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FILED

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CLERK US DISTRICT COURT
DISTRICT OF ARIZONA

CR19-00335 TUC-RM(DTF)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States America,

Plaintiff,

vs.

1. Victor Hugo Bocanegra,
(Counts 1-9)
2. Kathia Victoria Bocanegra,
(Counts 1-3, 6, 8-9)
3. Victor Anthony Bocanegra,
(Counts 1-9)

Defendants.

INDICTMENT

Violations:

18 USC §371
(Conspiracy)
Count 1

18 USC §922(a)(6); 18 USC §924(a)(2);
and, 18 U.S.C. § 2
(False Statement in Connection with
Purchase of Firearm)
Counts 2-5

18 U.S.C. § 554; and, 18 U.S.C. § 2
(Smuggling Firearms From the United
States)
Counts 6-8

26 USC §§5861(d), and 5871; 26 USC
§5841
(Unlawful Possession of Unregistered
Firearms)
Count 9

18 USC §924(d); 26 USC §5872; and
28 USC §2461(c)
(Forfeiture Allegation)

THE GRAND JURY CHARGES:

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COUNT 1
CONSPIRACY

From a time unknown to on or about January 9, 2019, at or near Phoenix, and elsewhere within the District of Arizona, VICTOR HUGO BOCANEGRA, KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY BOCANEGRA, did knowingly and intentionally combine, conspire, confederate, and agree together and with persons known and unknown to the grand jury, to commit offenses against the United States, that is: to fraudulently and knowingly export and send from the United States, and attempt to export and send from the United States any merchandise, object, and article contrary to law and regulation of the United States, to wit: Title 22, United States Code, Section 2778(b)(2) and (c), and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, and 127.1, that is firearms, machineguns, and firearm components; and to receive, conceal, buy, sell, and in any other manner facilitate the transportation, concealment, and sale of said firearms, machineguns, and firearm components, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States, in violation of Title 18 United States Code, Section 554.

Purpose of the Conspiracy

The purpose of this conspiracy was to commit, and assist in the commission of, the unlawful smuggling of firearms, machineguns, and firearm components from the United States into the Republic of Mexico. The firearms, machineguns, and firearm components smuggled or intended to be smuggled in the course of this conspiracy include, but are not limited to:

- One (1) Barrett .50 caliber, semi-automatic rifle, bearing serial number AA007437;
- Two (2) FN Herstal M249s, semi-automatic rifles, bearing serial numbers M249SA07615 and M249SA07600; and,
- Five (5) FN Herstal MK46 machineguns, the MK46 machinegun being a fully automatic variant of the M249s-type rifle.

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The Means and Methods of the Conspiracy

The means and methods employed by the defendants and their co-conspirators to carry out the conspiracy and effect its unlawful objects are as follows:

It was part of the conspiracy that certain defendants and/or co-conspirators would purchase firearms from federally licensed firearms dealers in the District of Arizona.

It was a further part of the conspiracy that these defendants would purchase the firearms on behalf of other defendants and/or co-conspirators.

It was a further part of the conspiracy that certain defendants and/or co-conspirators, known and unknown to the grand jury, would provide the funds to the purchasing defendants to purchase the firearms involved in the conspiracy.

It was a further part of the conspiracy that, in purchasing the firearms, these defendants would make false statements and representations to the federally licensed firearms dealers, in that in connection with each purchase, the purchasing defendant would fraudulently state that he or she was the actual transferee/buyer of the firearm(s), and would fraudulently state that he or she lived in the District of Arizona.

It was a further part of the conspiracy that certain defendants and/or co-conspirators would complete illegal firearm purchases, including, but not limited to, purchasing machineguns from persons not federally licensed to do so, and while not being legally able to legally purchase said machineguns.

It was a further part of the conspiracy that, following each firearm purchase, the purchasing defendant would transfer possession of the firearm(s) to other defendants or co-conspirators.

It was a further part of the conspiracy that the defendants and/or their co-conspirators would take possession of, and/or transport the firearms within the District of Arizona with the knowledge that the firearms were intended to ultimately be transported from the United States into the Republic of Mexico, and/or transport the ammunition and other objects from the United States into the Republic of Mexico.

1 It was a further part of the conspiracy that the defendants and/or their co-
2 conspirators did not have any valid license or other authority to export the firearms
3 from the United States into the Republic of Mexico.

