

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA,

CASE NO.: 21-CR-129

Plaintiff,

vs.

Gabriel Garcia,

Defendant.

**MOTION FOR PERMISSION TO TRAVEL OUT OF THE STATE ON MAY 22, 2021
FOR WORK PURPOSES**

COMES NOW, the Defendant, Gabriel Garcia, and files his Motion for Permission to Travel Out of the State for work purposes, and states the following grounds:

FACTUAL GROUNDS

1. On January 19, 2021, the FBI arrested Mr. Garcia, and they brought him before a Magistrate in the Southern District of Florida for his initial appearance, and he later posted bond.
2. Subsequently, at his first appearance before a Magistrate in the District of Columbia, the Government asked for a GPS monitor and a curfew, and the Court granted the request. That order also prevents him from leaving the Southern District of Florida.
3. Mr. Garcia is self-employed and owns a roofing business in Miami.
4. Mr. Garcia is currently attempting to acquire supplies for his business. This requires him to visit the facilities of American Builders & Contractors Supply Co., Inc. located at 1818 Elm Hill Pike Nashville, TN 37210.
5. If allowed to travel, Mr. Garcia would be out of the state from Saturday, May 22, 2021, to Monday, May 24, 2021, and would stay at the Moxy Nashville Downtown Hotel located at 110 3rd Ave S. Nashville, TN 37201.

6. Mr. Garcia will provide his Pretrial Officer all of the information regarding his travel, as he did the previous time when he traveled to a funeral in North Florida.

7. Counsel contacted AUSA A. Buckner for the Government's position. She stated the Government does not object; but, as to removing the bracelet-monitor for air travel, she defers to his Pretrial Officer for their position. Counsel has contacted Mr. Garcia's Pretrial Officer numerous times to no avail.

MEMORANDUM OF LAW

This Court can grant Mr. Garcia's request under 18 U.S.C. § 3142. Specifically, Mr. Garcia requests permission to fly from Miami to Nashville on Saturday, May 22th in the morning. He wants to stay overnight in a hotel near American Builders & Contractors Supply Co, Inc. located at 1818 Elm Hill Pike Nashville, TN 37210. He will fly back to Miami on Monday May 24th. Mr. Garcia also provides a previous Invoice, # 31360858, from this March that includes details of the company's supplies. (Attached). Mr. Garcia respectfully requests the Court enter an order allowing him to travel to the above-described location in Nashville, Tennessee, from May 22, 2021, to May 24, 2021. Also, Mr. Garcia also requests to have the bracelet-monitor removed for airport travel, and the curfew restriction lifted for the duration of this work-related trip. Mr. Garcia has no criminal history; he is not a flight risk. He only seeks to continue doing business to be able to support himself and his family. He wants to make his reservations as soon as possible to save money.

WHEREFORE, Mr. Garcia respectfully moves this District Court to allow him to travel to Nashville, Tennessee without his ankle bracelet and the curfew restrictions, as detailed above.

Respectfully submitted,

/s/Aubrey Webb
Law Offices of Aubrey Webb
55 Merrick Way, Suite 212
Coral Gables, Florida 33134
305-461-1116
Email: aubrey@aqwattorney.com

/s/Charles R. Haskell
Law Offices of Charles R. Haskell
641 Indiana Ave. N.W.,
Washington D.C. 20004
202-888-2728
Email: Charles@CharlesHaskell.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was efiled to the Office of the Clerk, United States District Court, District of Columbia, 333 Constitution Ave., N.W. Washington D.C. 20001, Room 1225 and to the Office of the United States Attorney, 555 4th St N.W., Washington D.C. 20530, on April 15, 2021.

/s/Aubrey Webb



SHIPPING LOCATION:
 2751 NW 73RD ST
 MIAMI FL
 33147

ORDER ACKNOWLEDGEMENT

(305)836-4688

SOLD TO:
 SUPREME ALUMINUM FLORIDA
 SHOP ACCOUNT
 13104 SE 128TH ST
 MIAMI FL

SHIP TO:
 SUPREME ALUMINUM FLORIDA
 13104 SW 128TH ST

33186-5859

MIAMI

FL 33186 5859

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ORDER NO.	CUSTOMER ORDER NO.	SHIP VIA	CUSTOMER NO.	TERMS	SHIP DATE	ORDER ACK DATE	
31360858	NIKOLE BRENDECKE	CPU	120750	END OF MONTH	03/30/21	03/30/21	
ITEM NUMBER	ITEM DESCRIPTION	QUANTITY ORDERED	U/M T/D	QUANTITY SHIPPED	QUANTITY BACKORDER	UNIT PRICE	EXTENDED PRICE
TCI #782 HIAL	EAH CUSTOMER PICK UP						
ELISS01307	3" .024 1LB WHT/WHT UNIV CEDAR 9 @ 4' X 5'	9	EA			93.80	844.20
ELISS01318	3" .024 1LB WHT/WHT UNIV CEDAR 1 @ 2' X 5'	1	EA			46.90	46.90

