UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 20-CV-81205-RAR

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

COMPLETE BUSINESS SOLUTIONS GROUP, INC. d/b/a/ PAR FUNDING, et al.,
____/

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S NOTICE OF FILING FINAL JUDGMENT AGAINST ABFP RECEIVERSHIP ENTITIES, COURT FILINGS REGARDING ALLEGED CBSG AGENT FUNDS, AND RECENT CRIMINAL CASE FILINGS

Plaintiff Securities and Exchange Commission hereby files the following:

- Exhibit A: The Final Judgment, by consent, entered against Receivership Entities ABFP Income Fund Parallel, LLC, ABFP Income Fund 3, LLC, ABFP Income Fund 3 Parallel, LLC, ABFP Income Fund 4, LLC, ABFP Income Fund 4 Parallel, LLC, ABFP Income Fund 6, LLC, ABFP Income Fund 6 Parallel, LLC, ABFP Multi-Strategy Investment Fund, LP, and ABFP Multi-Strategy Investment Fund 2, LP. in *SEC v. ABFP Income Fund Parallel, LLC, et al.*, Case No. 23-cv-23721-BB (S.D. Fla. 2023).
- Exhibit B: Complaint, *SEC v. Shannon Westhead, et al.*, Case No. 23-cv-23749 (S.D. Fla. 2023).
- Exhibit C: Complaint, *SEC v. A.G. Morgan, et al.*, Case No. 22-cv-03421 (E.D.N.Y. 2022).
- Exhibit D: The recent indictment and filing in *U.S. v. James LaForte*, Case No. 23-cr-443 (E.D.N.Y. 2023) (referencing CBSG).

November 28, 2023

Respectfully submitted,

By: s/ Amie Riggle Berlin
Amie Riggle Berlin
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Florida Bar No. 630020
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SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1800
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 28th day of November 2023 via cm-ecf on all defense counsel in this case.

s/ Amie Riggle Berlin
Amie Riggle Berlin

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 23-CV-23721-BLOOM/Otazo-Reyes

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

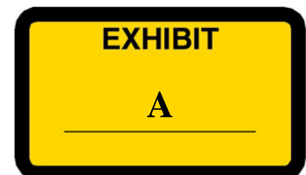
v.

ABFP INCOME FUND PARALLEL, LLC,
et al.,

Defendants.
____/

FINAL JUDGMENT AS TO DEFENDANTS ABFP INCOME FUND 3, LLC, ABFP INCOME FUND 4, LLC, ABFP INCOME FUND 6, LLC, ABFP MULTI-STRATEGY INVESTMENT FUND, LP, ABFP MULTI-STRATEGY INVESTMENT FUND 2, LP, ABFP INCOME FUND PARALLEL, LLC, ABFP INCOME FUND 2 PARALLEL, LLC, ABFP INCOME FUND 3 PARALLEL, LLC, ABFP INCOME FUND 4 PARALLEL, LLC, AND ABFP INCOME FUND 6 PARALLEL, LLC

THIS CAUSE is before the Court upon Plaintiff, the Securities and Exchange Commission's Unopposed Motion for Entry of Final Judgments Against All Defendants, ECF No. [9], filed on November 6, 2023. The Securities and Exchange Commission having filed a Complaint and Defendants ABFP Income Fund 3, LLC, ABFP Income Fund 4, LLC, ABFP Income Fund 6, LLC, ABFP Multi-Strategy Investment Fund, LP, ABFP Multi-Strategy Investment Fund 2, LP, ABFP Income Fund Parallel, LLC, ABFP Income Fund 2 Parallel, LLC, ABFP Income Fund 3 Parallel, LLC, ABFP Income Fund 4 Parallel, LLC, and ABFP Income Fund 6 Parallel, LLC, (collectively "Corporate Defendants") having entered a general appearance; consented to the Court's jurisdiction over Corporate Defendants and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and



waived any right to appeal from this Final Judgment:

I.

PERMANENT INJUNCTION

A. Sections 5(a) and 5(c) of the Securities Act

It is **ORDERED AND ADJUDGED** that the Corporate Defendants and their respective directors, officers, agents, servants, employees, attorneys, representatives and those persons in active concert or participation with them, and each of them, are hereby enjoined from violating Section Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. § 77e] by, directly or indirectly, in the absence of any applicable exemption:

(a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or

examination under Section 8 of the Securities Act [15 U.S.C. § 77h].

It is further **ORDERED AND ADJUDGED** that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) any of the Corporate Defendants' officers, directors, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with the Corporate Defendants or with anyone described in (a).

