

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA**

**Richmond Division**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
v.	)	<b>Criminal No. 3:11cr14</b>
	)	
<b>JORGE LUIS CASTILLO,</b>	)	
	)	
<b>Defendant.</b>	)	

**STATEMENT OF FACTS**

The United States and the defendant agree that the factual allegations contained in this Statement of Facts and in Count One of the Superseding Indictment filed in this case are true and correct, and had the case gone to trial, the United States would have proven each of the factual allegations beyond a reasonable doubt:

**Summary**

1. From in or about 2004 through January 19, 2011, within the Eastern District of Virginia and elsewhere, defendant JORGE LUIS CASTILLO (“CASTILLO”) did unlawfully and knowingly combine, conspire, confederate, and agree with Minor Vargas Calvo (“Vargas”), Provident Capital Indemnity, Ltd. (“PCI”), and others, both known and unknown, to commit an offense against the United States, to wit:

- a. Having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of material false and fraudulent pretenses, representations, and promises, knowingly transmitting and causing to be transmitted by means of wire communications in interstate and foreign commerce, any writings, signs, signals, pictures, and sounds for the purpose of executing such

scheme and artifice, in violation of Title 18, United States Code, Section 1343;

- b. Having devised and intending to devise a scheme and artifice to defraud and to obtain money and property by means of material false and fraudulent pretenses, representations, and promises, knowingly: (a) placing and causing to be placed in any post office and authorized depository for mail matter, any matter and thing whatever to be sent and delivered by the Postal Service; (b) depositing and causing to be deposited any matter and thing whatever to be sent and delivered by any private and interstate commercial carrier; and, (c) causing to be delivered by mail and private and interstate commercial carrier any matter and thing whatever according to the direction thereon, in violation of Title 18, United States Code, Section 1341.

2. For the purpose of executing the above described scheme, PCI, Vargas, CASTILLO, and other conspirators made numerous material misrepresentations and omissions in order to induce potential clients to purchase financial guarantee bonds. These misrepresentations and omissions included, but were not limited to: (a) representations regarding PCI's purported reinsurance contracts with major reinsurers; (b) representations regarding PCI's purportedly audited financial statements; and, (c) representations regarding PCI's D&B rating, all in violation of Title 18, United States Code, Section 1349.

#### The Conspirators

3. PCI was an insurance and reinsurance company registered in the Commonwealth of Dominica, with business operations located in the Republic of Costa Rica.

4. Vargas was the president and majority owner of PCI. Vargas is a Costa Rican citizen.

5. CASTILLO was the purported outside auditor for PCI. CASTILLO held certifications as a certified public accountant in Costa Rica and New Jersey, but his New Jersey certification was suspended in or about 2010. CASTILLO was born in Costa Rica but is now a naturalized United States citizen. CASTILLO was first hired by PCI in 1995.

#### Background of Life Settlements

6. A life settlement is an investment in which an investor purchases a life insurance policy on an insured individual. This individual is typically elderly or terminally ill, and sells his life insurance policy for a cash payment, which is a percentage of the life insurance policy's face value or death benefit. The "face value" or "death benefit" is the amount of money paid by the insurance company when the insured dies. Life settlement companies typically purchase life insurance policies from insured individuals or through life settlement wholesalers.

7. Once the insured sells an insurance policy, the insured is no longer responsible for paying the policy's premiums. To keep the policy in force, the life settlement company must ensure any premiums are paid. All premiums due prior to the death of the insured must be paid, in full and on a timely basis, to prevent additional cost or lapse.

8. A policy is said to have "matured" when the insured individual dies and the insurance company is required to pay the death benefit to the designated parties, that is, the "beneficiaries." But if an insurance policy lapses for any reason, such as failure to pay premiums, the policy's death benefit and any investment dependent on that benefit may be lost.

9. Life settlement companies often sell fractionalized interests in life insurance policies as investments to individual investors. In such sales, investors are buying the right to receive a portion of the death benefit when the insured dies. The sale of fractional interests allows investors to invest smaller amounts of money, because each investor does not have to pay for the whole policy.

10. Investors who purchase life settlements only realize a profit if the total amount invested in the policy, including the purchase price and any additional premium costs, is less than the amount of the death benefit. A life settlement is not profitable if the expenses of acquiring and maintaining the policy (including the amount of premiums that are paid) are more than the amount of the death benefit paid when the insured dies. Typically, the longer an insured lives, the more expensive it is to maintain a life settlement.

11. The period of time that the insured is predicted to live is called the “life expectancy.” In the purchase and sale of life settlements, the assessment of an insured’s life expectancy is used to determine, among other things: (a) how much money needs to be set aside to pay future premiums; (b) when the investor can expect to receive a payout on his or her investment; and, (c) the amount of profit the investor can expect to receive.

