

FILED

09 SEP -1 PM 3:08

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY: *[Signature]* DEPUTY

~~SECRET~~

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

February 2009 Grand Jury

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

|                           |   |                                       |
|---------------------------|---|---------------------------------------|
| UNITED STATES OF AMERICA, | ) | Criminal Case No. <u>08CR3040-JLS</u> |
|                           | ) |                                       |
| Plaintiff,                | ) | <u>I N D I C T M E N T</u>            |
|                           | ) | (Superseding)                         |
| v.                        | ) |                                       |
|                           | ) | Title 18, U.S.C., Sec. 371 -          |
| JAMES ROOT (9),           | ) | Conspiracy; Title 18, U.S.C.,         |
| JIMMY HA (12),            | ) | Sec. 1167 - Conspiracy to Commit      |
| aka "Van Jun,"            | ) | Theft from Gaming Establishments      |
|                           | ) | on Indian Lands; Title 18,            |
|                           | ) | U.S.C., Sec. 1510 - Conspiracy        |
| Defendants.               | ) | to Obstruct a Criminal                |
|                           | ) | Investigation                         |

The grand jury charges:

GENERAL ALLEGATIONS

At all times material to this Indictment:

A. Gaming Facilities

1. The Barona Valley Ranch Resort and Casino was an Indian gaming facility operated by the Barona Group of Capitan Grande Mission Indians, a federally recognized Indian Tribe. The United States government holds lands in trust for the benefit of the tribe in the vicinity of Lakeside, California. The government of the tribe oversees operation of these facilities on federal trust lands under its jurisdiction. Gaming operated in the jurisdiction of the tribe

JKW:RST:nlv:San Diego  
8/31/09

1 was authorized by tribal ordinance, which was approved by the National  
2 Indian Gaming Commission (hereinafter the "NIGC"), on February 28,  
3 1994, in accordance with the Indian Gaming Regulatory Act of 1988,  
4 Title 25, United States Code, Section 2710 (hereinafter the "IGRA").

5 **B. Description of Mini-Baccarat**

6 2. In mini-baccarat, like regular baccarat, two hands are  
7 dealt—one called the "banker's hand" and the other called the  
8 "player's hand." Players at a table bet prior to a hand being dealt  
9 and bet on which of the two hands they believe will win. The winning  
10 hand is the hand that, under the rules of the game, comes closest to  
11 the total of nine. The rules do not allow the player or the dealer  
12 any discretion in deciding when to hold or draw on a hand.  
13 Consequently, the result of each hand is in no way affected by  
14 personal decisions by the dealer or players in the game.

15 3. Mini-baccarat usually is played with six to eight full decks  
16 of cards, which are shuffled by a dealer and dealt from a shoe. Up  
17 to nine players can be seated at the table. At some casinos,  
18 additional bettors, known as "back-bettors," can stand behind players.  
19 Play begins when the player's hand and banker's hand are dealt from  
20 the shoe. Usually, only two hands are dealt regardless of the number  
21 of players at the table. Each hand initially consists of two cards.  
22 The rules of the game determine whether a third card is dealt to  
23 either hand. Neither the players nor the dealer have any discretion  
24 in determining whether to hold or to deal a third card to a hand.

25 4. The first four cards are dealt from the shoe in alternating  
26 order, with the result being that the first and third cards are dealt  
27 to the player's hand, while the second and fourth cards are dealt to  
28 the banker's hand. Mini-baccarat game rules dictate whether a fifth

1 or sixth card is necessary and whether the cards are dealt to the  
2 player's hand and/or banker's hand, respectively. All cards count as  
3 face value except tens and face cards, which have a value of zero.  
4 For example, an ace equals one and a five equals five. If the total  
5 or "point count" of the cards in a hand is a two-digit number, the  
6 left digit is disregarded and the right digit constitutes the point  
7 count (for example, the point count for a hand consisting of the  
8 following 2 cards, an 8 and a 6, would be 4 after dropping the left  
9 digit from the sum total of 14).

10 5. Players bet prior to a hand being dealt and have three  
11 betting options: Betting on the player's hand, betting on the  
12 banker's hand, or betting on a tie. All winning bets on the player's  
13 hand or banker's hand are paid at odds of one to one, while the odds  
14 on a tie bet are paid at odds of nine to one. The winning hand is the  
15 one under the rules of the game that comes closest to the total point  
16 count of nine. The Casino provides mini-baccarat scorecards for  
17 players to use. A typical and legitimate player use of a scorecard  
18 is to record "runs," i.e., a series of player's or banker's winning  
19 hands, for the player's use in making betting decisions. Tracking  
20 play in this manner, however, has no bearing on, and provides no  
21 insight, into the statistical outcome of the game.

