



Vincent J. Garcia Pled Guilty to Bank Fraud in Albuquerque Federal District Court

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The Federal Bureau of Investigation (FBI) on August 19, 2011 released the following:

“Albuquerque Real Estate Developer Pleads Guilty to Federal Bank Fraud Charge

ALBUQUERQUE— This morning in U.S. District Court, Albuquerque real estate developer Vincent J. Garcia, 59, pleaded guilty to committing bank fraud in the amount of \$365,677 under a plea agreement with the United States Attorney’s Office. In entering his plea, Vincent Garcia admitted that the gross loss amount to the victims of his fraudulent activity was \$842,237.44. United States Attorney Kenneth J. Gonzales said that Vincent Garcia entered a guilty plea to count three of a 19-count superseding indictment charging him and co-defendants Derek Barnhill, 47, formerly of Rio Rancho, and David Garcia, 35, of Albuquerque, with bank fraud and money laundering charges in connection with three real estate development projects, including the Anasazi Downtown LLC (“Anasazi Building”).

At sentencing, Vincent Garcia faces a maximum penalty of 20 years of imprisonment, a \$1,000,000 fine, and restitution as ordered by the court. The court continued Vincent Garcia on the conditions of release imposed at his arraignment on June 25, 2010 pending his sentencing hearing, which has yet to be scheduled.

According to the plea agreement, Vincent Garcia knowingly executed a plan to obtain funding from the Columbian Bank & Trust Co. (“Bank”) by having Barnhill submit a bank construction loan draw-down request containing a material misrepresentation. Vincent Garcia admitted that he used \$360,000.00 in construction loan proceeds to invest in a casino in Washington state. To obtain these funds, Vincent Garcia had Barnhill

submit a construction loan draw-down request in the amount of \$365,677 to the Bank on February 12, 2007. The draw-down request falsely stated that the funds were needed for “materials and price lock” for construction services to be provided by a specific company.

Vincent Garcia admitted instructing Barnhill to draw down the construction loan knowing that the funds would not be directly utilized in the construction of the Anasazi Building. In requesting that Barnhill submit the draw-down request, Vincent Garcia knew that the request would falsely represent that the money would be used for a direct construction expense.

In his plea agreement, Vincent Garcia states that his company engaged his son, co-defendant David Garcia, to act as the general contractor for the Anasazi Building and the other real estate development projects, and that David Garcia was compensated in the form of labor and materials for construction work on his personal residence. Vincent Garcia admitted that he submitted invoices for work performed on his son’s residence to the Bank and to the First Financial Credit Union, and manipulated the invoices to appear to be direct expenses for his real estate development projects. Vincent Garcia asserted that David Garcia was not aware that the invoices for work performed and labor provided at his residence were being submitted to the banks as direct project expenses.

On December 16, 2010, Barnhill entered a guilty plea to count three, a bank fraud offense, and count 10, a money laundering offense, of the superseding indictment. In his plea agreement, Barnhill provided a more expansive description of the bank fraud to which Vincent Garcia entered his guilty plea. To that end, Barnhill said that, on February 12, 2007, Vincent Garcia told Barnhill that he needed \$360,000 for a “good faith payment” towards the purchase of a casino. Vincent Garcia asked Barnhill to use an old bid for sheet rock for the Anasazi Building to get the

money. Barnhill altered the sheet rock bid to support a fictitious draw-down request for \$365,677 and submitted the request based solely on the false invoice to the Bank. After the Bank disbursed the money, Barnhill transferred the funds to an Anasazi account at New Mexico Bank and Trust. The next day, Vincent Garcia and Barnhill went to New Mexico Bank and Trust and withdrew \$360,000 of the proceeds and the money at Compass Bank in an account in the name of Albuquerque Downtown Partners. Thereafter, Vincent Garcia flew to Washington State with a Compass Bank check for \$360,000 to make a payment on the casino. In entering his guilty plea, Barnhill did not implicate David Garcia in the criminal conduct charged in the superseding indictment.

Like Vincent Garcia, Barnhill faces up to 20 years of imprisonment, a maximum \$1,000,000 fine, and restitution as ordered by the court. He remains on conditions of release pending his sentencing hearing, which has yet to be scheduled.

During today’s proceedings, Assistant United States Attorney Jonathon M. Gerson informed the court that the United States anticipates seeking dismissal of the charges against David Garcia.

This case was investigated by the Criminal Investigation Division of the Internal Revenue Service, the Federal Bureau of Investigation, and the Federal Deposit Insurance Corporation, and is being prosecuted by Assistant United States Attorney Gerson.”

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Douglas McNabb and other members of the U.S. law firm practice and write extensively on matters involving Federal Criminal Defense, INTERPOL Red Notice Removal, International Extradition and OFAC SDN List Removal.

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