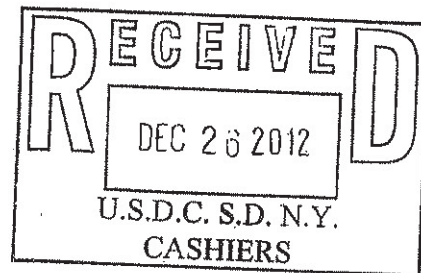


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PREET BHARARA

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the Southern District of New YorkBy: LISA P. KOROLOGOS
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SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

\$201,166.08 IN UNITED STATES CURRENCY
REPRESENTING FUNDS FORMERLY ON
DEPOSIT IN CITIBANK, N.A. ACCOUNT
NUMBER 80606060, HELD IN THE NAME OF
TIMOTHY GARCIA, ANDVERIFIED COMPLAINT

12 Civ.

\$44,354.86 IN UNITED STATES CURRENCY
REPRESENTING FUNDS FORMERLY ON
DEPOSIT IN CITIBANK (WEST), F.S.B.
ACCOUNT NUMBER 500228358, IN THE NAME
OF IJT ACCESS WORLDWIDE,Defendants-in-rem.

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Plaintiff United States of America, by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, for its verified complaint alleges, upon information and belief, as follows:

JURISDICTION AND VENUE

1. This action is brought by the United States of America pursuant to Title 21, United States Code, Section 881(a)(6) and Title 18, United States Code, Section 981(a)(1)(C)

seeking the forfeiture of the following property:

- A. \$201,166.08 in United States currency representing funds formerly on deposit at Citibank, N.A. Account No. 80606060, held in the name of Timothy Garcia (the “Timothy Garcia Account”), and
- B. \$44,354.86 in United States currency representing funds formerly on deposit at Citibank (West), F.S.B. Account No. 500228358, in the name of IJT Access Worldwide (the “I.J.T. Access Account”)

(A and B collectively the “Defendant Property”).

2. This Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and 1355.

3. Venue is proper under Title 28, United States Code, Section 1355(b)(1)(A) because acts and omissions giving rise to forfeiture took place in the Southern District of New York.

4. The Defendant Property is presently being held by the United States Customs and Border Protection pending further court order.

II. PROBABLE CAUSE FOR FORFEITURE

5. The Defendant Property represents monies derived from offenses against the Philippines, namely bribery of a public official in the Philippines and/or the misappropriation, theft or embezzlement of public funds in the Philippines for the benefit of a public official.

A. The Philippines Investigation and Complaint

6. On or about September 27, 2004, the Philippine Ombudsman Office filed a complaint (the “Philippine Complaint”) against Carlos Garcia (“General Garcia”), a 2 star

general in the Philippine Armed Forces, alleging criminal and administrative charges, namely that General Garcia committed perjury and made a false declaration on his Statement of Assets, Liabilities and Net Worth, in violation of Sec. 8, in relation to Sec. 11 of RA 6713; Article 183 of the Revised Penal Code; and Sec. 52A, paragraphs (1) Dishonesty, (3) Grave Misconduct, and (20) Conduct Prejudicial to the Best Interest of the Service under the Civil Service Law.

7. The Philippine Complaint details the significant discrepancies in General Garcia's legitimate reported income, in particular the significant wealth/assets that General Garcia and his family had amassed in the form of deposits in banks, undeclared cash holdings, acquisition of real property, and other personal property, including property in the United States, which are disproportionate to his and his family's legitimate income.

8. According to the Philippine Complaint, General Garcia's primary sources of legitimate income were his salary and the fee/allowances he received as a Trustee of the Armed Forces of the Philippines Savings and Loan Association ("AFPSLAI"). The Philippine Complaint states the General Garcia's salary for 2001 and 2002 was PHP 170,361.95 (approximately \$3,097 in United States currency) and PHP 198,708.47 (approximately \$3,612 in United States currency). In 2001, 2002 and 2003, General Garcia received PHP 460,333.34 (approximately \$8,369 in United States currency), PHP 767,000.00 (approximately \$13,945 in United States currency), and PHP 754,000.00 (approximately \$13,709 in United States currency), respectively, from the AFPSLAI.

9. The Philippine Complaint concluded that General Garcia and his family have approximately PHP 47,000,000.000 (approximately \$845,000 in United States currency) of

undeclared assets in the Philippines, not including the value of their undeclared assets in the United States, which amount to approximately \$1,420,000.00 in United States currency.

10. According to documents obtained from the Philippines authorities, the Philippines also investigated General Garcia and his immediate family for violating the Philippine Republic Act (“RA”) 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, and for violating RA 7080, otherwise known as the Anti-Plunder Act.