THIS IS NOT A SHIPPING DOCUMENT

FL DA

SUBTOTAL 891.10

SUBTOTAL AMOUNT	+	FREIGHT	+	SALES TAX	TOTAL PAYABLE IN U.S. DOLLARS	953.48
891.10				62.38		

**PURCHASE AGREEMENT TERMS
AND CONDITIONS OF SALE
AMERICAN BUILDERS & CONTRACTORS SUPPLY CO., INC.**

1. Any purchase made on credit requires that Buyer have on file with American Builders & Contractors Supply Co., Inc. ("Seller") an approved Credit Application. Buyer further confirms Buyer's consent to Seller's Credit Agreement, the terms and conditions of which have been read by Buyer and are incorporated by reference herein. All accounts past due are subject to a monthly late payment charge, not to exceed the maximum allowed by applicable state and federal law.
2. Seller acknowledges and accepts Buyer's order; however, Seller's acknowledgement and acceptance is expressly conditioned upon Buyer's acceptance of the terms and conditions herein. No terms or conditions other than those stated herein, whether contained in Buyer's purchase order, shipping release, or elsewhere, and no written or oral agreement that purports to vary these terms and conditions is binding upon Seller unless set forth in writing, signed by Seller's authorized representative. All negotiations, proposals and representations are merged herein, and this writing constitutes the complete and exclusive statement of the terms and conditions of this Purchase Agreement between Buyer and Seller. In the event Buyer fails to accept this Purchase Agreement in writing, Buyer's consent to the terms and conditions herein is conclusively presumed, either from Buyer's failure to object within ten days in writing or from Buyer's acceptance or use of the material delivered hereunder. Unless Buyer notifies Seller in writing to the contrary prior to making a purchase, Buyer hereby represents and warrants that any employee or agent action on Buyer's behalf is authorized by Buyer and Seller may rely upon such representation.
3. In any case in which Seller makes delivery, Buyer will pay Seller's customary shipping charges. Delivery will be made at the project site or other place of delivery adjacent to the closest public right of way. Title and risk of loss passes to Buyer upon delivery of the goods. Should Buyer not be present to accept delivery, Buyer authorizes Seller to unload the goods and leave them at the delivery destination. Buyer releases Seller and will indemnify and hold harmless Seller from and against any and all claims, demands, actions, causes of action, cost, expenses, and attorneys' fees arising out of or in connection with any and all injury including death, to any person or persons (whether third parties or agents, servants, or employees of Buyer), and any and all damages to or loss of any property (whether belonging to Buyer or a third party), and any and all other damages recognized at law or in equity caused in whole or in part by or in any way related to the delivery of goods onto the project site by Seller, whenever such delivery is made in accordance with or pursuant to Buyer's instruction or authorization.
4. Buyer has the right to inspect the goods upon arrival. Buyer's inspection rights expire 24 hours after the arrival of the goods at the delivery destination. A failure to make inspection within that time waives notice of any defect that a reasonable inspection would have revealed. A rejection of the goods by Buyer is not effective unless written notice of rejection is given to Seller within three (3) calendar days of delivery.
5. Without prejudice to any other rights, Seller may suspend further deliveries of any items purchased if Buyer defaults in payment of any amounts due, or whenever Seller may deem itself insecure as to Buyer's performance, until Buyer remedies such default or provides assurance that satisfies Seller in its sole discretion, of Buyer's ability to perform. Seller may cancel any order at any time prior to payment by Buyer.
6. Unless otherwise provided by law, Seller may require Buyer to pay or reimburse Seller for any tax (except income tax) which now or hereafter is imposed by any taxing authority with respect to the items purchased or the sale, purchase, manufacture, delivery or use thereof.
7. Seller reserves the right to discontinue, without liability hereunder, deliveries of any merchandise, the manufacture, use and/or sale of which in the opinion of Seller would infringe any patent now or hereafter issued, or other intellectual property right under which Seller is not licensed.
8. Where Buyer requires tests or inspection not regularly provided by Seller, Seller may charge Buyer for the actual cost of such test or inspections.
