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SOUTHERN DISTRICT OF CALIFORNIA  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

'14 NJ 0171

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
MARCO POLO CORTES,  
Defendant.

Case No.: \_\_\_\_\_

COMPLAINT

Title 18, U.S.C., Sec.  
371 - Conspiracy to  
Commit Offenses Against  
the United States

The undersigned complainant, being duly sworn, states:

Beginning in or about a date unknown, but no later than  
2011, and continuing through in or about December 2013, in  
the Southern District of California and elsewhere, Defendant  
MARCO POLO CORTES and others conspired to:

- (1) Knowingly and willfully make foreign national  
contributions and expenditures, aggregating \$25,000  
and more during a calendar year in violation of

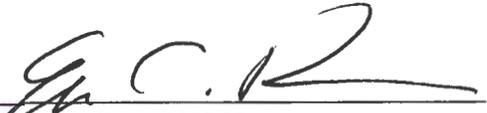
1 Title 2, United States Code, Sections  
2 437g(d) (1) (A) (i) and 441e;

3 (2) Knowingly and willfully make contributions to a  
4 candidate for federal office in the names of other  
5 persons, aggregating \$25,000 and more during a  
6 calendar year in violation of Title 2, United  
7 States Code, Sections 437g(d) (1) (A) (i) and 441f;  
8  
9 and  
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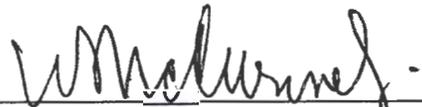
11 (3) to falsify a record in a matter within the  
12 jurisdiction of the Federal Bureau of Investigation  
13 in violation of Title 18, United States Code,  
14 Section 1519;  
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16 all in violation of Title 18, United States Code, Section  
17 371.  
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1 And the complainant further states that the foregoing is  
2 based on the attached statement of facts, which is  
3 incorporated herein by reference.

4   
5 ERIN C. PHAN  
6 Special Agent, FBI

7  
8 SWORN TO ME AND SUBSCRIBED IN MY PRESENCE, THIS 17<sup>th</sup> DAY OF  
9 January, 2014.

10   
11 HON. WILLIAM McCURINE, JR.  
12 U.S. MAGISTRATE JUDGE  
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1 principally out of offices in Washington, D.C., and has  
2 helped the Foreign National make campaign contributions to  
3 candidates for elective office in San Diego.

4       According to witnesses and open source records, ERNESTO  
5 ENCINAS ("ENCINAS"), who is charged elsewhere, is a retired  
6 San Diego Police Department ("SDPD") detective and the owner  
7 of a private security and consulting business. ENCINAS also  
8 oversees the Foreign National's protection detail - and has  
9 helped the Foreign National make contributions to, and seek  
10 favors from, candidates and office holders in San Diego.

11       According to witnesses and open source records, MARCO  
12 POLO CORTES ("CORTES") is a San Diego-based lobbyist.  
13 Public filings show that CORTES has lobbied SDPD officials,  
14 city councilmembers and mayoral staff. A business associate  
15 and friend of ENCINAS, CORTES has assisted the Foreign  
16 National in making campaign contributions to candidates for  
17 elective office in San Diego.

18       According to witnesses and open source records, a person  
19 hereinafter referred to as "the Straw Donor" is the owner of  
20 a California company. The Straw Donor is a friend of the  
21 Foreign National, and has assisted the Foreign National in  
22 making campaign contributions to candidates for elective

1 office in San Diego.

