

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Criminal Case No. 09-cr-00292-REB

UNITED STATES OF AMERICA,

Plaintiff,

v.

1. LANCE C. MIGLIACCIO,

Defendant.

SUPERSEDING INDICTMENT

18 U.S.C. § 842(h) and (j)
18 U.S.C. § 844(a) and (b)
18 U.S.C. § 922(o)
18 U.S.C. § 924(a)(2)
18 U.S.C. § 924(c) (1)(A) and (B)(ii)
21 U.S.C. § 841(a)(1) and (b)(1)(C)
26 U.S.C. § 5841
26 U.S.C. § 5861(d) and (I)
26. U.S.C. § 5871

COUNT ONE

The Grand Jury charges that:

On or about October 25, 2007, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly and intentionally distribute and possess with the intent to distribute a mixture or substance containing a detectable amount of 3,4-methylenedioxyamphetamine (“MDMA”)(commonly known as “Ecstasy”), a

Schedule I Controlled Substance listed in Title 21, United States Code, Section 812, and the Code of Regulations enacted thereunder, codified in Title 21 of the Code of Federal Regulations, Section 1308(d)(11).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT TWO

The Grand Jury further charges that:

On or about November 16, 2007, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly and intentionally distribute and possess with the intent to distribute a mixture or substance containing a detectable amount of 3,4-methylenedioxyamphetamine (“MDMA”)(commonly known as “Ecstasy”), a Schedule I Controlled Substance listed in Title 21, United States Code, Section 812, and the Code of Regulations enacted thereunder, codified in Title 21 of the Code of Federal Regulations, Section 1308(d)(11).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT THREE

The Grand Jury further charges that:

On or about January 17, 2008, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly and intentionally distribute and

possess with the intent to distribute a mixture or substance containing a detectable amount of 3,4-methylenedioxyamphetamine (“MDMA”)(commonly known as “Ecstasy”), a Schedule I Controlled Substance listed in Title 21, United States Code, Section 812, and the Code of Regulations enacted thereunder, codified in Title 21 of the Code of Federal Regulations, Section 1308(d)(11).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT FOUR

The Grand Jury further charges that:

On or about June 4, 2008, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly and intentionally distribute and possess with the intent to distribute a mixture or substance containing a detectable amount of 3,4-methylenedioxyamphetamine (“MDMA”)(commonly known as “Ecstasy”), a Schedule I Controlled Substance listed in Title 21, United States Code, Section 812, and the Code of Regulations enacted thereunder, codified in Title 21 of the Code of Federal Regulations, Section 1308(d)(11).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT FIVE

The Grand Jury charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly and intentionally distribute and possess with the intent to distribute a mixture or substance containing a detectable amount of 3,4-methylenedioxyamphetamine (“MDMA”)(commonly known as “Ecstasy”), a Schedule I Controlled Substance listed in Title 21, United States Code, Section 812, and the Code of Regulations enacted thereunder, codified in Title 21 of the Code of Federal Regulations, Section 1308(d)(11).

All in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C).

COUNT SIX

The Grand Jury further charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO during and in relation to a drug trafficking crime, namely, the violation of Title 18 United States Code, Sections 841(a)(1) and 841(b)(1)(C) as charged in this Superseding Indictment in Count Five, did knowingly carry a firearm, namely a destructive device being a 40mm High Explosive Dual Purpose round, and possess such firearm in furtherance of said drug trafficking crime.

All in violation of Title 18, United States Code, Sections 924(c)(1)(A) and (B)(ii).

COUNT SEVEN

The Grand Jury further charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly and unlawfully possess a machine gun, to wit: a Heckler and Koch 5.56 x 45mm caliber fully automatic firearm.

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

COUNT EIGHT

The Grand Jury further charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly possess a firearm, that is a AWC Systems Technology 9mm silencer, not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Sections 5841, 5861(d) and 5871.

COUNT NINE

The Grand Jury further charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly possess a firearm, that is a Knights Armament Co. Model K 5.56mm silencer, not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Sections

5841, 5861(d) and 5871.

All in violation of Title 26, United States Code, Sections 5841, 5861(d) and 5871.

COUNT TEN

The Grand Jury further charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly possess a firearm, that is a 40mm high explosive dual purpose round, not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Sections 5841, 5861(d) and 5871.

All in violation of Title 26, United States Code, Sections 5841, 5861(d) and 5871.

COUNT ELEVEN

The Grand Jury further charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO did knowingly possess, conceal, and store stolen explosive materials, being thirteen 40mm High Explosive Dual Purpose grenades, which had been shipped and transported in interstate commerce, knowing and having reasonable cause to believe that the explosive materials were stolen, in violation of Title 18, United States Code, Sections 842(h) and 844(a).

All in violation of Title 18, United States Code, Sections 842(h) and 844(a).

COUNT TWELVE

The Grand Jury further charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO knowingly stored high explosives in a manner not in conformity with regulations promulgated by the Attorney General pursuant to 18 U.S.C. § 847, in that he stored high explosives, electric and non-electric detonators, 40 mm High Explosive Dual Purpose grenades, detonating cord and C4 explosive material, in his residence at 2822 Stonington Court, Highlands Ranch, Colorado, said residence not then conforming with the requirements of Type 1 storage facilities, in violation of Title 18, United States Code, Sections 842(j) and 844(b).