II.

DISGORGEMENT

It is further **ORDERED AND ADJUDGED** that the Corporate Defendants are liable for disgorgement of $99,370,410.00, representing net profits gained as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of $14,186,572.94. Both disgorgement and prejudgment interest thereon are deemed satisfied by the amounts collected by the Receiver in *SEC v. Complete Business Solutions, Inc. d/b/a Par Funding, et al*, Civil Action No. 20-cv-81205-RAR (SDFL).

III.

INCORPORATION OF CONSENT

It is further **ORDERED AND ADJUDGED** that the Consent filed herewith is incorporated herein with the same force and effect as if fully set forth herein, and the Corporate Defendants shall comply with all of the undertakings and agreements set forth therein.

IV.

RETENTION OF JURISDICTION

It is further **ORDERED AND ADJUDGED** that this Court shall retain jurisdiction of this matter for purposes of enforcing the terms of this Final Judgment.

V.

RULE 54(b) CERTIFICATION

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Judgment forthwith and without further notice.

The Clerk shall **CLOSE** this case.

DONE AND ORDERED in Chambers at Miami, Florida, on November 7, 2023.

BETH BLOOM
UNITED STATES DISTRICT JUDGE

Copies to: Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

SHANNON WESTHEAD,
ALEC VAGNOZZI,
PISCES INCOME FUND, LLC,
PISCES INCOME FUND PARALLEL, LLC,
ALBERT VAGNOZZI,
CAPRICORN INCOME FUND I, LLC,
CAPRICORN INCOME FUND PARALLEL, LLC,
MICHAEL TIERNEY,
MERCHANT SERVICES INCOME FUND, LLC,
And MERCHANT SERVICES
INCOME FUND PARALLEL, LLC,

Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

Plaintiff Securities and Exchange Commission (the "Commission" or "SEC") alleges:

I. INTRODUCTION

1. This case concerns the unregistered Complete Business Solutions Group ("CBSG") securities offering, which raised more than $500 million from investors nationwide through a network of so-called "Agent Fund Managers" who operated their own securities offerings in an orchestrated effort to funnel investor money to CBSG in exchange for CBSG promissory notes.

2. Defendants Shannon Westhead ("Westhead"), Alec Vagnozzi, Albert Vagnozzi, and Michael Tierney ("Tierney") were Agent Fund Managers until July 2020, when the SEC filed an enforcement action against CBSG and others for violating the registration and anti-fraud

EXHIBIT
B

provisions of the federal securities laws, resulting in a Temporary Restraining Order and the appointment of a Receiver over CBSG.

3. Specifically, from no later than September 2019 through at least March 2020, Defendants Westhead and Alec Vagnozzi operated the Agent Fund Pisces Income Fund, LLC ("Pisces"), which they formed for the purpose of raising investor money for the unregistered CBSG offering. Through Pisces, Westhead and Alec Vagnozzi raised more than $15 million for CBSG through the offer and sale of Pisces promissory notes to at least 80 investors, and then funneled the investors' money to CBSG for the purchase of CBSG promissory notes issued to Pisces.

4. Similarly, from no later than May 2018 through at least March 2020, Defendant Albert Vagnozzi operated the Agent Fund Capricorn Income Fund I, LLC ("Capricorn"), which Albert Vagnozzi formed for the purpose of raising investor funds for the unregistered CBSG offering. Through Capricorn, Albert Vagnozzi raised more than $18 million from at least 110 investors and then funneled the investors' money to CBSG for the purchase of CBSG promissory notes issued to Capricorn.

5. Likewise, from no later than January 2019 through at least March 2020, Defendant Tierney Tierney operated Merchant Services Income Fund, LLC ("MSI"), which Tierney formed for the purpose of raising investor funds for the unregistered CBSG offering. Through MSI, Tierney raised more than $32 million from at least 70 investors and then funneled the investors' money to CBSG for the purchase of CBSG promissory notes issued to MSI.

6. In exchange for raising investor money in the unregistered CBSG offering, CBSG compensated the Defendants by paying them transaction-based compensation based on a percentage of every dollar the Defendants funneled to CBSG for the purchase of CBSG notes.

7. To lure investors, Defendants made a series of misrepresentations and omissions to investors, including touting CBSG's success while omitting to disclose the criminal record of

CBSG's principal, Joseph LaForte, who had two felony convictions, and failing to disclose regulatory actions against CBSG by Pennsylvania, Texas, and New Jersey state securities regulators.

