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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

**RICARDO MONTALVO, and
CARLA GONZALEZ-ORTIZ,
a/k/a CARLA GONZALEZ DE ORTIZ,**

Defendants.

§ CRIMINAL NO. EP-12-CR-_____

§ **INDICTMENT**

§ CT 1 - 18:371 - Conspiracy;

§ CTS 2-10 - 18:924(a)(1)(A) - False Statement During Purchase of Firearms, and
§ 18:2 - Aiding and Abetting; and

§ CTS 11-20 - 18:554 - Smuggling Goods from the United States, and 18:2 - Aiding and
§ Abetting.

THE GRAND JURY CHARGES:

EP12CR0786

INTRODUCTION

1. Transnational Criminal Organizations operating in Mexico, oftentimes referred to as Mexican Cartels, rely upon the use of firearms and ammunition to protect their supply of drugs, supply routes, profits, and distribution territory from both law enforcement agents and competing Cartels.

2. Mexican Cartels represent a ready and lucrative market for firearms and ammunition from the United States. Mexican Cartels prefer certain makes, models, and calibers of firearms. These "weapons of choice" are generally semi-automatic versions of military type rifles and pistols, including AK-47 type rifles, AK-47 type pistols (resembling AK-47 type rifles with shorter barrels and without a rear stock), AR-15 rifles (which use 5.56mm and .223 caliber

ammunition), 37mm flare launchers (which may be converted into grenade launchers), 9mm pistols, and other high-powered handguns.

3. Mexican Cartels particularly desire AK-47 type rifles and pistols because they are: (1) capable of accepting high-capacity magazines; (2) rugged and durable in extreme conditions such as deserts and jungles; and (3) easily convertible to fully-automatic mode, meaning the firearm will continue to load and fire rounds of ammunition as long as the trigger is activated or until the firearm runs out of ammunition.

4. These firearms, and the ammunition that they use, are not available in Mexico through regular commercial retail channels, but are available in the United States through licensed retail gun shops. Therefore, Mexican Cartels rely on the commercial firearms market from the United States, among other places, to supply their para-military wings and enforcers. Firearms traffickers commonly purchase the firearms and ammunition they smuggle into Mexico from licensed retail gun shops in the United States. Because of their unavailability in Mexico, these firearms and ammunition are worth significantly more in Mexico than in the United States.

5. A Federal Firearms Licensee (“FFL”) is a business licensed under Chapter 44 of Title 18, United States Code, to engage in the business of dealing in firearms. When a purchaser buys a firearm from an FFL, that buyer must fill out Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) Form 4473, Firearms Transaction Record, listing the buyer’s true name, current residential address, and other identifying information. The information on the ATF Form 4473 makes it possible for ATF to trace a recovered firearm back to its retail purchaser. FFLs are required by Chapter 44 of Title 18, United State Code, to maintain these forms in their records.

6. In addition, ATF Form 4473 asks the purchaser: “Are you the actual transferee/buyer of the firearm(s) listed on this form? Warning: You are not the actual buyer if you are acquiring the firearm(s) on behalf of another person. If you are not the actual buyer, the dealer cannot transfer the firearm(s) to you” In signing the form, the purchaser acknowledges his understanding that falsely answering this question, or making any other false statement in connection with the acquisition of the firearm(s), is punishable as a felony under federal law.

7. Firearms traffickers often employ “straw purchasers” to buy firearms from licensed gun dealers in the United States. These straw purchasers are commonly paid to falsely claim on the ATF Form 4473 that they are buying the firearm(s) for themselves, when in fact, they are purchasing the firearm(s) on behalf of another.

8. Firearms traffickers commonly acquire firearms through straw purchasers to conceal the true purchaser. Firearms purchased in furtherance of a firearms trafficking conspiracy are usually purchased in cash to further conceal the true buyer and source of funds.

9. Firearms traffickers commonly employ multiple straw purchasers to supply them with their firearms, ensuring that they have more than one source of firearms for distribution to their buyers. Firearms traffickers also employ multiple straw purchasers to avoid detection by law enforcement because multiple people purchasing smaller amounts of firearms arouse less suspicion than one person purchasing a large amount of firearms.

