

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A TRUE COPY
UNITED STATES MAGISTRATE
FOR THE SOUTHERN DISTRICT OF N.Y.
[Signature]
DEPUTY CLERK

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UNITED STATES OF AMERICA : SEALED INDICTMENT

-v.- : 09 Cr.

ALFONSO PORTILLO, :

Defendant. :

----- **09 CRIM 1142**

COUNT ONE

(MONEY LAUNDERING CONSPIRACY)

The Grand Jury charges:

BACKGROUND TO THE CONSPIRACY

The Defendant

1. From on or about January 14, 2000, through on or about January 14, 2004, ALFONSO PORTILLO, the defendant, served as the President of Guatemala. As set forth below, during the course of his presidency, PORTILLO embezzled tens of millions of dollars worth of public funds, a portion of which he then laundered through bank accounts located, among other places, in the United States and Europe.

2. As President of Guatemala, ALFONSO PORTILLO, the defendant, exercised direct oversight over the country's two national banks, one of which is *Crédito Hipotecario Nacional* ("CHN"). In that capacity, and in order to maintain control over various financial transactions at CHN, on or about February 2, 2000, PORTILLO appointed a co-conspirator not named as a

defendant herein ("CC-1") as President of CHN. With the aid of CC-1 and other co-conspirators not named as defendants herein, from at least in or about 2000 through in or about 2003, PORTILLO embezzled money from the Guatemalan Government and made a number of fraudulent transactions through CHN and other Guatemalan banks to enrich himself and his co-conspirators. PORTILLO and his co-conspirators subsequently laundered these funds through various international bank accounts, including accounts located in the United States, through at least in or about 2006.

The 2000 Checks From The Government Of Taiwan

3. On or about January 10 and July 25, 2000, the Government of Taiwan, through its Embassy in Guatemala, issued three checks, each in the amount of \$500,000 and drawn upon an account at the International Bank of China in New York, New York. These checks represented a donation by the Government of Taiwan for a program known as *Bibliotecas Para La Paz* ("Libraries for Peace"), a public project in Guatemala designed to purchase books for school libraries.

4. On or about March 15, August 9, and August 17, 2000, the three checks from the Government of Taiwan, each of which was endorsed by ALFONSO PORTILLO, 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 PORTILLO's ("Stockholder-1").

5. On or about August 24, 2000, three checks totaling \$1,000,000, 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. 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 a bank account at *Banco Bilbao Vizcaya Argentaria* in Paris, France, which was in the names of, and controlled by, the former wife and daughter of ALFONSO PORTILLO, the defendant. This bank account was one of several at *Banco Bilbao Vizcaya Argentaria*, all of which were in the names of, and controlled by, the former wife and daughter of PORTILLO (collectively, the "BBVA Accounts").

6. None of the checks issued by the Government of Taiwan was applied to the Libraries For Peace program. Instead, as set forth above, this money was diverted, in a series of transactions and transfers designed to conceal the source and origin of the funds, to the BBVA Accounts in Paris which were in the names of, and controlled by, the former wife and daughter of ALFONSO PORTILLO, the defendant.

The 2002 Checks From The Government Of Taiwan

7. On or about August 7, 2002, the Government of Taiwan, again through its Embassy in Guatemala, issued two

additional checks, each in the amount of \$500,000, to a company known as Oxy Financial Corp. (hereafter "Oxy Financial"). As with the three prior checks issued in 2000, these two checks were also drawn upon the Government of Taiwan's bank account at the International Bank of China in New York, New York.

8. On August 22, 2002, both checks referenced in Paragraph 7 were deposited at the International Bank of Miami, in an account held by Oxy Financial. Thereafter, on September 30 and November 26, 2002, wire transfers in the amounts of \$300,000 and \$322,430.64, respectively, were made from Oxy Financial's International Bank of Miami account into the BBVA Accounts in Paris, France, which were held by the former wife and daughter of ALFONSO PORTILLO, the defendant. As described in part below, once these and other illegally obtained funds were transferred into the BBVA Accounts, they were further disbursed and laundered through different accounts and financial institutions in Europe.

