to believe that the Target Accounts are subject to forfeiture and that a restraining order is appropriate to preserve them for criminal forfeiture in this case because the Target Accounts contain property involved in money laundering in violation of Title 18, United States Code, Section 1956.

21. Based on my investigation to date, my review of bank records and my discussions with other law enforcement officials both in the United States and in Guatemala, I believe that the Target Accounts contain property involved in the money laundering conspiracy that the Defendant participated in.

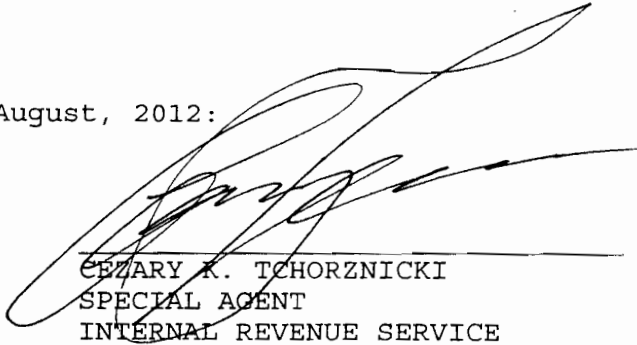
**III. CONCLUSION**

22. For the foregoing reasons, I submit that there is probable cause to believe that the Target Accounts contain monies involved in a conspiracy to commit money laundering in violation of Title 18, United States Code, Section 1956. Accordingly, the Target Accounts are subject to forfeiture to the United States of America pursuant to Title 18, United States Code, Section 982(a)(1) and I respectfully request that the Court issue a

Restraining Order for the Target Accounts, as described in paragraph 2, supra.

Pursuant to Title 28, United States Code, Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 9th day of August, 2012:



CEZARY K. TCHORZNICKI  
SPECIAL AGENT  
INTERNAL REVENUE SERVICE