10. Only licensed firearms importers, manufacturers, or dealers may engage in the business of dealing in firearms, or in the course of such business may ship or transport firearms in interstate or foreign commerce.

11. At all times relevant to this Indictment, Tuna's Firearms Sales and Smith & Werder, Inc. were each an FFL, that is, a business licensed under the provisions of Chapter 44 of Title 18, United States Code, to deal in firearms.

12. At all times relevant to this Indictment, Defendants **RICARDO MONTALVO** and **CARLA GONZALEZ-ORTIZ** were not, and have never been, licensed under the provisions of Chapter 44 of Title 18, United States Code, to deal in firearms.

13. Only those individuals possessing an export license from either the United States Department of State or the United States Department of Commerce may legally export certain firearms and ammunition from the United States, including AK-47 type rifles and pistols, AR-15 rifles, 9mm handguns, and ammunition including, .223 caliber, 5.56mm, 7.62mm, 9mm, and other ammunition for high-powered handguns.

14. At all times relevant to this Indictment, Defendants **RICARDO MONTALVO** and **CARLA GONZALEZ-ORTIZ** did not have, and have never had, an export license from either the United States Department of State or the United States Department of Commerce.

COUNT ONE
(18 U.S.C. § 371)

Beginning in or about November 2010 and continuing to in or about January 2011, in the Western District of Texas and elsewhere, Defendants,

**RICARDO MONTALVO, and
CARLA GONZALEZ-ORTIZ,**

knowingly, intentionally, and unlawfully conspired, combined, confederated, and agreed with each other, and with others known and unknown to the Grand Jury, to commit the following offenses against the United States: making false statements in connection with the acquisition of

firearms, contrary to 18 U.S.C. § 924(a)(1)(A); and smuggling goods from the United States, contrary to 18 U.S.C. § 554.

MANNER AND MEANS OF THE CONSPIRACY

As part of the conspiracy:

1. **RICARDO MONTALVO** purchased large quantities of ammunition and high-capacity magazines, of the type for which there was a ready market among the Mexican Cartels.
2. The Defendants and others acquired or attempted to acquire firearms, of the type for which there was a ready market among the Mexican Cartels, by purchasing the firearms in the Western District of Texas and elsewhere from FFLs operating as licensed gun dealers.
3. The Defendants and others knowingly made false statements and representations by executing ATF Forms 4473 (Firearms Transaction Records), representing that the individual executing each form was the actual purchaser of the firearm(s) when in fact that individual was buying the firearm(s) for others.
4. The Defendants and others knowingly bought and facilitated the transportation, concealment, and sale of firearms, ammunition, and high-capacity magazines prior to exportation, knowing the firearms, ammunition, and high-capacity magazines were intended to be exported illegally to Mexico.
5. The Defendants and others knowingly transferred the firearms, ammunition, and high-capacity magazines to other members of the conspiracy, both known and unknown to the grand jury, to be transported, stored, and ultimately exported to Mexico.

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, at least one of the co-conspirators herein committed one or more of the following overt acts, among others, in the Western District of Texas and elsewhere:

1. In the fall of 2010, **RICARDO MONTALVO** recruited E.P. and others to sign for firearms for **RICARDO MONTALVO**.
2. On or about November 10, 2010, **RICARDO MONTALVO** purchased seventy-five high-capacity (30-round) magazines for 5.56mm and 7.62x39mm rifles.
3. On or about November 24, 2010, **RICARDO MONTALVO** purchased approximately 12,000 rounds of ammunition of various types favored by the Mexican Cartels.
4. On or about November 29, 2010, **RICARDO MONTALVO** purchased two .22 caliber rifles and had them transferred to FFL Smith & Werder.
5. On or about December 7, 2010, **RICARDO MONTALVO** purchased two .380 caliber pistols and had them transferred to FFL Smith & Werder.
6. On or about December 10, 2010, **RICARDO MONTALVO** purchased ten high-capacity (100-round) magazines for 5.56mm rifles.
7. On or about December 10, 2010, **RICARDO MONTALVO** gave E.P. approximately \$1,669.00 so that **RICARDO MONTALVO** could purchase five AK-47 type pistols using E.P.'s debit card.
8. On or about December 10, 2010, **RICARDO MONTALVO** purchased five AK-47 type pistols using E.P.'s debit card, and had the firearms transferred to FFL Tuna's Firearms Sales.
9. On or about December 11, 2010, **RICARDO MONTALVO** purchased ten high-capacity (75-round) drum magazines for 7.62x39mm rifles.
10. On or about December 13, 2010, **RICARDO MONTALVO** purchased approximately 2,500 rounds of ammunition of various types favored by the Mexican Cartels.

