

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 09-21010-CR-JEM(s)(s)

UNITED STATES OF AMERICA

vs.

CINERGY TELECOMMUNICATIONS, INC.,

Defendant.

ORDER OF DISMISSAL

The government has recently learned that defendant Cinergy Telecommunications, Inc. ("Cinergy") is a non-operational entity that effectively exists only on paper for the benefit of two fugitive defendants, Washington Vasconez Cruz and Cecilia Zurita. For several years, these defendants took actions that the government believes made it appear as though Cinergy was an on-going operational company. For example, among other things, they caused it to maintain its registration with the Florida Department of State as an active corporation, file tax returns, maintain a business address, and retain counsel to represent it before indictment. In 2010, the Federal Communications Commission's database reflected that Cinergy was an active corporation. In addition, in Cinergy's April 2011 Annual Report to the Florida Department of State, Zurita represented that she and Vasconez were located in Miami, and that she was the registered agent for Cinergy, also listing a Miami address for service of process. When an IRS agent went to Cinergy's business address in 2011 in connection with serving the indictment summons, he met an individual who represented himself to be an employee of Cinergy.

Defense counsel recently confirmed that Cinergy is in fact now non-operational, has no employees, and has no assets of any real value. Recently obtained financial records establish that Cinergy has no employees and no payroll, retired its telecommunications assets several years ago, and engaged in only one income-producing transaction after 2009, the sale of a truck for \$4,000 in 2010. In 2012, in contrast to the information that appeared in 2010, the FCC's database page relating to Cinergy states as follows: "No Longer Active as of Feb 20 2007. This company still exists, however it is no longer providing telecommunications services." (Emphasis added). Further, travel records reflect that its principal officers, fugitive defendants Vasconez and Zurita, left permanently for South America in 2010.

In light of persuasive information the government has developed that Cinergy no longer exists in any real sense and the government's belief that it was portrayed as existing at least in part to further the fugitive defendants' litigation strategy, the government in its discretion and under the circumstances presented has elected not to proceed with a trial against Cinergy. Accordingly, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure and by leave of Court endorsed hereon, the United States Attorney for the Southern District of Florida and the United States Department of Justice, Criminal Division, Fraud Section hereby dismiss with prejudice the indictment as to Cinergy. This order does not affect the charges against the

remaining defendants, including Vasconez and Zurita, the principal officers and owners of Cinergy at the time of the charged conduct.

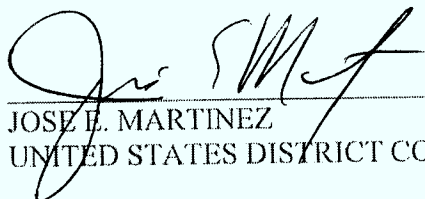
Respectfully submitted,


WIFREDO A. FERRER
UNITED STATES ATTORNEY

DENIS J. McINERNEY, CHIEF
FRAUD SECTION, CRIMINAL DIVISION
U.S. DEPARTMENT OF JUSTICE

Leave of Court is granted for the filing of the foregoing Dismissal.

DATE: 24 Feb 2012


JOSE E. MARTINEZ
UNITED STATES DISTRICT COURT JUDGE

cc: James M. Koukios, Senior Trial Attorney