The BBVA Accounts Held By PORTILLO's Former Wife And Daughter

9. ALFONSO PORTILLO, the defendant, used the BBVA Accounts in Paris to continue to conceal the source and origin of his illegally obtained funds. Through at least in or about 2006, funds that PORTILLO had caused to be transferred to the BBVA Accounts were further laundered through other bank accounts and financial institutions in England, Switzerland, and Luxembourg. For example:

a. 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 an investment account located at UBS in Luxembourg, 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 PORTILLO's former wife. This investment account remained active through at least March 31, 2009, at which time it held a balance of approximately 909,000 Euros.

b. On or about March 31, 2004, a wire transfer in the amount of 4,122.69 Euros was made from one of the BBVA Accounts in Paris, France, to a bank account at Riggs Bank in London, England, which was held in the name of PORTILLO's daughter.

c. 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 an account at *Banco Audi Suisse S.A.* in Switzerland, which was held in the names of PORTILLO's former wife and daughter.

d. On or about August 5, 2004, a wire transfer in the amount of 1,234,439.81 Euros was made from one of the BBVA Accounts in Paris, France to a bank account at *Banco Audi Suisse S.A.* in Switzerland, which was held in the names of PORTILLO's former wife and daughter.

e. On or about June 27, 2005, a trust was

established in Lichtenstein -- the beneficiaries of which were PORTILLO's former wife and daughter (hereinafter the "Trust") -- into which all of the money maintained at the account at Banco Audi Suisse S.A. (referenced in paragraphs 9(c) and (d)) was transferred. Thereafter, the Banco Audi Suisse S.A. account was held in the name of the Trust.

f. On or about July 11, 2006, a disbursement in the amount of \$8,000 was made from the bank account at Banco Audi Suisse S.A. in Switzerland by the Trust to PORTILLO's daughter.

g. On or about September 27, 2006, a disbursement in the amount of \$10,000 was made from the bank account at Banco Audi Suisse S.A. in Switzerland by the Trust to PORTILLO's former wife.

Funds Embezzled From The Ministry Of Defense

10. In or about 2001, ALFONSO PORTILLO, the defendant, embezzled funds from the Guatemalan Ministry of Defense with the assistance of two co-conspirators not named as defendants herein who were members of the Guatemalan army -- a colonel who was also in charge of PORTILLO's security staff ("CC-2"), and an intelligence officer ("CC-3"). Between on or about March 3 and March 9, 2001, pursuant to PORTILLO's instructions, CC-2 and CC-3 made three cash deliveries in an aggregate amount of 30,000,000 Quetzales (equivalent at that time to approximately \$3,900,000) to CC-1 (who, as set forth above, was the President of CHN).

11. Following the delivery of the Ministry of Defense funds to CHN, ALFONSO PORTILLO, the defendant, used CHN and a Guatemalan company known as *Confía*, which was controlled by CC-1, to unlawfully disburse and launder a portion of these funds. For example:

a. In or about March 2001, PORTILLO directed the issuance of two cashiers checks drawn upon CHN accounts, each in the amount of 2,000,000 Quetzales (equivalent at that time to approximately \$520,000), as payment in a private land deal between PORTILLO and another co-conspirator not named as a defendant herein ("CC-4").

b. PORTILLO also directed the distribution of 4,000,000 Quetzales (equivalent at that time to approximately \$520,000), from *Confía's* account at CHN, which was disguised as a loan, to a construction company controlled by CC-2.

c. On or about March 6th, 7th, and 8th, 2001, PORTILLO directed the issuance of three checks from *Confía's* account at CHN for a total of \$1,500,000, which were given to a company known as *Corporacion de Electrónica de Guatemala S.A.* ("COEGSA"). COEGSA was controlled by a co-conspirator not named as a defendant herein ("CC-5") and its banking activities extended to a number of accounts maintained by Guatemalan and Costa Rican banks in Miami, Florida. On or about May 9, 2002, COEGSA ordered a wire transfer in the amount of \$516,462.24 from

an account at the International Bank of Miami into one of the BBVA Accounts in Paris, France.

d. PORTILLO used a substantial portion of the remaining funds misappropriated from the Ministry of Defense to cover overdraft expenses incurred on various accounts held at CHN, which, as described in greater detail below, PORTILLO used for his personal enrichment.