11. On or about December 13, 2010, **RICARDO MONTALVO** purchased four 37mm flare launchers, which are desired by the Mexican Cartels because they may be converted into grenade launchers.
12. On or about December 13, 2010, **RICARDO MONTALVO** and **CARLA GONZALEZ-ORTIZ** drove to Smith & Werder to pick up the two .380 caliber pistols and two .22 caliber rifles previously purchased by **RICARDO MONTALVO** on November 29 and December 7, 2010.
13. On or about December 13, 2010, **RICARDO MONTALVO** paid Smith & Werder the transfer fees for the two .380 caliber pistols and two .22 caliber rifles.
14. On or about December 13, 2010 at Smith & Werder, at the direction of **RICARDO MONTALVO**, **CARLA GONZALEZ-ORTIZ** attempted to take possession of one .380 caliber pistol and one .22 caliber rifle. In so doing, **CARLA GONZALEZ-ORTIZ** falsely represented on ATF Form 4473 that she was the actual purchaser of the firearms.
15. On or about December 13, 2010 at Smith & Werder, **RICARDO MONTALVO** took possession of one .380 caliber pistol and two .22 caliber rifles. In so doing, **RICARDO MONTALVO** falsely represented on two ATF Form 4473s that he was the actual purchaser of the firearms.
16. On or about December 14, 2010, **RICARDO MONTALVO** purchased approximately 5,500 rounds of ammunition of various types favored by the Mexican Cartels.
17. On or about December 16, 2010, **RICARDO MONTALVO** recruited E.P. to sign for and pick up the .380 caliber pistol at Smith & Werder on behalf of **RICARDO MONTALVO**.
18. On or about December 16, 2010, at the direction of **RICARDO MONTALVO**, E.P. drove to Smith & Werder and attempted to take possession of the .380 caliber pistol. In so doing, E.P. falsely represented on the ATF Form 4473 that he was the actual purchaser of the firearm.
19. On or about December 17, 2010, **RICARDO MONTALVO** attempted to purchase approximately 1,500 rounds of ammunition of various types favored by the Mexican Cartels.
20. On or about December 23, 2010, E.P. returned to Smith & Werder and took possession of the .380 caliber pistol on behalf of **RICARDO MONTALVO**.

21. On or about December 24, 2010, E.P. gave the .380 caliber pistol to **RICARDO MONTALVO**.
22. On or about December 24, 2010, **RICARDO MONTALVO** took E.P. to a bar in El Paso, Texas and told him that the people they were going to meet were big time, and for E.P. not to say anything because bad things could happen. After the meeting, **RICARDO MONTALVO** told E.P. that he was going to make good money and asked E.P. if he knew other people who would buy firearms.
23. Sometime between December 13, 2010 and December 24, 2010, **RICARDO MONTALVO** paid E.P. for signing for and picking up the .380 caliber pistol.
24. On or about December 29, 2010, **RICARDO MONTALVO** drove E.P. and another individual known to the Grand Jury to Tuna's Firearms Sales to take possession of the five AK-47 type pistols that **RICARDO MONTALVO** had ordered on December 10, 2010.
25. On or about December 29, 2010, **RICARDO MONTALVO** paid Tuna's Firearms Sales the transfer fees for all five AK-47 type pistols.
26. On or about December 29, 2010 at Tuna's Firearms Sales, **RICARDO MONTALVO** took possession of one AK-47 type pistol. In so doing, **RICARDO MONTALVO** falsely represented on the ATF Form 4473 that he was the actual purchaser of the firearms.
27. On or about December 29, 2010 at Tuna's Firearms Sales, an individual known to the grand jury attempted to take possession of two AK-47 type pistols. In so doing, the individual known to the grand jury falsely represented on the ATF Form 4473 that he/she was the actual purchaser of the firearms.
28. On or about December 29, 2010 at Tuna's Firearms Sales, E.P. attempted to take possession of four AK-47 type pistols. In so doing, E.P. falsely represented on the ATF Form 4473 that he was the actual purchaser of the firearms.
29. On or about December 31, 2010 at Tuna's Firearms Sales, E.P. returned to Tuna's and took possession of the four AK-47 type pistols he had signed for on December 29, 2010.
30. On or about December 31, 2010, **RICARDO MONTALVO** paid E.P. for signing for and picking up the four AK-47 type pistols.