2 ENCINAS and the Foreign National Learn of the Prohibition  
3 against Foreign National Contributions

4 Witnesses indicate that in or about 2011, the Foreign  
5 National became interested in influencing San Diego  
6 electoral politics. On the Foreign National's behalf,  
7 ENCINAS inquired with the representative of certain  
8 political campaigns, who informed him that foreign nationals  
9 cannot donate to political campaigns in the United States.  
10 ENCINAS reported this to the Foreign National.  
11

12 Illegal Campaign Expenditures: Candidate 1

13  
14 In or about May 2012, the Foreign National and ENCINAS  
15 agreed to create, and did cause to be created, an  
16 independent expenditure committee. Sometimes called a  
17 "PAC," "SuperPAC" or "IE," such a committee can be used to  
18 pay for certain types of political advertising.  
19

20  
21 Public records show that ENCINAS invested \$3,000 in this  
22 committee, and the Foreign National invested a total of  
23 \$100,000. However, the Foreign National did not directly  
24 fund the committee, but instead funneled his \$100,000  
25 through a United States-based shell corporation. The  
26 consequence of this, as ENCINAS and others knew, was that  
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1 the Foreign National would not be identified on the  
2 committee's public filings. In this way, ENCINAS and others  
3 could facilitate a series of illegal expenditures by a  
4 foreign national while impeding any investigation into the  
5 true source of those funds.  
6

7 Ultimately, this committee made approximately \$114,000  
8 in expenditures in favor of Candidate 1, a candidate for the  
9 office of mayor of San Diego during the 2012 primary  
10 election cycle. For example, according to public filings,  
11 between May 20 and 31, 2012, the committee spent  
12 approximately \$86,000 on mailers and related services. As a  
13 result of these actions, the committee failed to disclose in  
14 public filings that the Foreign National was its major  
15 source of financing.  
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19 According to email records, in or about February 2012,  
20 the Foreign National agreed to pay SINGH and ELECTIONMALL  
21 approximately \$100,000 for social media services that would  
22 help Candidate 1 - over and above the cash he had already  
23 contributed to the independent expenditure committee.  
24 According to invoices obtained from the Foreign National's  
25 email account, the Foreign National specifically agreed to  
26 purchase from SINGH and ELECTIONMALL display ads, banner  
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1 ads, text ads and key ad word placements from Google, Inc.  
2 According to email and bank records, the Foreign National  
3 funded these campaign-related purchases by directing wire  
4 transfers from a Mexico-based company to ELECTIONMALL's bank  
5 account. As agreed between SINGH, ENCINAS and others, at no  
6 time did any entity report this campaign-related spending in  
7 a public filing. As a consequence, SINGH, ENCINAS and  
8 others successfully concealed the fact that the Foreign  
9 National was the source of this significant, and illegal,  
10 campaign financing.  
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14 After the Foreign National used the PAC to make illegal  
15 expenditures in favor of Candidate 1, a local news source  
16 published an article noting the Foreign National's large  
17 expenditures and implicitly questioning whether he was  
18 eligible to donate. The article noted that the Foreign  
19 National was a Mexican citizen, and quoted a political  
20 consultant stating, incorrectly, that the Foreign National  
21 had a "green card."  
22  
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24 Illegal Campaign Contributions: Candidate 2  
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26 Witnesses further indicate that in or about September  
27 2012, at the Foreign National's behest, ENCINAS and CORTES  
28 approached a representative of Candidate 2, who was a

1 candidate for federal elective office during the 2012  
2 general election cycle. ENCINAS offered to arrange campaign  
3 financing in connection with Candidate 2's campaign, but was  
4 informed that the Foreign National would have to show proof  
5 of a "green card" before he could legally contribute, and  
6 that he could not donate through a corporation.  
7

8 In addition, according to email records, a  
9 representative of the campaign emailed CORTES a link to the  
10 Federal Election Commission's pamphlet about the prohibition  
11 against foreign national contributions and expenditures.  
12 CORTES later forwarded this email to ENCINAS. Knowing that  
13 the Foreign National did not have legal permanent resident  
14 status, and thus lacked a "green card," ENCINAS and CORTES  
15 helped the Foreign National contribute in the Straw Donor's  
16 name instead.  
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20 Shortly thereafter, bank records show that in or about  
21 September and October 2012, the Foreign National gave money  
22 to the Straw Donor, including through a \$380,000 check dated  
23 October 2, 2012. The Straw Donor deposited this check into  
24 a bank account associated with one of his corporations, and  
25 then proceeded to divide the Foreign National's money among  
26 other bank accounts that he (the Straw Donor) controlled.  
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1 While the various checks cleared, the Straw Donor wrote a  
2 \$30,000 check to a political party committee associated with  
3 Candidate 2's campaign. In doing so, ENCINAS, CORTES and  
4 others - in conjunction with the Straw Donor and the Foreign  
5 National - illegally facilitated a conduit contribution in  
6 connection with a federal campaign. In addition, they  
7 furnished illegal campaign financing while hiding the fact  
8 that the Foreign National was the true source of the funds.  
9