22 6. All of the cards dealt in a hand of mini-baccarat are placed  
23 into the discard rack in a specific order. The dealer slides the  
24 cards from dealer's right hand to his or her left, face up with the  
25 first card on the right on the bottom and the last card on the left  
26 on the top. The dealer then turns the cards face down and places them  
27 into the discard rack. The same procedure is followed for each hand  
28 until all the cards are dealt from the shoe. Consequently, knowing

1 the order of the cards going into the discard rack allows a player who  
2 is tracking cards to know the order that the tracked cards will come  
3 out of the shoe if those cards are not shuffled.

4 Count 1  
5 18 U.S.C. § 371  
6 (Conspiracy to Commit Offenses Against the United States)

7 1. The allegations contained in paragraphs one through six of  
8 the General Allegations are realleged and incorporated by reference  
9 as if fully set forth herein.

10 2. From in or about March 2002 and continuing to on or about  
11 late June 2005, within the Southern District of California and  
12 elsewhere, defendants JAMES ROOT and JIMMY HA, aka "Van Jun," and the  
13 following coconspirators charged elsewhere; Tai Khiem Tran, Anh Phuong  
14 Tran, Nam Van To, aka "Tommy", Don Man Duong, Phuong Quoc Truong, Van  
15 Thu Tran, and the following coconspirators whose initials are M. L.,  
16 C. S., and A.V. did knowingly, willfully, and unlawfully conspire,  
17 confederate and agree with each other and other persons known and  
18 unknown to the grand jury, to commit the following crimes against the  
19 United States:

20 a. To abstract, purloin, and willfully misapply, and take  
21 and carry away with intent to steal, money, funds, assets, and other  
22 property of a value in excess of \$1,000 belonging to a gaming  
23 establishment operated by and for, and licensed by an Indian Tribe  
24 pursuant to an ordinance and resolution approved by the National  
25 Indian Gaming Commission; in violation of Title 18, United States  
26 Code, Section 1167(b);

27 //

28 //

//

1           b. To use bribery to obstruct, delay, and prevent the  
2 communication of information relating to a violation of any criminal  
3 statute of the United States by any person to a criminal investigator;  
4 in violation of Title 18, United States Code, Section 1510.  
5 All in violation of Title 18, United States Code, Section 371.

6                           **A. Purposes of the Conspiracy**

7           3. The purposes of the conspiracy included the following:

8           a. Enriching the defendants and members and associates of  
9 the conspiracy through, among other things, the theft of money from  
10 an Indian gaming establishment by cheating at gambling; and bribing  
11 casino employees to facilitate cheating at gambling;

12           b. Acquiring real and personal property for the members  
13 and associates of the conspiracy in the United States;

14           c. Preserving and protecting the territory and profits of  
15 the conspiracy through the use of bribes and financial incentives;

16           d. Promoting and enhancing the conspiracy and its members'  
17 and associates' activities; and

18           e. Impeding investigation of the card-cheating conspiracy  
19 by law enforcement authorities.

20                           **B. Manner and Means of the Conspiracy**

21           4. Among the manner and means by which the members and  
22 associates of the Tran Organization conducted and participated in the  
23 conduct of the affairs of the card-cheating conspiracy were the  
24 following:

25 //

26 //

27 //

28 //

1           a.    It was part of the conspiracy, that after developing  
2 the card-cheating scheme, coconspirators Phuong Quoc Truong, Van Thu  
3 Tran, Tai Khiem Tran, and other coconspirators, would recruit and  
4 train other individuals to participate in the card-cheating scheme.  
5 The table games at which the Tran Organization performed the card-  
6 cheating schemes included mini-baccarat.

7           b.    It was further part of the conspiracy that the members  
8 and associates of the conspiracy would usually execute the card-  
9 cheating scheme as follows: First, a member or members of the Tran  
10 Organization would recruit and bribe a dealer from a casino to perform  
11 the false shuffle, that is, to fail to shuffle or interlace cards  
12 properly after they have been dealt from the shoe, and before they are  
13 shuffled and returned to the shoe for the next round of hands. By  
14 failing to shuffle cards, the dealer would create a "slug," or group  
15 of cards in the same order that they had been dealt in the previous  
16 game. This enabled the members and associates of the conspiracy to  
17 track the cards in the slug and predict the order in which they were  
18 dealt in the next game.

