

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

09 CRIM. - 62

UNITED STATES OF AMERICA

SEALED
INDICTMENT

- v -

09 Cr. ____

JOHN D'AMICO,
a/k/a "Jackie,"
a/k/a "Jackie the Nose," and
JOSEPH WATTS,

Defendants.

USDC SDNY
DOCUMENT
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COUNT ONE

Racketeering Conspiracy

The Grand Jury charges:

At all times relevant to this Indictment:

The Enterprise

1. JOHN D'AMICO, a/k/a "Jackie," a/k/a "Jackie the Nose," the defendant, and others known and unknown, were members and associates of the Gambino Organized Crime Family of La Cosa Nostra (the "Gambino Organized Crime Family"). The Gambino Organized Crime Family was a criminal organization whose members and associates engage in numerous acts of violence and other crimes, including but not limited to: murder; conspiracy to commit murder; attempted murder; obstruction of justice; extortion; the financing and making of extortionate extensions of credit and the collection of extensions of credit through extortionate means (commonly known as "loansharking"); money laundering; and the operation of illegal gambling businesses.

Judge McMahon

2. The Gambino Organized Crime Family, including its leadership, membership, and associates, constituted an "enterprise," as that term is defined in Title 18, United States Code, Section 1961(4) -- that is, a group of individuals associated in fact, which was engaged in, and the activities of which affected, interstate and foreign commerce. The Gambino Organized Crime Family was an organized criminal group based in New York City that operated in the Southern District of New York and elsewhere and constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the enterprise. The Gambino Organized Crime Family was referred to by its members and associates in various ways, including as a "cosa nostra," a "Family," and "this thing of ours."

3. The Gambino Organized Crime Family was part of a nationwide criminal organization known by various names, including the "Mafia" and "La Cosa Nostra" ("LCN"), which operated through entities known as "Families." The Gambino Organized Crime Family took its name from one of its first leaders, Carlo Gambino. In addition to the Gambino Organized Crime Family, five other Families operated in the New York City and New Jersey area, namely, the Genovese Organized Crime Family of LCN, the Luchese Organized Crime Family of LCN, the Colombo Organized Crime Family of LCN, the Bonanno Organized Crime Family

of LCN, and the Decavalcante Organized Crime Family of LCN.

4. The Gambino Organized Crime Family operated through groups of individuals known as "crews" and "regimes," most of which were based in New York City. Each "crew" had as its leader a person known as a "Caporegime," "Capo," or "Captain," and consisted of "made" members, sometimes known as "Soldiers," "wiseguys," "friends of ours," and "good fellows." Soldiers were aided in their criminal endeavors by other trusted individuals, known as "associates," who sometimes were referred to as "connected" or identified as "with" a Soldier. Associates participated in the various activities of the crew and its members.

5. Each Capo was responsible for supervising the criminal activities of his crew and provided Soldiers and associates with support and protection. In return, the Capo typically received a share of the illegal earnings of each of his crew's Soldiers and associates, which was sometimes referred to as "tribute."

6. Above the Capos were the highest-ranking members of the Gambino Organized Crime Family, commonly referred to as the Administration. The head of the Gambino Organized Crime Family was known as the "Boss," who was ordinarily assisted by an "Underboss" and a "Consigliere," or counselor. The Boss, Underboss, and Consigliere were responsible for, among other

things, setting policy, resolving disputes between and among members of the Gambino Organized Crime Family, and resolving disputes between members of the Gambino Organized Crime Family and members of other criminal organizations. At various times relevant to this Indictment, members of the Gambino Organized Crime Family were temporarily appointed to serve as Boss, Underboss, Consigliere, or Capo in place of another member holding that position. Whenever this occurred, the member holding the temporary appointment would function in an "acting" capacity for the other member, who continued to hold the "official" position in the Family. In addition, at various times relevant to this Indictment, members of the Gambino Organized Crime Family, including JOHN D'AMICO, a/k/a "Jackie," a/k/a "Jackie the Nose," served on a committee or Ruling Panel, a group of high-ranking members of the Family who assisted and, at times, made decisions with, or on behalf of, the Boss and the Acting Boss of the Family.

7. The Boss, Underboss, and Consigliere, and, at times, members of the ruling panel of the Gambino Organized Crime Family supervised, supported, protected, and disciplined the Capos, Soldiers, and associates, and regularly received reports regarding their various activities. In return for their supervision and protection, the Boss, Underboss, Consigliere, and members of the ruling panel typically received part of the

illegal earnings of each crew.

8. The Gambino Organized Crime Family has taken significant steps to protect and insulate its Boss and other Administration members from detection and scrutiny by law enforcement. These steps include appointing multi-member committees, and/or "panels," to oversee the daily affairs of the Gambino Organized Crime Family; and naming temporary, "Acting" Bosses "Street" Bosses and other Administration positions.

The Defendant

9. JOHN D'AMICO, a/k/a "Jackie," a/k/a "Jackie the Nose", the defendant, was a member and associate of the enterprise, the Gambino Organized Crime Family. D'AMICO participated in the operation and management of the enterprise as follows: D'AMICO was, at various times charged in the indictment, a Capo in the Gambino Organized Crime Family and a member of the Ruling Panel. D'AMICO is presently the Acting Boss or Street Boss of the Gambino Family.

Purposes of the Enterprise

10. The purposes of the Gambino Organized Crime Family included the following:

a. Enriching the leaders, members, and associates of the Gambino Organized Crime Family through criminal activity.

b. Preserving and augmenting the power,

territory, and financial profits of the Gambino Organized Crime Family through murder, intimidation, assaults, violence, threats of physical and economic harm, and obstruction of justice; and

c. Keeping victims and citizens in fear of the enterprise and its leaders, members and associates by: (i) identifying the Gambino Organized Crime Family, its members and associates, with La Cosa Nostra or the "Mafia"; (ii) causing and threatening to cause economic harm; and (iii) committing and threatening to commit physical violence.

Means and Methods Of The Enterprise

11. Among the means and methods by which JOHN D'AMICO, a/k/a "Jackie," a/k/a "Jackie the Nose", the defendant, his co-conspirators, and other members and associates conducted and participated in the conduct of the affairs of the Gambino Organized Crime Family were the following:

a. To protect and expand the Gambino Organized Crime Family's business and criminal operations, members of the Gambino Organized Crime Family and their co-conspirators murdered, and attempted to murder persons who engaged in activity that threatened (i) the power and criminal activities of the Family and the power and criminal activities of fellow LCN Families, (ii) the power of leaders of the Family, and (iii) the flow of criminal proceeds through the hierarchy to leaders of the Family.

b. Members of the Gambino Organized Crime Family and their co-conspirators promoted a climate of fear in the community through threats of economic harm and violence.

c. Members of the Gambino Organized Crime Family and their co-conspirators attempted to identify and did identify individuals suspected of providing, or deemed likely to provide, information to law enforcement about the Family, its members and its activities, and about other LCN Families. Individuals suspected of cooperating were regularly threatened, assaulted or killed. As part of the conspiracy, D'AMICO sanctioned and plotted the murder of Frederick Weiss, resulting in his death on September 11, 1989. Frederick Weiss was killed by D'AMICO and his co-conspirators because Weiss was believed to be cooperating with law enforcement.

d. Members of the Gambino Organized Crime Family and their co-conspirators generated income for the Family through various criminal activities, including but not limited to running illegal gambling businesses and engaging in extortion. As part of the conspiracy, D'AMICO operated an illegal gambling business in the vicinity of 18th Avenue in Brooklyn, New York from in or about 1994 up to and including in or about 2005. Also as part of the conspiracy, D'AMICO extorted business owners who paid D'AMICO and his co-conspirators to be protected by and avoid harm from the Gambino Organized Crime Family.

e. So as to avoid law enforcement scrutiny of the Gambino Organized Crime Family's criminal activities, members of the Family and their co-conspirators conducted meetings surreptitiously, typically using coded language to make arrangements for meetings, meeting at rest stops along highways and at diners, engaging in "walk and talks," and using defense attorneys to pass messages from incarcerated members and associates of the Family to non-incarcerated members and associates of the Family.

f. So as to reduce law enforcement and IRS scrutiny, obtain the trappings of legitimacy, and receive additional income, members of the Gambino Organized Crime Family and their co-conspirators sought and obtained, through Gambino Family influence, paid positions with legitimate businesses. As part of the conspiracy, D'AMICO used Gambino Family influence to obtain and keep a salaried position with a major beverage distributor from in or about 1991 up to and including in or about February, 2008. D'AMICO then misrepresented the nature of his employment with the beverage distributor in various bail proceedings, including a bail proceeding in the Eastern District of New York in 2008, in an attempt to obtain pretrial release on bail.

The Racketeering Conspiracy

12. From in or about 1986 through in or about May,

2008, in the Southern District of New York and elsewhere, JOHN D'AMICO, a/k/a "Jackie," a/k/a "Jackie the Nose", the defendant, together with others known and unknown, being persons employed by and associated with the racketeering enterprise described herein in paragraphs 1 through 11, namely, the Gambino Organized Crime Family, which enterprise was engaged in, and the activities of which affected, interstate and foreign commerce, did knowingly and willfully conspire and agree with each other and with other persons known and unknown to the Grand Jury, to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity, as those terms are defined in Title 18, United States Code, Sections 1961(1) and 1961(5), and as set forth below in paragraph 14.

13. It was part of the conspiracy that D'AMICO agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

The Pattern of Racketeering

14. The pattern of racketeering activity, as defined in Title 18, United States Code, Sections 1961(1) and 1961(5), through which JOHN D'AMICO, a/k/a "Jackie," a/k/a "Jackie the Nose", the defendant, and his co-conspirators agreed to conduct and participate in the conduct of the affairs of the enterprise

consisted of:

multiple acts and threats involving:

- a) Murder, in violation of New York Penal Law, Sections 125.25, 105.15, and 110.00;
- b) Gambling, in violation of New York State Penal Law, Sections 225.00 and 225.10;

and multiple acts indictable under:

- (c) Title 18, United States Code, Section 1951, involving extortion;
- (d) Title 18, United States Code, 1512, involving obstruction of justice, and witness tampering;
- (e) Title 18, United States Code, Section 1955, involving the operation of an illegal gambling business.

(Title 18, United States Code, Section 1962(d).)

COUNT TWO

Murder of a Witness

The Grand Jury further charges:

15. From in or about September 1, 1989 to in or about September 11, 1989, in the Southern District of New York, the Eastern District of New York, and elsewhere, JOHN D'AMICO, a/ka/ "Jackie," a/k/a "Jackie the Nose," and JOSEPH WATTS, an associate in the Gambino Organized Crime Family, the defendants, unlawfully, willfully, and knowingly did kill, and aided and

abetted others in killing, Frederick Weiss with intent to (a) prevent the attendance and testimony of Frederic Weiss in an official proceeding, and (b) prevent the communication by Frederick Weiss to a law enforcement officer or Judge of the United States information relating to the commission and possible commission of a Federal offense, to wit, D'AMICO and WATTS, the defendants, murdered and aided and abetted the murder of Frederick Weiss, a potential witness in the pending trial of United States v. Angelo Paccione, et al., 89 Cr. 446 (CBM), a matter pending before the United States District Court for the Southern District of New York.

(Title 18, United States Code, Sections 1512(a)(1) and 2.)

FORFEITURE ALLEGATION

16. The allegations contained in Counts One and Two of this indictment are hereby repeated, realleged, and incorporated by reference herein as though fully set forth at length for the purpose of alleging forfeiture pursuant to Title 18, United States Code, Section 1963, and Title 28, United States Code, Section 2461(c).

17. Pursuant to Rule 32.2(a), Fed. R. Crim. P., the defendant JOHN D'AMICO, a/k/a "Jackie," a/k/a "Jackie the Nose" is hereby notified that, upon conviction of the violation of Title 18, United States Code, Section 1962, as charged in Counts One and Two of this Indictment, the defendant shall forfeit,

pursuant to Title 18, United States Code, Section 1963:

- a) all interests acquired and maintained in violation of Title 18, United States Code, Section 1962;
- b) all interests in, securities of, claims against, and property and contractual rights of any kind affording a source of influence over, the enterprise named and described herein which the defendant established, operated, controlled, conducted, and participated in the conduct of, in violation of Title 18, United States Code, Section 1962; and
- c) all property constituting and derived from proceeds obtained, directly and indirectly, from racketeering activity in violation of Title 18, United States Code, Section 1962.

18. The property subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1), (a)(2), and (a)(3), includes, but is not limited to, the following assets:

- a) At least \$4,000,000, said amount being the total of the interests acquired and the gross proceeds obtained through the violation of Title 18, United States Code, Section 1962.

19. Pursuant to Title 18, United States Code, Section 1963(m) and Title 21, United States Code, Section 853(p), as

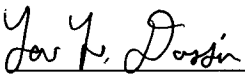
incorporated by 28 U.S.C. § 2461(c), the defendant[s] shall forfeit substitute property up to the value of the property described in the previous paragraph if that property, as a result of any act or omission of the defendant:

- (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 this Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty.

(Title 18, United States Code, Sections 853(p) and 1963 and Title 28, United States Code, Section 2461(c).)



FOREPERSON



LEV L. DASSIN
Acting United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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(18 U.S.C. §§ 1512(a)(1), 1962(d).)

LEV L. DASSIN

United States Attorney.

A TRUE BILL
Foreperson.