8. In April 2020, Westhead, Alec Vagnozzi, Albert Vagnozzi, and Tierney formed new Agent Funds. Specifically, Westhead and Alec Vagnozzi formed Defendant Pisces Income Fund Parallel, LLC ("Pisces Parallel"), Albert Vagnozzi formed Defendant Capricorn Income Fund Parallel ("Capricorn Parallel"), and Tierney formed Defendant Merchant Services Income Fund Parallel, LLC ("MSI Parallel") (collectively, the "Parallel Agent Funds").

9. In March 2020, Westhead, Alec Vagnozzi, Albert Vagnozzi, and Tierney notified investors that because of the Covid-19 pandemic, CBSG would default on the notes CBSG had issued to the Agent Funds. Westhead, Alec Vagnozzi, Albert Vagnozzi, and Tierney offered their existing investors promissory notes issued by the Parallel Agent Funds, which would replace the promissory notes Pisces, Capricorn, and MSI had issued to investors. Under the Parallel Agent Funds' notes, investors received lower investment returns. Nearly all investors participated in the Parallel Agent Fund offerings.

10. As a result of the conduct alleged in the Complaint, all Defendants violated Sections 5(a) and 5(c) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c)]; and Defendants Westhead, Alec Vagnozzi, Albert Vagnozzi, and Tierney also violated Section 17(a) of the Securities Act [15 U.S.C. §77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240 10b-5], and Section 15(a) of the Exchange Act [15 USC § 78q(a)].

II. DEFENDANTS AND RELEVANT ENTITY

A. Defendants

11. **Westhead**, age 29, is a resident of Medford, New Jersey. From no later than July 2017 until June 2020, Westhead was an executive assistant at A Better Financial Plan and, from September 2019 until at least March 2020, Westhead co-owned and co-managed Pisces with Alec Vagnozzi. Westhead has never been registered with the Commission in any capacity.

12. **Alec Vagnozzi**, age 27, resides in Collegeville, Pennsylvania. From September 2019 until at least March 2020, he co-owned and co-managed Pisces with Westhead. Alec Vagnozzi held a series 65 license that expired in November 2021.

13. **Pisces** is a Delaware Limited Liability Company formed in September 2019 and located in King of Prussia, Pennsylvania. Westhead and Alec Vagnozzi co-owned and co-managed Pisces at all times. Westhead and Alec Vagnozzi formed Pisces for the purpose of raising funds from investors for the purchase of CBSG notes in the unregistered CBSG offering. Pisces has never been registered with the Commission in any capacity.

14. **Pisces Parallel** is a Delaware Limited Liability Company formed in May 2020 and located in Collegeville, Pennsylvania. Westhead and Alec Vagnozzi owned and managed Pisces Parallel. Westhead and Alec Vagnozzi formed Pisces Parallel for the purpose of offering Pisces investors promissory notes in Pisces Parallel and obtaining new CBSG notes in the unregistered CBSG offering. In April 2020, Pisces Parallel offered exchange notes to the Pisces investors, offering a lower interest rate and longer maturity period. Pisces Parallel has never been registered with the Commission in any capacity.

15. **Albert Vagnozzi**, age 56, resides in Collegeville, Pennsylvania. From May 2018 through present, Albert Vagnozzi has co-owned and managed Capricorn. Albert Vagnozzi holds

Series 7 and 66 licenses and was associated with two Commission-registered broker-dealers from June 2013 to October 2014. He is currently associated with investment advisory firm.

16. **Capricorn** is a Delaware Limited Liability Company formed in May 2018 and located in Media, Pennsylvania. Albert Vagnozzi co-owned and co-managed Capricorn, and formed Capricorn for the purpose of raising funds from investors for the purchase of CBSG notes in the unregistered CBSG offering. Capricorn has never been registered with the Commission in any capacity.

17. **Capricorn Parallel** is a Delaware Limited Liability Company formed in May 2020 and located in Media, Pennsylvania. Albert Vagnozzi co-owned and co-managed Capricorn Parallel. Albert Vagnozzi formed Pisces Parallel for the purpose of offering Capricorn investors promissory notes in Capricorn Parallel and obtaining new CBSG notes in the unregistered CBSG offering. Capricorn Parallel has never been registered with the Commission in any capacity.