19           c.    It was further part of the conspiracy that the members  
20 and associates of the conspiracy would offer the dealer money for each  
21 successful false shuffle the dealer performed. They also would train  
22 the dealer to perform the false shuffle without being detected by  
23 casino security.

24           d.    It was further part of the conspiracy that after  
25 successfully bribing and training a dealer, several members of the  
26 Tran Organization would go to the casino and begin to play mini-  
27 baccarat at the table where the coconspirator dealer was stationed to  
28 work. One coconspirator participated in the game as a player (the

1 "card recorder"), who would record the values of at least a portion  
2 of the cards dealt in the regular course of play from the shoe.  
3 During mini-baccarat games, the card recorder usually would record the  
4 value of the cards on a paper form the casino provided to mini-  
5 baccarat players in the normal course of play.

6 e. It was further part of the conspiracy that after  
7 dealing all of the cards in the shoe, the dealer would create a slug  
8 of cards that a member of the Tran Organization had recorded, by the  
9 dealer performing a false shuffle.

10 f. It was further part of the conspiracy that the dealer  
11 would next place the complete deck of cards, including the slug, back  
12 into the shoe and begin dealing the next series of hands. The card  
13 recorder then would look for "indicator cards" at the start of the  
14 slug. After finding the slug, the card recorder would determine the  
15 subsequent order of cards to be played from the shoe. The card  
16 recorder then would use mini-baccarat rules to calculate the winner  
17 of the subsequent hands. The card recorder would signal to other  
18 coconspirator players at the table to dramatically increase the size  
19 of their bets on the predicted winning hands. Typically, the players  
20 would win several successive hands during the course of one card-  
21 cheating scheme at a casino.

22 g. It was further part of the conspiracy that the Tran  
23 Organization would not always succeed in winning money when they  
24 attempted to execute the card-cheating scheme. Mistakes in executing  
25 the card-cheating scheme and mistakes made by the coconspirator dealer  
26 or the card recorder would cause the Tran Organization to lose large  
27 amounts of money in a short period of time. Additionally, the Tran  
28 Organization sometimes lost bets intentionally to avoid suspicion.

1           h. It was further part of the conspiracy that after  
2 successfully cheating a casino in a mini-baccarat game, the Tran  
3 Organization would have various members and associates cash out their  
4 gambling chips, often in amounts under \$10,000 to avoid federally  
5 regulated casino cash transaction reporting requirements. After  
6 collecting the winnings, the members and associates of the conspiracy  
7 who participated in the game as players would typically turn over  
8 their winnings to a member of the Tran Organization, who would, in  
9 turn, pay the participating players a smaller amount of money for  
10 participating in the scheme.

11           i. It was further part of the conspiracy that the members  
12 and associates of the conspiracy would bribe and attempt to bribe  
13 casino and gaming establishment employees and officials to execute the  
14 card-cheating scheme and take actions contrary to the interests of  
15 their employers.

16           j. It was further part of the conspiracy that the members  
17 and associates of the Tran Organization would use bribes to deter  
18 witnesses from informing casino and gaming establishment officials,  
19 as well as law enforcement officials, about the activities of the  
20 conspiracy and its members and associates.

21           k. It was further part of the conspiracy that the members  
22 and associates of the Tran Organization would create rules and  
23 procedures to be followed by all members and associates involved in  
24 the card-cheating schemes, in order to maximize the effectiveness of  
25 the conspiracy.

26           l. It was further part of the conspiracy that the members  
27 and associates of the Tran Organization would train others in the  
28 card-cheating schemes of the conspiracy and to follow the rules and



1 procedures they developed, including, but not limited to, training  
2 card dealers to perform false shuffles, training card trackers to  
3 track the order of cards as they were dealt from a shoe, and training  
4 players to follow cues as to when and how much to bet on particular  
5 hands.

6 m. It was further part of the conspiracy that the members  
7 and associates of the Tran Organization would scout casinos and gaming  
8 establishments in order to determine their level of vulnerability to  
9 the card-cheating scheme.