31. On or about January 5, 2011, **RICARDO MONTALVO** falsely told a federal agent that the AK-47 type pistol he had purchased from Tuna's Firearms Sales was in a safe at **RICARDO MONTALVO**'s residence.
32. In or about January 2011, **RICARDO MONTALVO** met E.P. at a bar in the El Paso, Texas area. At the bar, **RICARDO MONTALVO** and E.P. went into a bathroom to discuss federal law enforcement's investigation into their firearm purchasing activities. **RICARDO MONTALVO** asked E.P. if he was wearing a wire and then patted E.P. down. **RICARDO MONTALVO** then lifted his own shirt and told E.P. that he (**RICARDO MONTALVO**) was not wearing a wire either.

All in violation of Title 18, United States Code, Section 371.

COUNTS TWO through SIX
 (18 U.S.C. § 924(a)(1)(A) and 18 U.S.C. § 2)

On or about the dates listed below, in the Western District of Texas, each Defendant knowingly made a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of the Federally Licensed Firearms Dealers listed below, businesses licensed under the provisions of Chapter 44 of Title 18, United States Code, in that each Defendant listed below executed an ATF Form 4473, Firearms Transaction Record, stating that the Defendant was the actual purchaser of the firearm(s), when in fact the Defendant knew that he/she was purchasing the firearm(s) on behalf of another, all in violation of Title 18, United States Code, Section 924(a)(1)(A), and Title 18, United States Code, Section 2.

COUNT	DATE	DEFENDANT	FEDERALLY LICENSED FIREARMS DEALER
2	December 13, 2010	RICARDO MONTALVO	Smith & Werder, Inc.
3	December 13, 2010	RICARDO MONTALVO	Smith & Werder, Inc.

COUNT	DATE	DEFENDANT	FEDERALLY LICENSED FIREARMS DEALER
4	December 13, 2010	CARLA GONZALEZ-ORTIZ	Smith & Werder, Inc.
5	December 16, 2010	RICARDO MONTALVO	Smith & Werder, Inc.
6	December 29, 2010	RICARDO MONTALVO	Tuna's Firearms Sales

COUNTS SEVEN through TEN

(18 U.S.C. § 924(a)(1)(A) and 18 U.S.C. § 2)

On or about the dates listed below, in the Western District of Texas, each Defendant knowingly made a false statement and representation with respect to information required by the provisions of Chapter 44 of Title 18, United States Code, to be kept in the records of the Federally Licensed Firearms Dealers listed below, businesses licensed under the provisions of Chapter 44 of Title 18, United States Code, in that each Defendant listed below executed an ATF Form 4473, Firearms Transaction Record, stating that each Defendant's address, as listed below, was their current address at the time when in fact each Defendant knew that the address listed below was not their current address, all in violation of Title 18, United States Code, Section 924(a)(1)(A), and Title 18, United States Code, Section 2.