18. **Tierney**, age 40 resides in Southampton, Pennsylvania. From 2019 through present, he has managed MSI. Tierney held Series 7, 63, and 65 licenses that are no longer active, and was associated with a Commission-registered broker-dealer from December 2013 to October 2016. Tierney has not been registered in any capacity with the Commission since at least November 2016

19. **MSI fund** is a Delaware Limited Liability Company formed in June 2018 and located in King of Prussia, Pennsylvania. Tierney owned and managed MSI. Tierney formed MSI for the purpose of raising funds from investors for the purchase of CBSG notes in the unregistered CBSG offering. MSI has never been registered with the Commission in any capacity.

20. **MSI Parallel** is a Delaware Limited Liability Company formed in May 2020 and located in Richboro, Pennsylvania. Tierney owned and managed MSI Parallel. Tierney formed MSI Parallel for the purpose of offering MSI investors promissory notes in MSI Parallel and

obtaining new CBSG notes in the unregistered CBSG offering. MSI Parallel has never been registered with the Commission in any capacity.

B. Relevant Entity

21. **CBSG** is a Delaware company formed in October 2011 that was in the business of making short-term loans, or what CBSG called "merchant cash advances," to small businesses. CBSG was headquartered in Palm Beach Gardens, Florida beginning no later than 2017. On July 31, 2020, the Commission filed an enforcement action against CBSG for violating the registration and anti-fraud provisions of the federal securities laws, resulting in a Temporary Restraining Order and the appointment of a Receiver. *SEC v. Complete Business Solutions Group, et al.,* No. 9:20-cv-81205 (S.D. Fla. 2020) (the "CBSG Action"). CBSG remains in a Receivership.

22. In 2018, the Commonwealth of Pennsylvania, acting through the Department of Banking and Securities, Bureau of Securities Compliance and Examinations ("Bureau"), conducted an investigation of certain securities-related activities of Par Funding. Based on the results of its investigation, the Bureau concluded that Par Funding violated the Pennsylvania Securities Act of 1972, 70 P .S. § 1-301. On November 28, 2018, Par Funding consented to entry of an Order by the Pennsylvania Department of Banking and Securities imposing a $499,000 administrative assessment for violations of the Pennsylvania Securities Act through the use of an unregistered agent to offer and sell Par Funding promissory notes in Pennsylvania. *Pennsylvania Dep't of Banking and Securities v. Complete Business Solutions Group, Inc. d/b/a Par Funding* (18-0098-SEC-CAO) (the "Pennsylvania Regulatory Action").

23. On December 27, 2018, the New Jersey Bureau of Securities issued a Cease and Desist Order against CBSG, based on CBSG's sale of unregistered securities in New Jersey and use of unregistered agents, in violation of the New Jersey securities laws. *In re the Matter of*

Complete Business Solutions Group, Inc. and Complete Business Solutions Group, Inc. d/b/a Par Funding (the "New Jersey Regulatory Action").

24. In February 2020, the Texas State Securities Board issued an Emergency Cease and Desist Order against CBSG and others, alleging fraud and registration violations. *In the Matter of Senior Asset Protection, Inc. dba Encore Financial Solutions, Merchant Growth & Income Funding, LLC, ABetterFinancialPlan.com, LLC aka ABetterFinancialPlan, Complete Business Solutions Group, Inc. dba Par Funding, Gary Neal Beasley and Perry Abbonizio* (ENF-CDO-20-1798) (the "Texas Regulatory Action"). The Texas Regulatory Action alleged that all of the respondents engaged in fraud based on their failure to disclose to investors the Pennsylvania and New Jersey Orders against CBSG and court actions filed against CBSG based on its lending practices.

25. In May 2023, an indictment in the Eastern District of Pennsylvania was unsealed against CBSG and its principals 26. Joseph LaForte, a/k/a Joe Mack, a/k/a Joe Macki, a/k/a Joe McElhone ("LaForte"), Lisa McElhone, Jose Cole Barleta, and James LaForte, charging CBSG and its principals with participating in a conspiracy to commit wire fraud and securities fraud in connection with funds that were raised from investors in CBSG and its affiliates (the "2023 Criminal Case"). The 2023 Criminal Case remains pending.

26. LaForteis currently incarcerated in Philadelphia, Pennsylvania. LaForte co-founded CBSG with his spouse, Lisa McElhone, and used the aliases Joe Mack, Joe Macki, and Joe McElhone to conceal his prior criminal convictions. Throughout the operation of CBSG, LaForte claimed to be the owner of CBSG and ran the day-to-day operations. LaForte acted as the *de facto* CEO of CBSG and was introduced to some investors as CBSG's President. Throughout the existence of CBSG, until July 2020, La Forte also served as Par Funding's Director of Sales through his employment with Recruiting and Marketing Resources.