11 Illegal Contributions and Expenditures: Candidate 3

12 In or about October 2012, SINGH, ENCINAS and CORTES  
13 approached a representative of Candidate 3, who was a  
14 candidate for the office of mayor of San Diego in the 2012  
15 general election cycle. Together, SINGH, ENCINAS and CORTES  
16 proposed to this representative (herein referred to as  
17 Confidential Informant #1 ("CI-1")) that they could arrange  
18 for certain social media spending on behalf of Candidate 3's  
19 campaign. CI-1 asked for a price quote for this social  
20 media spending, but SINGH, ENCINAS and CORTES demurred,  
21 telling him/her the expenses would be "taken care of." CI-1  
22 then agreed to this spending, even though s/he knew it would  
23 not be reported on any public filings, in contravention of  
24 the law. (Since that time, CI-1 has spoken to agents about  
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1 this incident after requesting, and receiving, an informal  
2 grant of immunity.)

3       During approximately the same period that this  
4 conversation between SINGH, ENCINAS, CORTES and CI-1 took  
5 place, in or about October 2012, bank records reveal that  
6 the Foreign National's Mexico-based company transmitted a  
7 total of approximately \$190,000 to ELECTIONMALL. Despite  
8 this, the Foreign National and his coconspirators never  
9 provided an invoice or other statement of costs to Candidate  
10 3's campaign. In addition, at no time did any entity report  
11 this campaign-related spending in a public filing. In this  
12 way, SINGH, ELECTIONMALL, ENCINAS and CORTES facilitated  
13 illegal in-kind contributions by a foreign national to  
14 Candidate 3's campaign while impeding any investigation into  
15 the true source of the funds.

16       Meanwhile, according to bank records, also in or about  
17 October 2012, using money that the Foreign National had  
18 given him, the Straw Donor wrote a \$120,000 check from one  
19 of his corporation's bank accounts to an independent  
20 expenditure committee that favored Candidate 3. Shortly  
21 thereafter, a representative of the independent expenditure  
22 committee emailed ENCINAS and CORTES to thank them for the

1 check. Around the same time, using money that the Foreign  
2 National had given him, the Straw Donor wrote yet another  
3 \$30,000 check from one of his corporation's bank accounts,  
4 this time to a political party committee associated with  
5 Candidate 3's campaign.  
6

7 Proposed Illegal Campaign Financing: Candidate 4

8 According to an intercepted telephone call, on or about  
9 August 1, 2013, ENCINAS called CI-1 on his/her cell phone  
10 and asked whether Candidate 4 would consider running for the  
11 office of mayor of San Diego in the event that the then-  
12 Mayor of San Diego resigned or was recalled from office. In  
13 addition, ENCINAS asked whether Candidate 4 might be  
14 interested in "foreign investment" to his campaign. CI-1,  
15 who had not yet been contacted by the FBI and was not yet a  
16 confidential informant, replied that campaign financing for  
17 Candidate 4 "has got to be clean, you know," further  
18 elaborating that "shit still hasn't come out from the last  
19 election, whether it's clean or not . . . and ethics probes  
20 . . . and the FPPC violations and everything, so . . .  
21 [Candidate 4]'s going to be squeaky clean."  
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27 Eventually, the Mayor of San Diego resigned his office,  
28 triggering a special election to replace him. Shortly

1 thereafter, Candidate 4 became a candidate for the office of  
2 mayor in the 2013 special election cycle.