4 **Overt Acts**

5 In furtherance of the conspiracy, one or more of the co-conspirators committed, or
6 caused to be committed, the overt acts described below:

7 On or about October 9, 2018, in Phoenix, VICTOR HUGO BOCANEGRA
8 purchased one (1) Barrett .50 caliber, semi-automatic rifle, bearing serial number
9 AA007437 from a federally licenses firearms dealer, and represented that he was the
10 actual purchaser of the firearm when in fact he was acquiring the firearm on behalf of
11 other defendants and co-conspirators. VICTOR HUGO BOCANEGRA further
12 represented that he lived in the United States with a fictitious address, while living in the
13 Republic of Mexico. Thereafter, VICTOR HUGO BOCANEGRA, KATHIA VICTORIA
14 BOCANEGRA, and VICTOR ANTHONY BOCANEGRA exported, or arranged to have
15 exported, the firearm to the Republic of Mexico.

16 On or about November 8, 2018, in Phoenix, VICTOR HUGO BOCANEGRA
17 purchased two (2) FN Herstal M249s, semi-automatic rifles, bearing serial numbers
18 M249SA07615 and M249SA07600, from a federally licenses firearms dealer, and
19 represented that he was the actual purchaser of the firearm when in fact he was acquiring
20 the firearm on behalf of other defendants and co-conspirators. VICTOR HUGO
21 BOCANEGRA further represented that he lived in the United States with a fictitious
22 address, while living in the Republic of Mexico. Thereafter, VICTOR HUGO
23 BOCANEGRA, and VICTOR ANTHONY BOCANEGRA exported, or arranged to have
24 exported, the firearm to the Republic of Mexico.

25 On or about November 30, 2018, in Phoenix, VICTOR HUGO BOCANEGRA
26 placed a down payment of \$4,000 for one (1) FN Herstal M249s, semi-automatic rifle
27 from a federally licenses firearms dealer, and represented that he was the actual purchaser
28 of the firearm when in fact he was acquiring the firearm on behalf of other defendants

1 and co-conspirators. VICTOR HUGO BOCANEGRA, KATHIA VICTORIA
2 BOCANEGRA, and VICTOR ANTHONY BOCANEGRA intended to export, or arrange
3 to have exported, the firearm to Mexico.

4 On or about November 30, 2018, in Phoenix, KATHIA VICTORIA
5 BOCANEGRA placed a down payment of \$8,000 for two (2) FN Herstal M249s, semi-
6 automatic rifles from a federally licenses firearms dealer, and represented that he was the
7 actual purchaser of the firearm when in fact he was acquiring the firearm on behalf of
8 other defendants and co-conspirators. VICTOR HUGO BOCANEGRA, KATHIA
9 VICTORIA BOCANEGRA, and VICTOR ANTHONY BOCANEGRA intended to
10 export, or arrange to have exported, the firearm to Mexico.

11 On or about November 27, 2018, in Phoenix, VICTOR ANTHONY
12 BOCANEGRA placed a down payment of \$4,000 for two (2) FN Herstal M249s, semi-
13 automatic rifles from a federally licenses firearms dealer, and represented that he was the
14 actual purchaser of the firearm when in fact he was acquiring the firearm on behalf of
15 other defendants and co-conspirators. VICTOR HUGO BOCANEGRA, KATHIA
16 VICTORIA BOCANEGRA, and VICTOR ANTHONY BOCANEGRA intended to
17 export, or arrange to have exported, the firearm to Mexico.

18 On or about December 11, 2018, in Phoenix, VICTOR HUGO BOCANEGRA
19 placed a further installment payment of \$3,000 for one (1) FN Herstal M249s, semi-
20 automatic rifle from a federally licenses firearms dealer, and represented that he was the
21 actual purchaser of the firearm when in fact he was acquiring the firearm on behalf of
22 other defendants and co-conspirators. VICTOR HUGO BOCANEGRA, KATHIA
23 VICTORIA BOCANEGRA, and VICTOR ANTHONY BOCANEGRA intended to
24 export, or arrange to have exported, the firearm to Mexico.

25 On or about December 11, 2018, in Phoenix, KATHIA VICTORIA
26 BOCANEGRA placed a further installment payment of \$5,000 for two (2) FN Herstal
27 M249s, semi-automatic rifles from a federally licenses firearms dealer, and represented
28 that she was the actual purchaser of the firearm when in fact she was acquiring the

1 firearm on behalf of other defendants and co-conspirators. VICTOR HUGO
2 BOCANEGRA, KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY
3 BOCANEGRA intended to export, or arrange to have exported, the firearm to Mexico.

4 On or about December 11, 2018, in Phoenix, VICTOR ANTHONY
5 BOCANEGRA placed a further installment payment of \$8,000 for two (2) FN Herstal
6 M249s, semi-automatic rifles from a federally licenses firearms dealer, and represented
7 that he was the actual purchaser of the firearm when in fact he was acquiring the firearm
8 on behalf of other defendants and co-conspirators. VICTOR HUGO BOCANEGRA,
9 KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY BOCANEGRA
10 intended to export, or arrange to have exported, the firearm to Mexico.