12. The risk to the life settlement investor of the insured living past the calculated life expectancy—and thereby reducing the expected return on the investment—is often referred to in the industry as “maturity risk” or “longevity risk.”

13. Instead of selling fractionalized or whole interests in specific life settlements to investors, some life settlement companies sell securities to investors that are securitized (*i.e.*, backed) by an underlying pool of life settlements. For example, a life settlement company may

sell an investment with a specified maturity date to an investor that promises a minimum return on investment and that the investment is backed by a pool of life settlements. The maturity date of the investment typically corresponds to the life expectancies of the underlying pool of life settlements.

#### PCI's Financial Guarantee Bonds

14. Beginning in or about 2004, PCI began selling what it termed as “financial guarantee bonds” or “life expectancy guarantee bonds.” The typical purchasers of PCI’s financial guarantee bonds were life settlement investment companies that sold life settlements or securities backed by life settlements to investors. PCI’s financial guarantee bonds were marketed to its clients as a method to alleviate the maturity risk of insureds living beyond their life expectancies. PCI promised purchasers of PCI’s financial guarantee bonds that in the event the insured lived beyond his or her life expectancy, PCI would pay the full face amount of the life insurance policy to the purchaser. PCI then would assume ownership of the life insurance policy, be responsible for any future premium payments necessary to keep the policy in force, and receive the death benefit upon the death of the insured.

15. Purchasers of PCI’s financial guarantee bonds generally were required to pay up-front payments, which PCI characterized as “premium” payments, to PCI before PCI would issue the financial guarantee bonds. These payments typically ranged from 6% to 11% of the face amount of the particular underlying life settlement for which the financial guarantee bond was issued.

16. PCI’s financial guarantee bonds were an important marketing tool for life settlement investment companies’ sales of their investment offerings to investors. These

companies typically explained to their investors that the financial guarantee bonds made certain that investors would receive their expected return on investment irrespective of whether the insured on the underlying life settlement lived beyond his or her life expectancy.

PCI's Marketing of Financial Guarantee Bonds

17. In order to convince potential purchasers of financial guarantee bonds that PCI could pay claims on its bonds, PCI claimed that it had entered into reinsurance contracts with major reinsurance companies whereby the reinsurance companies would assume the majority of the risk that PCI had insured via its financial guarantee bonds.

18. In order to provide further assurances regarding its ability to pay claims, PCI often distributed the company's purported audited financial statements to potential clients. In addition, PCI typically attached a letter from its purported independent auditor, CASTILLO, attesting that an audit, performed in accordance with generally accepted auditing standards, had revealed no material misstatements contained in the financial statements. The financial statements PCI distributed showed significant assets and relatively small liabilities.

19. CASTILLO never personally marketed financial guarantee bonds. CASTILLO also never supervised sales persons and was not otherwise involved with or in control of any of the sales and marketing practices of PCI.

20. In addition to PCI's representations regarding reinsurance and its financial statements, PCI also informed potential clients that PCI had the highest rating from Dun and Bradstreet ("D&B"), a business information company that provides commercial reports on companies, in order to further reassure clients about PCI's ability to pay claims. D&B typically

requires audited financial statements, but does not independently confirm the accuracy of those financial statements.

21. On the basis of these representations about its ability to pay claims, PCI sold hundreds of millions of dollars of financial guarantee bonds to clients around the world. According to PCI's own records, from in or about 2004 through 2010, PCI sold approximately \$670 million of financial guarantee bonds to life settlement investment companies located in various countries including, but not limited to, the United States, the Netherlands, Germany, and Canada. These life settlement investment companies, in turn, sold investment offerings backed by PCI's financial guarantee bonds to thousands of investors around the world.

22. It was reasonably foreseeable to CASTILLO that, as a result of the conspiracy, PCI would sell \$670 million of financial guarantee bonds and that PCI would not pay claims made on their financial guarantee bonds. It was also reasonably foreseeable to CASTILLO that, as a result of the conspiracy, PCI would experience a gain of greater than \$20 million but less than \$50 million, based on PCI charging at least 6% of the face value of its financial guarantee bonds in premiums on that \$670 million of financial guarantee bonds.

23. Nevertheless, CASTILLO only personally received approximately \$84,000 from his work as the purported outside auditor of PCI from 2004 through 2010.

#### Overview of the Conspiracy

24. PCI, Vargas, CASTILLO, and other conspirators knowingly and intentionally made, and caused to be made, numerous material misrepresentations and omissions designed to mislead PCI's clients and potential clients regarding PCI's ability to pay claims when due on the financial guarantee bonds that PCI issued.