Funds Misappropriated From CHN

12. From in or about 2000 through at least in or about March 2001, ALFONSO PORTILLO, the defendant, misappropriated funds from the publicly financed reserves of CHN. PORTILLO and his co-conspirators created overdrafts in CHN accounts belonging to both real and shell companies established by CC-1 and other co-conspirators. Through their use of overdrafts, PORTILLO and his co-conspirators withdrew and transferred money from CHN accounts in excess of the accounts' otherwise existing balances. The overdrafts were financed by the public reserves of CHN. PORTILLO used these overdraft withdrawals and transfers to purchase, among other things, various personal items -- expensive watches and cars, for example -- for himself and his associates. On other occasions, PORTILLO and his co-conspirators used the overdrafts on CHN accounts to transfer funds into business and personal accounts belonging to co-conspirators, which accounts were maintained in the United States and elsewhere.

13. ALFONSO PORTILLO, the defendant, directed CC-1 and other co-conspirators to hide the existence of these overdrafts by transferring money from other bank accounts into the overdrafted accounts held at CHN. The money transferred into the overdrafted accounts at CHN originated from, among other places, accounts held at *Banco Promotor* and *Banco Metropolitano*, both of which were controlled by Stockholder-1. These transfers were financed by the creation of additional overdrafts in the accounts held at *Banco Promotor* and *Banco Metropolitano* (in addition to other banks), which, in turn, required further financial coverage. By covering each overdraft transaction -- whether at CHN, *Banco Promotor*, or *Banco Metropolitano* -- with other overdraft transactions, PORTILLO and his co-conspirators were able to conceal, and thereby perpetuate, their use of overdrafts, which they employed for their personal benefit.

14. The shuttling of money between CHN and the banks controlled by Stockholder-1 also had another purpose. By transferring money back and forth between these banks, ALFONSO PORTILLO, the defendant, and his co-conspirators created the illusion that *Banco Promotor* and *Banco Metropolitano* were financially healthy, when in fact they were failing. The appearance of financial solvency at *Banco Promotor* and *Banco Metropolitano* benefitted Stockholder-1, while also allowing PORTILLO and his co-conspirators to continue using these banks to

launder money and maintain their overdraft scheme.

15. When the bank transfers between CHN, *Banco Promotor*, and *Banco Metropolitano* began to exceed the limits set forth by the Guatemalan Superintendent of Banks, CC-1 and other co-conspirators continued to manipulate the banks' balance sheets and financial statements by making further transfers of funds between these banks and a bank account at Hamilton Bank in Florida held by *Confía*, which was, as set forth above, a Guatemalan company controlled by CC-1. Both *Banco Promotor* and *Banco Metropolitano* ultimately failed and were liquidated in or about March 2001.

STATUTORY ALLEGATIONS

16. From in or about 1999, up to and including in or about 2009, in the Southern District of New York and elsewhere, ALFONSO PORTILLO, the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to violate Section 1956(a)(2)(B)(i) of Title 18, United States Code.

17. It was a part and an object of that conspiracy that ALFONSO PORTILLO, the defendant, and others known and unknown, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions, to wit, the transfer of millions of dollars, represented the proceeds of some form of unlawful

activity, to wit, fraud and any scheme and attempt to defraud by and against a foreign bank, and the bribery of a public official, and the misappropriation, theft, and embezzlement of public funds by and for the benefit of a public official, unlawfully, willfully, and knowingly did transport, transmit, and transfer, and attempt to transport, transmit, and transfer, a monetary instrument and funds from a place in the United States to and through a place outside of the United States and to a place in the United States from and through a place outside of the United States, to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of Title 18, United States Code, Section 1956(a)(2)(B)(i).

OVERT ACTS

18. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about March 15, 2000, ALFONSO PORTILLO, the defendant, endorsed and caused to be deposited a check in the amount of \$500,000 from the Government of Taiwan's Embassy in Guatemala, which was drawn upon an account held at the International Bank of China in New York, New York, into an account maintained at Hamilton Bank in Miami, Florida.

b. On or about August 9 and 17, 2000, PORTILLO endorsed and caused to be deposited two checks totaling \$1,000,000 from the Government of Taiwan's Embassy in Guatemala, both of which were drawn from an account held at the International Bank of China in New York, New York, into an account maintained at Hamilton Bank in Miami, Florida.

c. On or about August 24, 2000, three checks totaling \$1,000,000, drawn upon an account held at Hamilton Bank in Miami, Florida, were deposited into an account at Riggs Bank, N.A., which was held in the name of an entity known as Education Holdings.

d. On or about March 30, 2001, three checks totaling \$1,500,000, each of which was drawn on an account held by a corporation known as *Confía* at Hamilton Bank in Miami, Florida, were issued to a corporation known as COEGSA.

e. On or about May 9, 2002, a wire transfer in the amount of \$516,462.24 was ordered by COEGSA from an account at the International Bank of Miami into one of the BBVA Accounts in Paris, France.

f. On or about August 7, 2002, PORTILLO caused to be deposited two checks from the Government of Taiwan's Embassy in Guatemala totaling \$1,000,000, which were drawn upon an account at the International Bank of China in New York, New York, into an International Bank of Miami account held by Oxy

Financial.

g. On or about September 30, 2002, a wire transfer in the amount of \$300,000 was made from Oxy Financial's account at the International Bank of Miami into one of the BBVA Accounts in Paris.

h. On or about November 26, 2002, a wire transfer in the amount of \$322,430.64 was made from Oxy Financial's account at the International Bank of Miami to one of the BBVA Accounts in Paris.

i. On or about March 24, 2003, a wire transfer in the amount of \$996,676 was made from the Education Holdings account at Riggs Bank, N.A. to one of the BBVA Accounts in Paris.

j. 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 in Paris to a bank account at UBS in Luxembourg.

k. On or about March 31, 2004, a wire transfer in the amount of 4,122.69 Euros was made from one of the BBVA Accounts in Paris, France, to a bank account at Riggs Bank in London, England, which was held in the name of PORTILLO's daughter.

l. 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 a bank account at *Banco Audi Suisse S.A.* in Switzerland.

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

the amount of 1,234,439.81 Euros was made from one of the BBVA Accounts to a bank account at *Banco Audi Suisse S.A.* in Switzerland.

n. On or about June 27, 2005, a trust was formed in Lichtenstein, with PORTILLO's former wife and daughter as its beneficiaries, which received money from the *Banco Audi Suisse S.A.* account that was controlled by his former wife and daughter.

o. On or about July 11, 2006, a disbursement in the amount of \$8,000 was made from the bank account at *Banco Audi Suisse S.A.* in Switzerland by the Trust to PORTILLO's daughter.

p. On or about September 27, 2006, a disbursement in the amount of \$10,000 was made from the bank account at *Banco Audi Suisse S.A.* in Switzerland by the Trust to PORTILLO's former wife.

q. In or about March 2009, a former employee of CHN was threatened by a co-conspirator not named as a defendant herein.

(Title 18, United States Code, Section 1956.)

FORFEITURE ALLEGATION

19. As a result of committing the money laundering offense in violation of Title 18, United States Code, Section 1956, alleged in Count One of this Indictment, ALFONSO PORTILLO, the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 982, all property, real and

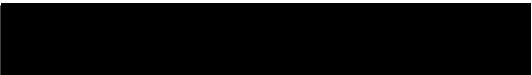

personal, involved in the money laundering offenses and all property traceable to such property.

20. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

- 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 intention of the United States, pursuant to 18 U.S.C. § 982(b), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 982 and 1956.)



FOREPERSON



PREET BHARARA
United States Attorney

UNITED STATES DISTRICT COURT
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Defendant.

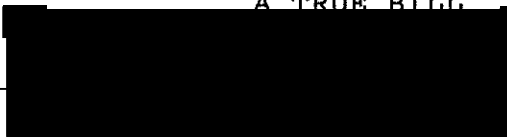
INDICTMENT

09 Cr.

(Title 18, United States Code,
Section 1956.)

PREET BHARARA
United States Attorney.

A TRUE BILL.


Foreperson.