11 On or about January 9, 2019, in Douglas, VICTOR HUGO BOCANEGRA,
12 KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY BOCANEGRA took
13 possession of five (5) FN Herstal MK46 machineguns, as defined in Title 26, United
14 States Code, Section 5845(b), the MK46 machinegun being a fully automatic variant of
15 the M249s-type rifle, with the intent to export, or arrange to have exported, the firearm to
16 Mexico.

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

18 **COUNT 2**

19 On or about October 9, 2018, at or near Phoenix, in the District of Arizona, VICTOR
20 HUGO BOCANEGRA, KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY
21 BOCANEGRA, in connection with the acquisition of firearms, that is, one (1) Barrett .50
22 caliber, semi-automatic rifle, bearing serial number AA007437; from Mo Money Pawn
23 Shop, a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United
24 States Code, knowingly made a false and fictitious written statement to Mo Money Pawn
25 Shop, which statement was intended and likely to deceive Mo Money Pawn Shop as to a
26 fact material to the lawfulness of such sale of the said firearms to the defendant under
27 Chapter 44 of Title 18, in that VICTOR HUGO BOCANEGRA, represented that he was
28 the actual buyer of the firearms when in fact he was not, and KATHIA VICTORIA

1 BOCANEGRA and VICTOR ANTHONY BOCANEGRA aided, abetted, counseled,
2 commanded, induced, and procured such false and fictitious statement;

3 All in violation of Title 18, United States Code, Sections 922(a)(6), 924(a)(2), and
4 2.

5 **COUNT 3**

6 On or about October 9, 2018, at or near Phoenix, in the District of Arizona, VICTOR
7 HUGO BOCANEGRA, KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY
8 BOCANEGRA, in connection with the acquisition of firearms, that is, one (1) Barrett .50
9 caliber, semi-automatic rifle, bearing serial number AA007437; from Mo Money Pawn
10 Shop, a licensed dealer of firearms within the meaning of Chapter 44, Title 18, United
11 States Code, knowingly made a false and fictitious written statement to Mo Money Pawn
12 Shop, which statement was intended and likely to deceive Mo Money Pawn Shop as to a
13 fact material to the lawfulness of such sale of the said firearms to the defendant under
14 Chapter 44 of Title 18, in that VICTOR HUGO BOCANEGRA provided a false address
15 on the ATF Form 4473, and KATHIA VICTORIA BOCANEGRA and VICTOR
16 ANTHONY BOCANEGRA aided, abetted, counseled, commanded, induced, and
17 procured such false and fictitious statement;

18 All in violation of Title 18, United States Code, Sections 922(a)(6), 924(a)(2), and
19 2.

20 **COUNT 4**

21 On or about November 8, 2018, at or near Phoenix, in the District of Arizona,
22 VICTOR HUGO BOCANEGRA, and VICTOR ANTHONY BOCANEGRA, in
23 connection with the acquisition of firearms, that is, two (2) FN Herstal M249s, semi-
24 automatic rifles, bearing serial numbers M249SA07615 and M249SA07600; from Mo
25 Money Pawn Shop, a licensed dealer of firearms within the meaning of Chapter 44, Title
26 18, United States Code, knowingly made a false and fictitious written statement to Mo
27 Money Pawn Shop, which statement was intended and likely to deceive Mo Money Pawn
28 Shop as to a fact material to the lawfulness of such sale of the said firearms to the defendant

1 under Chapter 44 of Title 18, in that VICTOR HUGO BOCANEGRA, represented that he
2 was the actual buyer of the firearms when in fact he was not, and VICTOR ANTHONY
3 BOCANEGRA aided, abetted, counseled, commanded, induced, and procured such false
4 and fictitious statement;

5 All in violation of Title 18, United States Code, Sections 922(a)(6), 924(a)(2), and
6 2.

7 **COUNT 5**

8 On or about November 8, 2018, at or near Phoenix, in the District of Arizona,
9 VICTOR HUGO BOCANEGRA, and VICTOR ANTHONY BOCANEGRA, in
10 connection with the acquisition of firearms, that is, two (2) FN Herstal M249s, semi-
11 automatic rifles, bearing serial numbers M249SA07615 and M249SA07600; from Mo
12 Money Pawn Shop, a licensed dealer of firearms within the meaning of Chapter 44, Title
13 18, United States Code, knowingly made a false and fictitious written statement to Mo
14 Money Pawn Shop, which statement was intended and likely to deceive Mo Money Pawn
15 Shop as to a fact material to the lawfulness of such sale of the said firearms to the defendant
16 under Chapter 44 of Title 18, in that VICTOR HUGO BOCANEGRA, provided a false
17 address on the ATF Form 4473, and VICTOR ANTHONY BOCANEGRA aided, abetted,
18 counseled, commanded, induced, and procured such false and fictitious statement;