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27. On October 4, 2006, LaForte was convicted of state charges in New York for grand larceny and money laundering, and on November 8, 2007 he was sentenced to three to ten years in prison and to pay restitution in the amount of $14.1 million.

28. In 2009, LaForte pled guilty to federal criminal charges in the District of New Jersey for conspiracy to operate an illegal gambling business. He was released from jail in February 2011 and founded Par Funding with his wife, Lisa McElhone, shortly thereafter while on supervised release.

29. On August 2020, La Forte was charged in the Eastern District of Pennsylvania with possession of a firearm and ammunition by a convicted felon. This case remains pending.

30. In the May 2023 Criminal Case, La Forte is charged with conspiracy to commit wire fraud and securities fraud in connection with CBSG, including concealing La Forte's true role as the person operating CBSG and his significant criminal history from investors, and conspiring to participate in the extortionate collection of credit, defrauding the Commonwealth of Pennsylvania out of approximately $1.2 million of state taxes, committing perjury during depositions in federal lawsuits against CBSG, and engaging in obstruction of justice, witness tampering, and retaliation in connection with the February 2023 physical assault of counsel for CBSG's Receiver. This case is pending trial.

III. JURISDICTION AND VENUE

31. The Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)]; and Sections 21(d), 21(e), and Section 27 of the Exchange Act[15 U.S.C. §§ 78u(d), 78u(e), and 78aa]. This Court has personal jurisdiction over the Defendants, and venue is proper in the Southern District of Florida, because the Defendants engaged in acts and transactions in the Southern District of Florida that constitute violations of the Securities Act and the Exchange Act. The Defendants participated in

the unregistered CBSG securities offering, and CBSG's sole office was located in in the Southern District of Florida. The Defendants funneled investor money to CBSG's bank accounts maintained by banks located in in the Southern District of Florida for the purchase of CBSG notes in the unregistered CBSG offering. Further, Albert Vagnozzi, Capricorn, Capricorn Parallel, Tierney, MSI, and MSI Parallel offered promissory notes to investors located in in the Southern District of Florida.

32. In connection with the conduct alleged in this Complaint, the Defendants, directly and indirectly, singly or in concert with others, have made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation and communication in interstate commerce, and the mails.

IV. THE DEFENDANTS' VIOLATIVE CONDUCT

A. The Unregistered CBSG Securities Offering

33. From no later than August 1, 2012 until July 2020, CBSG was in the business of funding short-term loans to small-sized businesses, which CBSG refers to as "merchant cash advances" ("Loans" or "MCAs").

34. During that same time period, CBSG offered and sold securities in the form of promissory notes through an unregistered securities offering for which no registrations exemption applied.

35. From no later than August 1, 2012 until July 7, 2020, CBSG raised in excess of $500 million from investors located nationwide through the offer and sale of promissory notes.

36. To solicit and raise money from investors, CBSG utilized a network of individuals and investment funds located nationwide.

37. Throughout the duration of its offering, CBSG engaged in the general solicitation of investors.

38. In 2018, the Commonwealth of Pennsylvania, acting through the Department of Banking and Securities, Bureau of Securities Compliance and Examinations ("Bureau"), conducted an investigation of certain securities-related activities of CBSG.

39. After investigation, the Bureau concluded that CBSG violated the Pennsylvania Securities Act of 1972, 70 P.S. § 1-301 ("Pennsylvania Securities Act").

40. On November 28, 2018, CBSG consented to entry of an Order by the Pennsylvania Department of Banking and Securities in the Pennsylvania Regulatory Action.

41. The Order imposed a $499,000 administrative assessment for violations of the Pennsylvania Securities Act through the use of an unregistered agent to offer and sell CBSG promissory notes in Pennsylvania.

42. In the Consent Order, executed by Joseph Cole Barleta on behalf of CBSG, CBSG agreed that it would sell CBSG notes only to investors who were accredited and that as of February 2018, CBSG would no longer pay any compensation to any person in connection with CBSG's sale of its promissory notes.

43. To conceal its practice of compensating agents in connection with the offer and sale of CBSG promissory notes, CBSG began having it sales agents create their own funds ("Agent Funds") to raise money for the unregistered CBSG offering.

44. From no later than January 2019 through at least March 2020, CBSG raised new investor money for the purchase of CBSG promissory notes in the unregistered CBSG offering, by utilizing more than 35 Agent Funds located nationwide.

45. