

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 16-20519-CR-JAL

UNITED STATES OF AMERICA

vs.

JAMES SABATINO,

Defendant.

STIPULATED FACTUAL PROFFER

1. The Defendant, JAMES SABATINO, agrees and understands that in the event the Defendant does not enter a guilty plea under the terms outlined in the stipulated letter of understanding dated August 8, 2017¹, in the above-captioned case:
 - a. The Defendant hereby waives any protection afforded by Section 1B1.8 of the Sentencing Guidelines, Rule 11(f) of the Federal Rules of Criminal Procedure, and Rule 410 of the Federal Rules of Evidence;
 - b. Any statements made by the Defendant as part of the plea discussions, any debriefings or interviews, or in this agreement, whether made prior to or after the execution of this factual proffer, will be admissible against the Defendant without any limitation in any civil or criminal proceeding brought by the government; and
 - c. The Defendant has adopted the entire factual proffer set forth herein as the Defendant's own sworn statement, and the Defendant has stipulated to the admissibility of that statement in any case brought by the United States.

¹ It is understood by both parties that if the terms specified in the letter of understanding are not offered to the Defendant in a formal Plea Agreement then this Factual Proffer is null and void.

2. The Defendant stipulates to and agrees not to contest the following facts, and stipulates that such facts, in accordance with Rule 11(b)(3) of the Federal Rules of Criminal Procedure, would provide a sufficient factual basis for the Defendant's pleas of guilty to the pending charges:

ENTERPRISE

3. At various times relevant to this Indictment JAMES SABATINO ("Defendant"), other co-conspirators set forth below, and others known and unknown were members of a prison-based criminal organization (hereinafter the "Enterprise"). Some of the members and associates of the Enterprise were associated with the Gambino Organized Crime Family of "La Cosa Nostra" ("LCN"). The Enterprise, its members, and its associates engaged in acts of wire and mail fraud, interstate trafficking of stolen property, obstruction of justice, conspiracy to murder, and other criminal activities and operated in the Southern District of Florida, Southern District of New York, and Northern District of Georgia.
4. The Enterprise, including its leadership, membership, and associates, constituted an enterprise as defined in 18 U.S.C. § 1961(4), that is a group of individuals associated in fact. The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a purpose of achieving the objectives of the Enterprise. This Enterprise was engaged in, and its activities affected interstate and foreign commerce.
5. JAMES SABATINO and the other members:
 - a. Agreed to facilitate a scheme that included the operation and management of the Enterprise by SABATINO. Despite his incarceration, SABATINO remained the sole organizer and leader of the Enterprise;

- b. Conducted regular meetings in person, telephonically, and by any other means of communication at which they discussed, planned, and otherwise engaged in criminal activity, including, fraud, interstate trafficking of stolen property, introduction of contraband into federal prisons, bribery, obstruction of justice, witness intimidation, and murder;
- c. Engaged in a system of “penalties” in which members of the Enterprise conspired to murder, physically harm and threaten those members of the Enterprise who questioned the leadership’s authority, cooperated with law enforcement, or posed a threat to the leader or purpose of the Enterprise;
- d. Recruited inmates in prison, causing them to recruit outside individuals to commit crimes on behalf of the Enterprise;
- e. Committed illegal acts such as conspiracy to murder and threaten violence against individuals who posed a threat to the Enterprise or jeopardized operations, including witnesses to the illegal activities of the Enterprise;
- f. Traveled to South Florida from New York, New York as well as from South Florida to Atlanta, Georgia to further the goals of the Enterprise;
- g. The Enterprise maintained a fund for all expenses of the Enterprise such as bribes of prison officials, purchase of cellular telephones to facilitate crimes, false identification documents, travel expenses, and money for bail bond and legal fees for incarcerated members of the Enterprise;
- h. The Defendant gave a percentage of all fraud proceeds generated by the Enterprise to an associate of the Gambino Organized Crime Family of LCN; and
- i. The Defendant participated in the following acts, among others, in furtherance of the Enterprise and its criminal objectives.

2015 CRIMINAL CONDUCT

6. From on or about, October 24, 2014, through the present the Defendant was incarcerated in the Federal Detention Center in Miami, Florida (“FDC Miami”). The Defendant, JAMES SABATINO, is known by law enforcement to be an associate of the Gambino Organized Crime Family of LCN.
7. Soon after the Defendant’s arrival at FDC Miami, he began to recruit other inmates in an attempt to obtain a cellular telephone to commit crimes. The Defendant was successful in obtaining a Samsung cellular telephone through a federal correctional officer (“Officer # 1”).
8. Using the contraband cellular telephone, the Defendant created several e-mail addresses, including jprolima@sonymusicent.com and lsantiago@sonymusicent.com, for the purpose of impersonating employees of Sony Music Entertainment, a recorded music company.
9. The Defendant, using the alias “James Prolima,” contacted several luxury store employees and brand representatives via telephone calls, e-mails, and text messages. During the course of those wire communications, many of which were transmitted in interstate commerce, the Defendant pretended to be an employee of Sony Music Entertainment and RocNation, a recorded music company founded by a prominent recording artist. Some of the Defendant’s e-mails to luxury store employees and brand representatives included Sony Music Entertainment and RocNation logos.
10. The Defendant requested that the luxury store employees and brand representatives send retail items such as handbags, wristwatches, apparel, and jewelry to various locations in the Southern District of Florida.

11. The Defendant claimed that the retail items would be featured in music videos and promotional materials that were being filmed and produced in Miami, Florida. The Defendant claimed the retail items would be returned to the luxury stores, and signed letters of responsibility promising the return of the retail items.
12. The Defendant directed inmates at FDC Miami to recruit outside persons to commit crimes to further the objectives of the Enterprise.
13. The Defendant instructed the luxury store employees and brand representatives to send the items to co-conspirators Valerie Kay Hunt, Denise Siksha Lewis, and other co-conspirators who were not incarcerated. The Defendant and other incarcerated co-conspirators recruited Hunt and Lewis into the scheme.
14. In some instances, the luxury store employees and brand representatives shipped the retail items to Hunt and Lewis via UPS and FedEx. In other instances, the luxury store employees and brand representatives made the retail items available for pick-up by Hunt, Lewis, and other co-conspirators.
15. The Defendant, using the alias "James Prolima," arranged for limousine transportation and hotel accommodations for Hunt and other co-conspirators.
16. Once Hunt and Lewis received the retail items, the Defendant and Duquen directed Hunt and Lewis to sell the items at pawn shops in the Southern District of Florida and elsewhere.
17. Hunt and Lewis deposited a portion of the proceeds from the sale of the fraudulently obtained retail items into the commissary accounts of the Defendant and Duquen, during the time period in which both the Defendant and Duquen were incarcerated at the Federal Detention Center in Miami, Florida.

18. During the course of the fraud scheme, the Defendant directed fraudulently obtained retail items to be delivered to unindicted co-conspirators, including an associate of the Gambino Organized Crime Family of LCN.
19. Pursuant to the Defendant's directives, a member of the Gambino Organized Crime Family of LCN repeatedly pressured a witness to pay a debt owed to the Enterprise. The debt was assigned to this witness after his efforts to sell high-value stolen property was foiled upon seizure of the property by law enforcement.
20. On July 18, 2015, Bureau of Prisons ("BOP") personnel searched the Defendant's cell at FDC Miami and discovered a Samsung brand cellular telephone and accompanying charging device. A review of the phone conducted pursuant to a federal search warrant revealed evidence that the Defendant extensively communicated with an associate of the Gambino Organized Crime Family of the LCN and other co-conspirators.
21. On July 27, 2015, while in FDC Miami the Defendant communicated during a visit with an associate of the Gambino Organized Crime Family of LCN.
22. Upon the Defendant's release from SHU back to general population, the Defendant directed Officer # 1 to access a secure BOP computer system to obtain the contact information for family members of a co-conspirator.
23. In early 2016, Officer # 1 alerted the Defendant through his sources of an ongoing law enforcement investigation of the Enterprise's conduct. The Defendant immediately communicated this information to non-incarcerated co-conspirators.
24. After the Defendant was charged in connection with this case, the Defendant contacted a fellow inmate (hereinafter, "Inmate #1"), who was scheduled to be released from Federal custody in or around August 2016.