3 On or about August 28, 2013, CI-1 met ENCINAS and CORTES  
4 at a downtown hotel to discuss how the Foreign National  
5 might help finance Candidate 4's mayoral campaign. This  
6 meeting was the product of a ruse, and Candidate 4 had no  
7 knowledge of it taking place. During the meeting - which  
8 was audio- and video-recorded - CI-1 asked ENCINAS and  
9 CORTES to confirm that the Foreign National was Mexican,  
10 which they did. CI-1 then asked how SINGH received payment  
11 for his services to Candidate 3. Laughing, ENCINAS said "I  
12 think a third party." ENCINAS and CORTES continued to laugh  
13 some more. CORTES then said, "We'll leave it there, we'll  
14 leave it there."

15 On or about September 10, 2013, CI-1 and ENCINAS met at  
16 a coffee shop to continue to discuss financing for Candidate  
17 4's mayoral campaign. This meeting was also the product of  
18 a ruse, and Candidate 4 had no knowledge of it taking place.  
19 During their discussion, which was audio- and video-  
20 recorded, ENCINAS explained that - just as he had done in  
21 the past - he could create a series of companies or  
22 committees for the purpose of hiding the ultimate source of  
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1 the campaign financing. According to ENCINAS, this would  
2 create "walls" between the Foreign National and Candidate 4,  
3 thus "layer[ing] out" the entities through which money was  
4 "funneled" so that "it can be hidden away pretty good."  
5

6 On or about September 18, 2013, ENCINAS contacted a  
7 person involved in campaign finance (hereinafter referred to  
8 as "CI-2"), and asked to meet with him/her. That same day,  
9 ENCINAS and CI-2 met at a coffee shop. During the meeting,  
10 which was audio- and video-recorded, CI-2 informed ENCINAS  
11 that the Foreign National could not give to Candidate 1 in  
12 the future because the Foreign National did not have a green  
13 card. Acting at my direction, CI-2 then asked whether  
14 ENCINAS could think of a way for the Foreign National to  
15 contribute that was "not sort of traceable." ENCINAS  
16 replied, in substance, that the Foreign National could  
17 funnel money through the Straw Donor.  
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22 ENCINAS's Request to Fire the Chief of Police  
23 and Choose his Replacement.

24 Immediately after meeting with CI-2, on September 18,  
25 2013, ENCINAS met with CI-1. During this meeting, ENCINAS  
26 and CI-1 continued to discuss how ENCINAS could facilitate  
27 campaign financing for Candidate 4 while concealing the  
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1 funds' true source. In addition, ENCINAS related that he  
2 wanted the next mayor to fire the Chief of Police and  
3 replace him with a person of ENCINAS's choosing. ENCINAS  
4 further stated that this was the one "guarantee" he sought  
5 from Candidate 4 in exchange for the Foreign National's  
6 campaign money.  
7

### 8 FBI Jurisdiction and Investigation

9  
10 It is a matter within the jurisdiction of the Federal  
11 Bureau of Investigation ("FBI") to investigate potential  
12 illegal campaign donations, contributions and expenditures  
13 at the federal, state and local level. It is also a matter  
14 within the jurisdiction of the FBI to investigate the  
15 potential influence of foreign money in American elections,  
16 including the donations, contributions and expenditures of  
17 foreign nationals. It is furthermore a matter within the  
18 jurisdiction of the FBI to investigate bribery of public  
19 officials, including bribery schemes characterized as the  
20 deprivation of honest services.  
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24 Presently, the FBI is investigating the Foreign  
25 National, SINGH, ELECTIONMALL, ENCINAS, CORTES, the Straw  
26 Donor and others with respect to, among other things,  
27 possible illegal campaign contributions and expenditures, as  
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1 well as potential conspiracies to deprive the public of  
2 honest services through the improper influence of San Diego  
3 City officials.  
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