9. Buyer's wrongful nonacceptance of goods, or cancellation or repudiation of an agreement to purchase goods or services entitles Seller to recover, in addition to any incidental damages caused by Buyer's wrongful nonacceptance, cancellation or repudiation, either (i) in the case of goods, the risk of loss of which has passed to Buyer at the time of nonacceptance, cancellation or repudiation, or goods which cannot reasonably be resold by Seller to a third party, or service which have already been performed by Seller, the price of such goods or services; or (ii) in the case of goods for which other buyers exist or services not yet performed, or where an action for the price is not otherwise permitted by law; damages equal to the profit (including reasonable overhead) which Seller would have realized had Buyer fully performed or, at Seller's option, twenty percent (20%) of the contract price as liquidated damages (which constitute a reasonable estimate of Seller's loss and not a penalty), plus, in the case of special orders, Seller's expenses, if any, incurred prior to receipt by Seller of notice of cancellation by Buyer, in connection with providing special services, developing special tooling, purchase special supplies and the like.
10. Seller is not responsible for any delay caused in whole or in part by circumstances beyond Seller's reasonable control, including but not limited to, force majeure, fires or accidents; strikes or other differences with workers; war (whether declared or undeclared), riots or embargoes; delays by carriers; delays in shipment or receipt of materials from suppliers; or any legislative, administrative or executive law, order or requisition of the federal or any state or local government or any subdivision, department, agency, officer or official thereof. Seller is not liable in any event for any damages (whether direct, general, special, incidental, consequential or other) caused by Seller's failure or delay in performance or delivery, if Seller is unable, due to any cause beyond Seller's control, to supply Buyer's total demand for products. Seller may allocate its available supply among Seller's customers, including Seller's branches and affiliates, in any manner Seller deems reasonable.
11. In the case of goods manufactured and sold by Seller with a separate written warranty, that warranty will apply. Otherwise, in the case of goods manufactured and sold by Seller, Seller warrants only that such goods have been manufactured in accordance with Seller's specifications and are free from defects in material and workmanship at the time of sale. For all other goods, upon request, Seller make no warranties, but will assign or transfer to Buyer any assignable or transferable manufacturer's warranties, if any, applicable to the purchase, in lieu of all other warranties, express or implied. **EXCEPT AS EXPRESSLY PROVIDED HEREIN, SELLER MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE IS NO WARRANTY THAT EXTENDS BEYOND THE DESCRIPTION ON THE FACE OF THIS PURCHASE AGREEMENT. BUYER ACKNOWLEDGES THAT BUYER'S PURCHASE DECISION IS BASED UPON BUYER'S DUE DILIGENCE AND INSTRUCTION TO SELLER OF THE GOODS REQUIRED BY BUYER AND NOT BY REASON OF ANY STATEMENT MADE BY OR ON BEHALF OF SELLER AS TO THE MERCHANTABILITY, SPECIFIC ATTRIBUTES OR OTHER INFORMATION REGARDING THE GOODS.** Buyer acknowledges that lumber and other product dimension descriptions are made consistent with industry standards and do not necessarily represent exact or accurate dimensions. For example, lumber commonly called "2x4" is actually 1.5 inches deep by 3.5 inches wide.
12. Buyer's Remedies/Limitation of Liability: (a) Buyer's sole and exclusive remedy and the limit of Seller's liability for goods or services proven to be other than warranted, whether based upon breach of warranty, negligence, strict liability, tort, breach of contract or any other legal theory, shall be, at Seller's option, (a) replacement of the goods or services, without charge, carriage paid to Buyer's facility; or (b) refund of the purchase price paid in respect of such goods or services, plus commercially reasonable charges in connection with the return or disposition of goods. To effect this sole and exclusive remedy, Buyer must make its claim for breach of warranty within 12 months of the date of shipment of the goods or performance of the services, and any such claim not made within such 12-month period is irrevocably waived.
- (b) Seller's sole liability with respect to the goods and services, for any and all loss or damage to Buyer, or any other loss, damage, expense or claim, resulting from any cause whatsoever (whether based on damaged or defective goods, irrespective of whether such damages or defects are discoverable or latent, or Seller's limited warranty shall fail of its essential purpose, or any other reason), and whether based upon breach of warranty, negligence, strict liability, tort, breach of contract or any other theory, will not exceed the aggregate purchase price of the particular goods and services with respect to which losses, damages, expenses or costs are claimed. Seller has no liability to any person other than Buyer by virtue of the sale of the goods, provision or services, or any other matters contemplated by this Agreement and Buyer will add Seller as a party protected by Buyer's warranty and limit of liability provisions in Buyer's terms of sale. The limitation of liability set forth in this paragraph shall survive termination or cancellation of this Agreement. For the avoidance of doubt, Seller is not liable for any damages whatsoever whether direct or indirect resulting from any delay in delivery of the goods or failure to deliver the goods in a reasonable time - whether or not such delay or failure is caused by Seller.
- (c) THE FOREGOING IS THE ENTIRE OBLIGATION OF SELLER. SELLER IS NOT LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT OR PUNITIVE DAMAGES TO ANY PERSON, WHETHER BASED UPON BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, TORT, BREACH OF CONTRACT OR ANY OTHER THEORY, REGARDLESS OF WHETHER THE REPLACEMENT OR REFUND REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE OR FOR ANY OTHER REASON WHATSOEVER. Seller shall not be liable for any damages attributable to product abuse, misuse, neglect or any other cause, which is not the fault of Seller.
13. (a) Buyer agrees to indemnify and hold harmless Seller from and against any and all claims, demands, actions, causes of action, costs and expenses arising out of or in connection with, in whole or in part, any act(s) or omission(s), negligent or otherwise, of Buyer, or any of Buyer's agents, servants, employees, subcontractors or customers, including but not limited to: (i) claims of personal injury, including death, to any person or persons (whether third parties or agents, servants or employees of Buyer or Seller); (ii) claims of loss of any property, real or personal (whether belonging to Seller, Buyer or to a third party); and (iii) any and all other damages recognized at law or in equity under any theory whatsoever.
- (b) This indemnity includes, but is not limited to, any reasonable attorney's fees or other reasonable legal fees incurred by Seller and associated with the foregoing.
- (c) This indemnity provision is a material term to the Agreement. Buyer's duty to indemnify is a condition to the sale of any goods from Seller to Buyer. Buyer has read the indemnity provision in its entirety, understands each and every part of the provision and acknowledges that there is no ambiguity concerning Buyer's duty to indemnify.
- (d) In the event that the applicable law prohibits enforcement of this clause as written, then and only then, this clause will be modified to provide the maximum indemnification to Seller, as indemnitee, allowable under that applicable law.
14. Export Sales. Buyer represents and warrants that it has complied and will comply with all applicable laws, rules and regulations pertaining to the export, import and movement of the goods sold hereunder. All drawbacks of duties paid on items used in the manufacture of the goods delivered hereunder will accrue to the Seller, and Buyer agrees to furnish the Seller with all documents and cooperation necessary to obtain payment of such drawbacks.
15. This Agreement shall be governed by and construed according to the laws of the state wherein the Seller branch supplying the goods hereunder is situated. Any action brought upon, or by reason of, this Agreement shall be brought, in Seller's sole discretion, either in a court with jurisdiction over the county in which the Seller branch is located, in a court with jurisdiction over the county in which the project for which the goods are to be used is located, or in a Court or before an arbitration panel where an action between Seller and a third party is pending which concerns the subject matter of this Agreement. Buyer agrees that, in the event any action is brought upon, or due to, this Agreement by either Buyer or Seller, and Seller prevails, Buyer shall pay Seller's reasonable attorney's fees and other costs incurred because of or in connection with such action, in the maximum amount permitted by law.
16. Waiver by Seller of any terms or conditions of this contract or waiver of any breach hereof shall not be construed as a waiver of any other term, condition, or breach. Determination that any provision of this Agreement is illegal or invalid shall not affect the validity or enforceability of the remaining provisions of this Agreement.
17. Returns must be made in accordance with Seller's return policy. A copy of this policy is available upon request.
18. The purchase of goods or services shall not entitle Buyer to use, or otherwise identify Buyer or its business with the name, trademark or other identity of the Seller. Should Buyer violate this provision, Seller reserves all remedies provided for by law or in equity, including, without limitation, injunctive relief. Except with respect to goods manufactured by Seller, Buyer shall indemnify and hold harmless Seller against all loss, damages, costs and expenses awarded against or incurred by Seller in connection with or paid or agreed to be paid, by Seller in settlement of any claim for infringement of any patents, copyright, design, trademark or any other industrial or intellectual property rights of any other person or entity with respect to the goods sold by Seller to Buyer hereunder.
19. T/D symbols printed on the front of any Seller warehouse picking/delivery ticket, invoice, or statement represents the tax and discount status of individual items. The following is a description of each symbol or combination of symbols:
- / = Taxable regardless of the order's tax status
 - \ = Nontaxable regardless of the order's tax status
 - = = Non-discountable regardless of the order's terms
 - /\ = Taxable and non-discountable regardless of the order's tax status and terms
 - \ = Nontaxable and non-discountable regardless of the order's tax status and terms
- If the item is taxable, and discountable based on the order's tax status and terms, no symbol will print.