11. Based on the information received by United States law enforcement from the Philippine investigation and the sworn statement by General Garcia’s wife, described below, the funds that were transferred to the United States by the Garcia family were the proceeds of bribes accepted by General Garcia and/or the misappropriation, theft or embezzlement of public funds by General Garcia.

B. San Francisco Currency Seizure

12. On December 19, 2003, General Garcia’s sons, Juan Paulo Garcia (“Juan Garcia”) and Ian Carl Garcia (“Ian Garcia”) (collectively the “Garcia Brothers”), were examined by agents of the Customs and Border Protection (“CBP”) as they arrived at the San Francisco International Airport from Manila, Philippines. The Garcia Brothers claimed that they were carrying a total of \$1,000 in cash. During the examination, CBP agents discovered \$100,000 in cash concealed in the Garcia Brothers’ jacket, shoes and bag (the “San Francisco Currency”). Juan Garcia told the CBP agents that his mother, Clarita Garcia, General Garcia’s wife, had packed the luggage and told him not to declare the San Francisco Currency. The CBP agents seized the San Francisco Currency.

13. Clarita Garcia subsequently submitted a petition for relief from the forfeiture of the San Francisco Currency with the CBP. In describing the source of the San Francisco Currency, Mrs. Garcia, in a sworn written statement, admitted that, among other things, General Garcia received “gifts and gratitude money from several Philippine companies that are awarded military contracts to build roads, bridges and military housing.”

C. The Laundering of the Funds to the United States

14. In addition to the San Francisco Currency seized from the Garcia Brothers at the San Francisco International Airport on December 19, 2003, Clarita Garcia has brought other cash into the United States on a number of occasions. According to Report of International Transportation of Currency or Monetary Instruments (“CMIR”) declarations made to the Department of Homeland Security, Clarita Garcia brought cash into the United States on the following dates:

- a) \$100,000 on December 17, 2003 (just two days before her sons, the Garcia Brothers, attempted to smuggle \$100,000 into the United States); and
- b) \$204,230 on or about January 14, 2004.

15. Bank records concerning many of the accounts held by members of the Garcia family in the United States evidence large sums of money being wired from the Philippines to accounts in the United States maintained by members of General Garcia’s family.

16. Bank records also indicate that Clarita Garcia may have had additional cash smuggled into the United States in January 2004. On or about January 15, 2004, Clarita Garcia deposited a total of \$308,000 in cash into four different accounts that she and her son,

Timothy Garcia, hold at Citibank in New York, i.e. account numbers [REDACTED]7677, [REDACTED]7730 and [REDACTED]6095 and the Timothy Garcia Account.

17. Bank records indicate that Clarita Garcia was a signatory on the I.J.T. Access Account.

18. Bank records indicate that Timothy Garcia, another of General Garcia's sons, was a signatory on the Timothy Garcia Account.

19. The following wire transfers, totaling over \$1.3 million, were made from the Export and Industry Bank in the Philippines to the United States in a three month period:

- a) On January 21, 2004, \$357,418.12 in United States currency was wire transferred from General Garcia's account in the Philippines to a Citibank account number [REDACTED]7677 held by Clarita and Timothy Garcia in New York (the same account that received the bulk of the cash deposit that Clarita Garcia made on January 15, 2004);
- b) On February 3, 2004, \$265,673.03 in United States currency was wired from General Garcia's account in the Philippines to Clarita and Timothy Garcia's Citibank account number [REDACTED]7677);
- c) On February 20, 2004, \$263,809.97 in United States currency was wire transferred from the Export and Industry Bank in the Philippines by Merceditas Garcia (General Garcia's sister) in the Philippines to Clarita and Timothy Garcia's Citibank account number [REDACTED]7677 in New York;
- d) On March 11, 2004, \$176,324.55 was wire transferred by Merceditas Garcia in the Philippines to Clarita and Timothy Garcia's account in New York ([REDACTED]7677); and
- e) On April 13, 2004, \$264,741.52 was wire transferred by Merceditas Garcia in the Philippines to Clarita Garcia's Nevada bank account ([REDACTED]03/11).

20. On October 15, 2004, Clarita Garcia issued twenty-two \$10,000 checks (via Citibank's on-line bill payment service which has a maximum amount of \$10,000 per check) from her Nevada bank account ([REDACTED] 03/11), totaling approximately \$220,000. On October 20, 2004, Timothy deposited those twenty-two checks into the Timothy Garcia Account.

21. On June 16, 2004, Clarita Garcia transferred \$100,000 from her Nevada Citibank account ([REDACTED] 03/11) to the F.S.B. Account.