Misrepresentations Regarding Reinsurance Contracts

25. From in or about 2004 through on or about January 19, 2011, PCI, Vargas, CASTILLO, and other conspirators told clients and potential clients that PCI had entered into reinsurance contracts with a “bouquet” of major “A-rated” reinsurers whereby the reinsurance companies assumed the majority of risk insured by PCI’s financial guarantee bonds. The major reinsurance companies that the conspirators claimed had entered into reinsurance contracts with PCI included, but were not limited to, Swiss Re, General Re, American International Group, Munich Re, and ING.

26. As CASTILLO and other conspirators well knew, however, PCI never actually entered into reinsurance contracts with Swiss Re, Gen Re, American International Group, Munich Re, or ING.

27. CASTILLO and other conspirators knew that PCI’s life settlement investment company clients further disseminated these false representations to their investors.

Misrepresentations Regarding Audited Financial Statements

28. From in or about 2004 through on or about January 19, 2011, PCI, Vargas, CASTILLO, and other conspirators made numerous material misrepresentations and omissions regarding PCI’s purported independently audited financial statements. During this time, CASTILLO provided PCI and Vargas with annual letters entitled “Independent Auditors Report.” In these letters, CASTILLO claimed: (a) to have audited PCI’s financial statements, which accompanied the letters, pursuant to generally accepted auditing standards; (b) that the audit included examining, on a test basis, evidence supporting the amounts and disclosures in the



financial statements; and (c) that the audit provided a reasonable basis for CASTILLO's opinion that PCI's financial statements fairly presented PCI's financial position in all material respects.

29. As numerous emails between Vargas and CASTILLO demonstrate, however, CASTILLO never performed an audit of PCI's financial statements and, in fact, CASTILLO personally created the very financial statements that he claimed to be independently auditing. Examples of these emails, which were written in Spanish (the quoted capitalizations appeared in the originals), include:

- a. On or about January 5, 2009, CASTILLO sent an email to Vargas attaching a draft of PCI's 2008 financial statements and stating, "Please note the reduction in interest earned on the Income Statement. This is due, first of all, to the decrease we made to other assets last year, and I also thought it would also be best to lower the interest rate to something more credible and in line with the market: 5.15%. I thought a higher rate might lead to questions from third parties."
- b. On or about August 18, 2009, in response to a request from Vargas to CASTILLO for information to provide to a PCI client, CASTILLO sent an email to Vargas stating, "Today they will verify my license, but I am sure that soon circumstances will arise in which they demand a direct verification of PCI's assets. I am only thinking about the future, and I'm asking myself what we will do in that case. . . . Mr. Minor, you know full well that if they ask me for all my accounting certificates that confirm the PCI assets, etc., I don't have them, since what I have done is allow my name to be used as the CPA for customers who normally don't go through the formalities that these people want." On the same day, Vargas sent a response email to CASTILLO stating, "If any problems arise and they ask us for confirmation of assets, we would have to think about a contingency plan where we could tell them, with your advice, that the company lost part of or a significant portion of its assets for some valid reason (payment or claims or partners exiting, for example)."
- c. On or about February 6, 2010, after CASTILLO's certified public accountant license was suspended indefinitely, CASTILLO wrote Vargas an email stating, "I consulted anonymously with a group of lawyers specialized in immigration and similar laws, regarding 'jurisdiction' in a case. The answer was very clear and simple: the United States feels it has jurisdiction over everything, especially if an American citizen has been affected. Therefore, they can even demand extradition

or direct arrest (they cited the Noriega case in Panama, as an example). In my case, I am already here, but in yours, they could resort to something similar. . . . I have some ideas I'm organizing now to propose to you, which I believe might minimize the matter in some way. But we need to dedicate some time to avoid making mistakes in the strategy. As a first step, allow me to suggest you eliminate all my e-mails. Check the sent box too, because they remain stored there. Make a back-up and delete any information from the computer. If necessary, put the computer in any other place that is not your office. Likewise, take out all documents and deposit them in a safe place. I did the same in my apartment."

- d. On or about February 12, 2010, CASTILLO sent an email to Vargas requesting PCI documents in order to attempt to justify his prior audit letters, stating, "You know I have acted a lot in good faith and have omitted basic procedures which, under other circumstances, I would have done differently. And since we want to do things right, let's do just that for the period of time we legally have to do them. . . . Would it be possible for you to send me photocopies of real documents that smell of money (in other words, [documents] that show a finalized transaction, of money collected, or money paid, etc.)? The more of these you can send me, the better. What I want to set up is a real accounting for each of those fiscal years, and determine what is missing to meet 100% of the figures, as pertaining to confirmations, etc. I know it won't be possible to justify 100% with real documents, BUT THIS IS AUDITING. I DON'T NEED TO JUSTIFY 100% TO ANYONE SINCE AUDITING IS BASED ON SELECTIVE PROOF. I will then set up the accounting to what we need, but will justify my work papers with the documents you send me, under the argument that is the result of selective proof. Do you understand?"
  