COUNT	DATE	DEFENDANT	FEDERALLY LICENSED FIREARMS DEALER	FALSE ADDRESS PROVIDED ON ATF FORM 4473
7	December 13, 2010	RICARDO MONTALVO	Smith & Werder, Inc.	7401 Phoenix Ave. #923, El Paso, TX
8	December 13, 2010	RICARDO MONTALVO	Smith & Werder, Inc.	7401 Phoenix Ave. #923, El Paso, TX

COUNT	DATE	DEFENDANT	FEDERALLY LICENSED FIREARMS DEALER	FALSE ADDRESS PROVIDED ON ATF FORM 4473
9	December 13, 2010	CARLA GONZALEZ-ORTIZ	Smith & Werder, Inc.	7401 Phoenix, Apt. 722, El Paso, TX
10	December 29, 2010	RICARDO MONTALVO	Tuna's Firearms Sales	7401 Phoenix Ave. #923, El Paso, TX

COUNTS ELEVEN through TWENTY
(18 U.S.C. § 554 and 18 U.S.C. § 2)

On or about the dates listed below, in the Western District of Texas, each Defendant fraudulently and knowingly exported and attempted to export and send from the United States the merchandise, articles, and objects set forth below, and received, concealed, bought, sold, and facilitated the transportation, concealment, and sale of the merchandise, articles, and objects set forth below, prior to exportation, knowing the same to be intended for exportation from the United States contrary to any law or regulation of the United States, all in violation of Title 18, United States Code, Section 554, and Title 18, United States Code, Section 2.

COUNT	DATE	DEFENDANT	MERCHANDISE, ARTICLES, AND OBJECTS
11	November 10, 2010	RICARDO MONTALVO	Fifty 30-round magazines for 5.56mm rifles, and twenty-five 30-round magazines for 7.62x39mm rifles.

COUNT	DATE	DEFENDANT	MERCHANDISE, ARTICLES, AND OBJECTS
12	November 24, 2010	RICARDO MONTALVO	Approximately: 2,000 rounds of .223 caliber ammunition, 2,000 rounds of 7.62x39mm ammunition, two magazines for .45 caliber handguns, 2,000 rounds of .45 caliber ammunition, 2,000 rounds of 9mm ammunition, 1,000 rounds of .380 caliber ammunition, and 3,000 rounds of 38 Super ammunition.
13	December 10, 2010	RICARDO MONTALVO	Ten 100-round magazines for 5.56mm rifles.
14	December 11, 2010	RICARDO MONTALVO	Ten 75-round drum magazines for 7.62x39mm rifles.
15	December 13, 2010	RICARDO MONTALVO	Approximately: 500 rounds of .45 caliber ammunition, 500 rounds of .380 caliber ammunition, 500 rounds of 9mm ammunition, 1,000 rounds of 38 Super ammunition, and four 37mm flare launchers.
16	December 13, 2010	RICARDO MONTALVO	One .380 caliber pistol, and two .22 caliber rifles.
17	December 14, 2010	RICARDO MONTALVO	Approximately: 3,000 rounds of .223 caliber ammunition, and 2,500 rounds of 7.62x39mm ammunition.

COUNT	DATE	DEFENDANT	MERCHANDISE, ARTICLES, AND OBJECTS
18	December 23, 2010	RICARDO MONTALVO	One .380 caliber pistol.
19	December 29, 2010	RICARDO MONTALVO	One 7.62x39mm AK-47 type pistol.
20	December 31, 2010	RICARDO MONTALVO	Four 7.62x39mm AK-47 type pistols.

Notice of Government's Demand for Forfeiture

(18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c))

As a result of the offenses set forth in Counts One through Twenty-Four herein,
 Defendants,

**RICARDO MONTALVO, and
 CARLA GONZALEZ-ORTIZ,**

shall forfeit to the United States pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c), all firearms, ammunition, and magazines involved in or used in any knowing violation of the commission of the foregoing offenses charged in Counts One through Twenty-Four.

If any of the property described above, as a result of any act or omission of the defendant[s]:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- 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 divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), all pursuant to Title 18, United States Code, Section 924(d), and Title 28, United States Code, Section 2461(c).

A TRUE BILL:
**ORIGINAL SIGNATURE
REDACTED PURSUANT TO
E-GOVERNMENT ACT OF 2002**

FOREPERSON OF THE GRAND JURY

ERIC HOLDER
UNITED STATES ATTORNEY GENERAL

KENNETH J. GONZALES
UNITED STATES ATTORNEY

BY:



NATHAN J. LICHVARCIK
Special Attorney