25. On or about August 2, 2016, the Defendant directed Inmate #1 to deliver a message to Co-Conspirator #1. In that message, which was partially communicated in coded writing, the Defendant directed Co-Conspirator #1 to harm or kill co-conspirator Valerie Hunt and a family member of co-conspirator Jorge Duquen.
26. Thereafter, Inmate #1 disclosed to law enforcement the Defendant's attempts to have the above-listed persons harmed or killed.
27. The Defendant learned of Inmate #1's disclosure to law enforcement, and subsequently made contact with Inmate #1 in order to intimidate Inmate #1 and prevent Inmate #1 from testifying against the Defendant.

2017 CRIMINAL CONDUCT

28. In or around February 2017, the Defendant remained incarcerated at FDC Miami while awaiting trial on charges stemming from the above-described fraud-by-impersonation scheme. At FDC Miami, the Defendant approached another BOP correctional officer ("Officer # 2") and asked that officer to supply the Defendant with a cellular telephone. Officer # 2 supplied the Defendant with several cellular telephones, including four Apple-brand iPhones.
29. In addition to supplying the Defendant with the cellular telephones, Officer # 2 was recruited by the Defendant to become a member of the Enterprise. While working under the Defendant's direction, Officer # 2 committed various crimes in furtherance of the Enterprise's objectives.
30. Between approximately March 13, 2017, and April 5, 2017, the Defendant, using the aliases Paul Castellana, Samuel Castro, and Andrew Kronfeld, contacted over six luxury jewelry companies and high-end designer handbag and shoe companies. The Defendant

utilized the above-referenced contraband cellular telephone to create the following email addresses: pcastellana@sonypicturesinternational.com, scastro@caaworldwide.com, and an email address associated with the domain name@umgworldwide.com and @caamusic.com. The Defendant used these e-mail addresses to communicate with the victim jewelry companies. The Defendant also communicated with victims by telephone, including voice calls and text messages. Most of the Defendant's communications with the victim jewelers traveled in interstate commerce.

31. During the course of these communications, the Defendant pretended to be an employee and/or representative of Sony Music Entertainment ("SME"); Sony Pictures International ("SPI"); Creative Artists Agency ("CAA"); and Universal Music Group ("UMG"). The Defendant, using the above-referenced aliases, requested that various luxury jewelry and other designer items be loaned to the Defendant, so that these items could be used as props in video productions featuring prominent recording artists and other celebrities.
32. In reliance on the Defendant's false representations, and at the Defendant's direction, the luxury jewelry companies shipped jewelry to the Defendant's co-conspirators, including Co- Conspirator #1, in Miami, Florida, and elsewhere. The jewelry was never returned to the victim companies. In at least two instances, jewelry was picked up from a luxury jewelry company in New York City, New York, by the Defendant's co-conspirators and transported to other co-conspirators in South Florida. That jewelry was never returned. The Defendant's 2017 scheme resulted in the theft of millions of dollars in jewelry.
33. The Defendant also recruited Officer # 2's wife, and appointed her to be the Enterprise's treasurer. The Defendant further directed Officer # 2's wife to oversee any expenses incurred by the Enterprise.