22. Based upon a review of documents from the Philippine investigation, an analysis of the Garcia family's income sources done by Philippine authorities and Clarita Garcia's sworn statement, there is probable cause to believe that the source of the approximately \$2 million in United States currency that the Garcia family has transferred to the United States from the Philippines, including the Defendant Property, is the result of General Garcia's acceptance of bribes and/or his misappropriation, theft or embezzlement of public funds.

E. Seizure of the Defendant Property

23. On or about November 10, 2004, Immigration and Customs Enforcement ("ICE") agents, seized the Defendant Property, pursuant to a seizure warrant, issued on October 28, 2004, by the Honorable Michael H. Dolinger, United States Magistrate Judge for the Southern District of New York, who found that there was probable cause to seize and forfeit the Defendant Property.

D. General Garcia's Guilty Plea

24. General Garcia, plead guilty, pursuant to a plea agreement with the Philippines Government, to the certain charges contained in the Philippines Complaint. Pursuant to the plea agreement, General Garcia forfeited specific assets/proceeds received in connection

with his crimes to the Philippine government. Specifically included in the forfeited assets is the Defendant Property.

25. Additionally, as part of the plea negotiations with respect to General Garcia's plea, Timothy Garcia and Clarita Garcia executed Powers of Attorney effectively transferring any right, title, and interest they may have in the Defendant Property to General Garcia, who, as described above, forfeited the assets to the Philippines Government.

26. Although General Garcia's guilty plea was accepted by the Sandigbayan (a Philippines court), on or about May 9, 2011, he has not yet been sentenced because other factions of the Philippines government are opposing the acceptance of his guilty plea and the plea agreement.

Timothy Garcia Stipulation

27. On or about October 3, 2012, the Honorable Jesse M. Furman, United States District Judge, Southern District of New York, entered a Stipulation and Order in the matter of *United States v. All Right, Title and Interest in Real Property and Appurtenances Located at Trump Park Avenue Condominium, Unit 6A (502 Park Avenue, New York, New York 10022)*, 04 Civ. 8918 (JMF), in which Timothy Garcia agreed to forfeit any and all interest he may have in the Defendant Property.

III. CLAIM FOR FORFEITURE

28. Incorporated herein are the allegations contained in paragraphs one through twenty-seven of this Complaint.

29. Title 18, United States Code, Section 981(a)(1)(A) subjects to forfeiture “[a]ny property, real or personal, involved in a transaction or attempted transaction in violation of section 1956, 1957 or 1960 of this title, or any property traceable to such property.”

30. Title 18, United States Code, Section 1956 provides in relevant part that:

Whoever, transports, transmits or transfers, or attempts to transport, transmit or transfer a monetary instrument or funds . . . to a place in the United States from or through a place outside the United States —

. . .

(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation is designed in whole or part to (i) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified unlawful activity

violates the statute.

31. Title 18, United States Code, Section 1956(c)(7)(B)(iv) provides that “specified unlawful activity” includes:

with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving —

. . .

(iv) bribery of a public official, or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official.

32. Title 18, United States Code, Section 1957 provides in relevant part that:

Whoever . . . knowingly engages or attempts to engage in a monetary transaction in criminally derived property of a value greater than \$10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

33. “Monetary transactions” is defined in Title 18, United States Code, Section 1957(f)(1) as the “deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce of funds . . . by, through, or to a financial institution . . . including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title”

34. “Criminally derived property” is defined in Title 18, United States Code, Section 1957(f)(2) as “any property constituting, or derived from, proceeds obtained from a criminal offense.”

35. “Specified unlawful activity” is defined in Title 18, United States Code, Section 1957(f)(3) as having the same meaning as that term has in Title 18, United States Code, Section 1956.

36. The Defendant Property is subject to forfeiture to the United States of America pursuant to Title 18, United States Code, Section 981(a)(1)(A), because there is probable cause to believe that the Defendant Property contains funds derived from offenses against the Philippines and constitute property involved in illegal money laundering transactions in violation of Sections 1956 and 1957 of Title 18, United States Code, and proceeds traceable to such violations.


37. By reason of the above, the Defendant Property became, and is, subject to forfeiture to the United States of America, pursuant to Title 18, United States Code, Section 981.

WHEREFORE, plaintiff United States of America prays that process issue to enforce the forfeiture of the Defendant Property and that all persons having an interest in the Defendant Property be cited to appear and show cause why the forfeiture should not be decreed, and that this Court decree forfeiture of the Defendant Property to the United States of America for disposition according to law, and that this Court grant plaintiff such further relief as this Court may deem just and proper, together with the costs and disbursements of this action.

Dated: New York, New York
December 19, 2012

PREET BHARARA
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the Southern District of New York
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