10 n. It was further part of the conspiracy that the members  
11 and associates of the conspiracy would impede investigation of the  
12 conspiracy by law enforcement authorities.

13 Overt Acts

14 In furtherance of the conspiracy and to effect and accomplish the  
15 objects thereof, the following overt acts, among others, were  
16 committed within the Southern District of California, and elsewhere:

17 1. On or about March of 2002, within the Southern District of  
18 California, coconspirators Phuong Quoc Truong, Van Thu  
19 Tran, and Tai Khiem Tran developed a false-shuffle  
20 technique designed to enable them, with the assistance of  
21 corrupt casino dealers, to cheat at gambling and thereby  
22 steal money from casinos.

23 //  
24 //  
25 //  
26 //  
27 //  
28 //

1 **Barona Valley Ranch Resort and Casino, Lakeside, California**

- 2 2. On or about April 7, 2005, coconspirator Anh Phuong Tran  
3 offered to bribe a card dealer, whose initials are P. L.,  
4 at the Barona Valley Ranch Resort and Casino, located in  
5 Lakeside, California, within the Southern District of  
6 California (hereinafter "Barona Casino"), to perform false  
7 shuffles during mini-baccarat games.
- 8 3. On or about April 2005, in San Diego, California,  
9 coconspirators Tai Khiem Tran and Don Man Duong offered to  
10 bribe a Barona Casino card dealer, whose initials are M.  
11 L., by paying him \$5,000 for each false shuffle that he  
12 performed in furtherance of the card-cheating scheme.
- 13 4. On or about April 20, 2005, coconspirators Tai Khiem Tran  
14 and Don Man Duong demonstrated the false shuffle to card  
15 dealer M. L. at an apartment in San Diego, California.
- 16 5. On or about May 24, 2005, coconspirator Tai Khiem Tran paid  
17 a Barona Casino card dealer, whose initials are C. S.,  
18 approximately \$10,000 for performing the false shuffle in  
19 furtherance of the card-cheating scheme.
- 20 6. On or about June 6, 2005, at approximately 5:22 a.m.,  
21 defendant JIMMY HA, and coconspirators Tai Khiem Tran and  
22 Don Man Duong caused a card dealer, defendant JAMES ROOT,  
23 to perform a false shuffle at mini-baccarat table #171, at  
24 Barona Casino, creating a slug of approximately 39 cards  
25 that enabled defendant JIMMY HA and coconspirators Tai  
26 Khiem Tran and Don Man Duong, to execute the card-cheating  
27 scheme and take approximately \$72,300 from the casino.
- 28

- 1           7.    On or about June 6, 2005, coconspirator Tai Khiem Tran
- 2                    telephoned card dealer M. L. and left a message on his
- 3                    voice mail asking if he was "ready" to perform the false
- 4                    shuffle at Barona Casino.
- 5           8.    On or about June 6, 2005, at approximately 6:47 p.m.,
- 6                    coconspirators Tai Khiem Tran and Don Man Duong caused card
- 7                    dealer C. S. to fail to shuffle a portion of the deck of
- 8                    cards at mini-baccarat table #162, at Barona Casino,
- 9                    creating a slug that enabled coconspirators Tai Khiem Tran
- 10                   and Don Man Duong to execute the card-cheating scheme and
- 11                   take approximately \$44,700 from the casino.
- 12           9.    On or about June 6, 2005, at approximately 7:54 p.m.,
- 13                    coconspirator Tai Khiem Tran cashed out gambling chips for
- 14                    approximately \$19,100 at Barona Casino.
- 15           10.   On or about June 6, 2005, at approximately 8:01 p.m.,
- 16                    defendant JIMMY HA cashed out gambling chips for
- 17                    approximately \$9,700 at Barona Casino.
- 18           11.   On or about June 6, 2005, at approximately 8:01 p.m.,
- 19                    defendant JIMMY HA again cashed out gambling chips for
- 20                    approximately \$9,700 at Barona Casino.
- 21           12.   On or about June 6, 2005, at approximately 8:45 p.m.,
- 22                    defendant JIMMY HA again cashed out gambling chips for
- 23                    approximately \$5,000 at Barona Casino.
- 24           13.   On or about June 9, 2005, coconspirator Tai Khiem Tran made
- 25                    a \$40,000 payment to Saxon Mortgage for his home loan on
- 26                    10021 Resmar Court, La Mesa, California.