19 All in violation of Title 18, United States Code, Sections 922(a)(6), 924(a)(2), and
20 2.

21 **COUNT 6**

22 On or about October 9, 2018, at or near Douglas, in the District of Arizona, VICTOR
23 HUGO BOCANEGRA, KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY
24 BOCANEGRA, did knowingly and willfully export and send from the United States into
25 the Republic of Mexico, any merchandise, article, and object, that is one (1) Barrett .50
26 caliber, semi-automatic rifle, bearing serial number AA007437, which is contrary to the
27 laws and regulations of the United States, to wit: 22 U.S.C. 2778(b)(2) and (c), and Title
28 22, Code of Federal Regulations, Sections 121.1, 123.1, and 127.1;

1 All in violation of Title 18 United States Code, Sections 554, and 2.

2 **COUNT 7**

3 On or about November 8, 2018, at or near Douglas, in the District of Arizona,
4 VICTOR HUGO BOCANEGRA, and VICTOR ANTHONY BOCANEGRA, did
5 knowingly and willfully export and send from the United States into the Republic of
6 Mexico, any merchandise, article, and object, that is two (2) FN Herstal M249s, semi-
7 automatic rifles, bearing serial numbers M249SA07615 and M249SA07600, which is
8 contrary to the laws and regulations of the United States, to wit: 22 U.S.C. 2778(b)(2) and
9 (c), and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, and 127.1;

10 All in violation of Title 18 United States Code, Sections 554, and 2.

11 **COUNT 8**

12 On or about January 9, 2019, at or near Douglas, in the District of Arizona, VICTOR
13 HUGO BOCANEGRA, KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY
14 BOCANEGRA, did knowingly and willfully attempt to export and send from the United
15 States into the Republic of Mexico, any merchandise, article, and object, that is five (5) FN
16 Herstal MK46 machineguns, as defined in Title 26, United States Code, Section
17 5845(b), which is contrary to the laws and regulations of the United States, to wit: 22 U.S.C.
18 2778(b)(2) and (c), and Title 22, Code of Federal Regulations, Sections 121.1, 123.1, and
19 127.1;

20 All in violation of Title 18 United States Code, Section 554.

21 **COUNT 9**

22 On or about January 9, 2019, at or near Douglas, in the District of Arizona, VICTOR
23 HUGO BOCANEGRA, KATHIA VICTORIA BOCANEGRA, and VICTOR ANTHONY
24 BOCANEGRA, did knowingly possess a machinegun, firearm as defined in Title 26,
25 United States Code, Sections 5845(a)(6) and 5845(b), that is:

26 Any weapon which shoots, is designed to shoot, or can be readily restored to shoot,
27 automatically more than one shot, without manual reloading, by a single function of the
28 trigger, here five (5) FN Herstal MK46 machine guns; which firearms were not registered

1 to the Defendants in the National Firearms Registration and Transfer Record as required
2 by Title 26, United States Code, Section 5841.

3 In violation of Title 26, United States Code, Sections 5861(d) and 5871.

4 **FORFEITURE ALLEGATION**

5 Upon conviction of Count One through Nine of this Indictment, the defendants,
6 VICTOR HUGO BOCANEGRA, KATHIA VICTORIA BOCANEGRA, and VICTOR
7 ANTHONY BOCANEGRA, shall forfeit to the United States pursuant to Title 18, United
8 States Code, Section 924(d), Title 26, United States Code, Section 5872, and Title 28,
9 United States Code, Section 2461(c), any firearm and ammunition involved in the
10 commission of the offense, including, but not limited to:

- 11 a) One (1) Barrett .50 caliber, semi-automatic rifle, bearing serial number
12 AA007437;
13 b) Two (2) FN Herstal M249s, semi-automatic rifles, bearing serial
14 numbers M249SA07615 and M249SA07600.

15 If any of the property described above, as a result of any act or omission of the
16 defendants: a) cannot be located upon the exercise of due diligence; b) has been transferred
17 or sold to, or deposited with, a third party; c) has been placed beyond the jurisdiction of
18 the court; d) has been substantially diminished in value; or e) has been commingled with
19 other property which cannot be divided without difficulty, it is the intent of the United
20 States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title
21 28, United States Code, Section 2461(c), to seek forfeiture of any other property of said
22 defendant up to the value of the above forfeitable property, including, but not limited to,
23 all property, both real and personal, owned by the defendant.

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All pursuant to Title 18, United States Code, Section 924(d), Title 28, United States Code, Section 2461(c) and Rule 32.2(a), Federal Rules of Criminal Procedure.

A TRUE BILL

/S/

Presiding Juror

ELIZABETH A. STRANGE
First Assistant United States Attorney
District of Arizona

**REDACTED FOR
PUBLIC DISCLOSURE**

/S/

Assistant U.S. Attorney

Dated: February 6, 2019