All in violation of Title 18, United States Code, Sections 842(j) and 844(b).

COUNT THIRTEEN

The Grand Jury further charges that:

On or about August 4, 2009, within the State and District of Colorado, the defendant LANCE C. MIGLIACCIO knowingly received and possessed a firearm, a silencer, not identified by a serial number, in violation of Title 26, United States Code, Sections 5861(I) and 5871.

All in violation of Title 26, United States Code, Sections 5861(I) and 5871.

COUNT FOURTEEN
Forfeiture Allegation

1. The allegations contained in Counts One through Five and Fourteen of this Superseding Indictment are hereby re-alleged and incorporated by reference for the purpose of alleging forfeiture pursuant to the provisions of 21 U.S.C. § 853.

2. Upon conviction of the violations alleged in Counts One through Five and Fourteen of this Superseding Indictment involving commission of Title 21, United States Code, Section 841(a)(1) and (b)(1)(C), and Title 21, United States Code, Section 844(a), defendant,

LANCE C. MIGLIACCIO

shall forfeit to the United States, pursuant to Title 21, United States Code, Section 853, any and all of the defendant's right, title and interest in all property constituting and derived from any proceeds the defendant obtained directly and indirectly as a result of such violation, and any of the defendant's property used, or intended to be used in any manner or part, to commit, or facilitate the commission of such violation.

3. If any of the property described in paragraphs above, as a result of any act or omission of the defendant:

- 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 subdivided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section
853(p) to seek forfeiture of any other property of said defendant up to the value of the
forfeitable property.

A TRUE BILL:

Ink signature on file in the clerk's office
FOREPERSON

DAVID M. GAOUETTE
Acting United States Attorney

By: s/Colleen Covell
COLLEEN COVELL
Assistant United States Attorney
United States Attorney's Office
District of Colorado
1225 17th Street, Suite 700
Denver, Colorado 80202
Telephone: 303-454-0100
Fax: 303-454-0401
colleen.covell@usdoj.gov
Attorney for the Government

DATE: August 27, 2009

DEFENDANT: LANCE C. MIGLIACCIO

YOB:

ADDRESS:

COMPLAINT FILED? _____ YES X NO

IF YES, PROVIDE MAGISTRATE CASE NUMBER: _____
IF NO, PROCEED TO "OFFENSE" SECTION

HAS DEFENDANT BEEN ARRESTED ON COMPLAINT? _____ YES X NO

IF NO, A NEW WARRANT IS REQUIRED

OFFENSE: **COUNTS ONE - FIVE:** Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C)
Knowingly and intentionally possessing with intent to distribute a mixture or substance containing a detectable amount of 3,4-methylenedioxymethamphetamine ("MDMA")(commonly known as "Ecstasy")

COUNT SIX: Title 18, United States Code, Sections 924(c)(1)(A) and (B)(ii)
Using or carrying a firearm during and in relation to a drug trafficking crime

COUNT SEVEN: Title 18 United States Code, Sections 924(o) and 924(a)(2)
Possession of a Machine Gun

COUNTS EIGHT - TEN: Title 26, United States Code, Sections 5841, 5861(d) and 5871
Possession of a firearm which is not registered in the National Firearms Registration and Transfer Record

COUNT ELEVEN: Title 18 United States Code, Section 842(h) and 844(a)
Possess, conceal and store stolen explosive materials

COUNT TWELVE: Title 18, United States Code, Sections 842(j) and 844(b)
Storing high explosives in a manner not in conformity with regulations

COUNT THIRTEEN: Title 26, United States Code, Sections 5861(i) and 5871
Receive or possess a firearm which is not identified by a serial number

COUNT FOURTEEN: Forfeiture Allegation

LOCATION OF OFFENSE: Colorado

PENALTY:

COUNTS ONE - FIVE:

NMT 20 years imprisonment; NMT \$1,000,000 fine, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee Per Count

COUNT SIX:

NMT 30 years imprisonment; NMT \$250,000.00 fine, or both; NMT 5 years supervised release; and a \$100 Special Assessment Fee

COUNT SEVEN:

NMT 10 years imprisonment; NMT \$250,000.00 fine, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

COUNTS EIGHT - TEN:

NMT 10 years imprisonment, NMT \$10,000.00 fine or both; NMT 3 years supervised release; and \$100.00 Special Assessment; Per Count

COUNT ELEVEN:

NMT 10 years imprisonment; NMT \$250,000.00 fine, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

COUNT TWELVE:

NMT 1 year imprisonment; NMT \$250,000.00 fine, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

COUNT THIRTEEN:

NMT 10 years imprisonment; NMT \$10,000.00 fine, or both; NMT 3 years supervised release; and a \$100 Special Assessment Fee

COUNT FOURTEEN: Forfeiture

AGENT: THOMAS MILLER
Special Agent - DEA

AUTHORIZED BY: COLLEEN COVELL
Assistant U.S. Attorney

ESTIMATED TIME OF TRIAL:

five days or less

over five days

other

THE GOVERNMENT

will seek detention in this case

will not seek detention in this case

The statutory presumption of detention **is** or **is not** applicable to this defendant. **(Circle one)**

OCDETF CASE: X Yes No