27 //

28 //

- 1 14. On or about June 13, 2005, coconspirator Tai Khiem Tran  
2 cashed in \$29,500 and cashed out \$22,730 at Barona Casino.
- 3 15. On or about June 14, 2005, coconspirator Tai Khiem Tran  
4 cashed in \$20,500 at Barona Casino.
- 5 16. On or about June 15, 2005, coconspirator Tai Khiem Tran  
6 cashed out \$20,055 at Barona Casino.
- 7 17. On or about June 17, 2005, coconspirator Tai Khiem Tran  
8 cashed in \$15,000 at Barona Casino.
- 9 18. On or about June 17, 2005, coconspirator Tai Khiem Tran  
10 caused card dealer M. L. to perform a false shuffle at  
11 mini-baccarat table #145, at Barona Casino, creating a slug  
12 of cards that enabled coconspirators Tai Khiem Tran and Nam  
13 Van To, and a coconspirator, whose initials are A. V., and  
14 other unidentified coconspirators to execute the card-  
15 cheating scheme and take approximately \$40,215 from the  
16 casino.
- 17 19. On or about June 18, 2005, at approximately 4:06 a.m.,  
18 defendant JAMES ROOT performed a false shuffle at Barona  
19 Casino mini-baccarat table #171 at the direction of  
20 coconspirator Tai Khiem Tran, in an attempt to create a  
21 slug that would enable coconspirator Don Man Duong and  
22 other unidentified coconspirators to execute the card-  
23 cheating scheme and take money from the casino.
- 24 //
- 25 //
- 26 //
- 27 //
- 28 //

1 20. On or about June 18, 2005, at approximately 6:10 a.m.,  
2 defendant JAMES ROOT failed to shuffle an entire deck of  
3 cards at Barona Casino mini-baccarat table #171 at the  
4 direction of coconspirator Tai Khiem Tran and other  
5 unidentified coconspirators, creating a slug of  
6 approximately 376 cards, that enabled coconspirators Tai  
7 Khiem Tran and Nam Van To, and a coconspirator, whose  
8 initials are A. V., to execute the card-cheating scheme and  
9 take approximately \$54,000 from the casino.

10 21. On or about June 18, 2005, at approximately 7:25 a.m.,  
11 coconspirator Tai Khiem Tran cashed out gambling chips for  
12 approximately \$9,600 at Barona Casino.

13 22. On or about June 18, 2005, at approximately 7:39 a.m.,  
14 coconspirator A. V. cashed out gambling chips for  
15 approximately \$22,915 at Barona Casino.

16 23. On or about June 19, 2005, in San Diego, California,  
17 defendant JAMES ROOT and dealer M. L. took money from  
18 coconspirator Tai Khiem Tran for performing false shuffles  
19 in furtherance of the card-cheating scheme at Barona  
20 Casino.

21 24. On or about June 22, 2005, coconspirator Anh Phuong Tran  
22 telephoned Barona Casino card dealer M. L. and offered him  
23 a job and money to prevent him from telling law enforcement  
24 and casino authorities about the false shuffle card-  
25 cheating scheme.

26 //

27 //

28 //

1 25. On or about June 24, 2005, in the Southern District of  
2 California, defendant JAMES ROOT and dealers M. L. and C.  
3 S. each took approximately \$3,000 from coconspirators Tai  
4 Khiem Tran and Anh Phuong Tran to prevent them from telling  
5 law enforcement and Barona Casino authorities about the  
6 false shuffle card-cheating scheme.

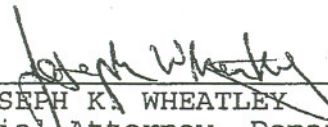
7 All in violation of Title 18, United States Code, Section 371.

8 DATED: September 1, 2009.

9 A TRUE BILL:

10  
11  
12  
13  
14 KAREN P. HEWITT  
United States Attorney

15 BRUCE G. OHR  
16 Chief, Organized Crime  
and Racketeering Section  
17 Department of Justice

18   
19 JOSEPH K. WHEATLEY  
Trial Attorney, Department of Justice

20  
21   
22 ROBERT S. TULLY  
Trial Attorney, Department of Justice

23  
24  
25 I hereby attest and certify on 9/1/09  
26 That the foregoing document is a full, true and correct  
copy of the original on file in my office and in my legal  
custody.

27 CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

28 By  Deputy