34. The Defendant, using the contraband cellular telephones, directed co-conspirators, including Co-Conspirator #1, to re-sell the stolen jewelry to certain jewelers located in South Florida, Atlanta, Georgia, and elsewhere. The Defendant communicated extensively with co- conspirators, including Co-Conspirator #1, about the fraud scheme.
35. The Defendant directed Officer # 2 to take two high value necklaces from South Florida to Atlanta, Georgia and to meet with Co-Conspirator # 1. Additionally, the Defendant directed Officer # 2 to collect a large sum of money in possession of Co-Conspirator # 1 and bring it back to South Florida by using his law enforcement credentials to avoid detection of the currency.
36. The Defendant directed Co-Conspirator # 1 to pick up Officer # 2 at the Atlanta airport and transport him to a hotel in Atlanta, Georgia, which the Enterprise was using as its Atlanta base of operations. The Defendant obtained a number of suites using a fraudulent account purportedly associated with Sony Pictures Entertainment. A number of members and associates operated from the hotel suites.
37. On or about April 4, 2017, FBI agents in Miami received information from one of the victims, Lorraine Schwartz Jewelers ("LSJ"), a jeweler located in New York City, New York. LSJ was defrauded by the Defendant of approximately \$700,000 in jewelry. According to LSJ employees, on or about March 30, 2017, a purported SPI executive named Paul Castellana contacted LSJ and successfully secured loans of jewelry for a purported music video shoot in Miami, Florida. Castellana emailed LSJ using pcastellana@sonypicturesinternational.com. On or about March 31, 2017, jewelry was shipped by LSJ via FedEx to a Four Seasons Hotel in Miami, Florida. The LSJ jewelry was never returned to LSJ. After LSJ began to suspect the legitimacy of Paul Castellana's request, LSJ's insurer directed LSJ to record telephone calls with Castellana in an effort

to protect the company against further loss and assist law enforcement. LSJ employees recorded Castellana's voice on several telephone calls. Law enforcement received the audio files from LSJ and listened to the recordings of Castellana's voice. Castellana's voice, as recorded by LSJ, was the Defendant's.

38. On or about April 5, 2017, the Defendant supervised Co-Conspirator # 1 and Co-Conspirator # 2, who were in the process of receiving several million dollars' worth of fraudulently obtained jewelry in two different locations. The combined value of the jewelry was approximately \$3 million dollars.
39. The Defendant directed Co-Conspirator # 1 to deliver both packages to a jeweler in Fort Lauderdale, Florida. While at the jeweler's store, Co-Conspirator # 1 contacted the Defendant over the phone so that the Defendant could negotiate the price directly with the jeweler. The Defendant and the jeweler agreed on the price of \$800,000.00 in cash for both packages which was to be paid immediately to Co-Conspirator # 1.
40. On or about April 5, 2017, while the Defendant was still on the phone with Co-Conspirator # 1, BOP personnel searched the Defendant's cell at FDC Miami. Upon entering the cell, BOP personnel observed the Defendant on the phone. A further search of the Defendant's cell revealed three more phones, for a total of four Apple-brand iPhones and accompanying charging devices. At the time FDC Miami staff seized the iPhones, the Defendant was alone in his cell. A review of the iPhones, conducted pursuant to a Federal search warrant, revealed extensive evidence of the Defendant's involvement in the 2017 fraud scheme and confirmed that the iPhones had been provided to the Defendant by a Bureau of Prisons corrections officer.
41. On April 20, 2017, FDC Miami personnel searched the Defendant's cell and discovered several notes written in the Defendant's handwriting. One of those notes was addressed to

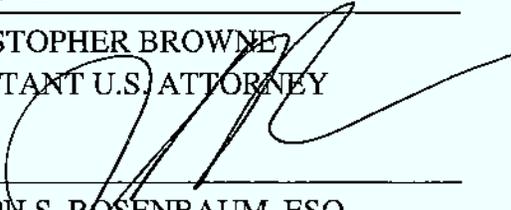
the correctional officer who provided the Defendant with contraband cellular telephones in 2017. In that note, the Defendant directed the correctional officer to take certain steps to conceal evidence of the fraud, including an explicit command to move fraud proceeds out of the officer's house. The Defendant stated that he was "trying to clip" a government witness's family, and further directed the officer to "take care of" government witnesses on the Defendant's behalf.

Date: 9/1/2017

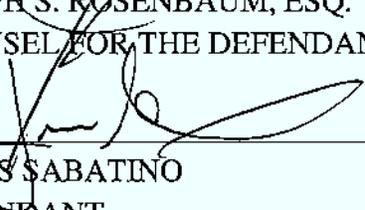
BENJAMIN G. GREENBERG
ACTING UNITED STATES ATTORNEY

By: 
CHRISTOPHER BROWNE
ASSISTANT U.S. ATTORNEY

Date: 9/1/17

By: 
JOSEPH S. ROSENBAUM, ESQ.
COUNSEL FOR THE DEFENDANT

Date: 9/1/2017

By: 
JAMES SABATINO
DEFENDANT