- e. On or about February 25, 2010, CASTILLO sent an email to Vargas in which he asked Vargas to send him various PCI records under the heading "NECESSARY DOCUMENTS FOR FISCAL PERIODS AS OF SEPT 30 2008 AND SEPT 30 2009." In the email, CASTILLO asked Vargas "DO YOU HAVE ANY KIND OF ACCOUNTING SYSTEM? IF SO, PLEASE SEND ME AS MUCH INFORMATION AS POSSIBLE." Vargas sent an email to CASTILLO two days later stating, "We don't have any accounting, so I'd appreciate it if you would organize the info in the best way possible with the data I sent you."

30. Despite knowing that CASTILLO's annual audit report letters and the accompanying financial statements were fraudulent, PCI, Vargas, CASTILLO, and other

conspirators distributed those fraudulent documents to PCI's clients and potential clients in an effort to market PCI's financial guarantee bonds.

Misrepresentations Regarding D&B

31. From in or about 2004 through January 19, 2011, PCI, Vargas, CASTILLO, and other conspirators provided and caused to be provided CASTILLO's fraudulent annual "Independent Auditors Report" letters and the accompanying financial statements to D&B. The conspirators knew that D&B would rely on this information to compile its commercial reports and to issue its ratings of PCI. The conspirators further knew that D&B typically did not independently verify information provided by the companies for which it issued commercial reports.

32. From in or about 2004 through January 19, 2011, based on the purported independently audited financial statements provided by PCI, Vargas, and other conspirators, D&B issued a "5A" rating of PCI's estimated financial strength. This rating denoted a company with a net worth of \$50 million or more, but D&B calculated PCI's net worth by subtracting the relatively small liabilities from the significant assets reflected on PCI's fraudulent financial statements.

33. PCI's claims regarding D&B's rating of PCI also were designed to mislead PCI's clients and potential clients into believing that D&B had performed independent verification regarding PCI's ability to pay claims. As CASTILLO and the conspirators well knew, however, D&B did not independently verify the information that PCI provided.

Use of the Wires and Mail During the Scheme

34. As part of the scheme to defraud, PCI, Vargas, CASTILLO, and other conspirators routinely transmitted and caused to be transmitted wire communications in interstate and foreign commerce to send PCI's marketing materials, audit report letters, financial statements, D&B reports, and financial guarantee bonds. These wires were transmitted, in part, for the purpose of executing the scheme to defraud described above. Many of these interstate and foreign wire communications came to or from the Eastern District of Virginia.

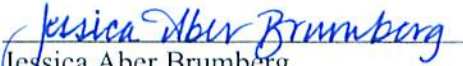
35. As part of the scheme to defraud, PCI, Vargas, CASTILLO, and other conspirators routinely used and caused to be used the United States mail and private mail carriers to send PCI's marketing materials, audit report letters, financial statements, D&B reports, financial guarantee bonds, and correspondence regarding PCI's financial guarantee bonds. These mailings were sent, in part, for the purpose of executing the scheme to defraud described above. Some of these mailings came to or from the Eastern District of Virginia.



36. The defendant admits that this statement of facts does not represent and is not intended to represent an exhaustive factual recitation of all the facts about which he has knowledge relating to the scheme to defraud described herein.

37. The defendant committed the offenses herein knowingly, voluntarily, without mistake or accident.

NEIL H. MACBRIDE  
UNITED STATES ATTORNEY

DENIS J. McINERNEY  
CHIEF, FRAUD SECTION


By:   
Jessica Aber Brumberg  
Michael S. Dry  
Assistant United States Attorneys  
Eastern District of Virginia

By:   
for   
Albert B. Stieglitz, Jr.  
Trial Attorney, Fraud Section  
Department of Justice

After consulting with my attorney and pursuant to the plea agreement entered into this day between the defendant, JORGE LUIS CASTILLO, and the United States, I hereby stipulate that the above Statement of Facts is true and accurate, and that had the matter proceeded to trial, the United States would have proved the same beyond a reasonable doubt.

  
\_\_\_\_\_  
Jorge Luis Castillo

I am JORGE LUIS CASTILLO's attorney. I have carefully reviewed the above Statement of Facts with him. To my knowledge, his decision to stipulate to these facts is an informed and voluntary one.

  
\_\_\_\_\_  
Patrick Hanes, Esq.  
Attorney for Jorge Luis Castillo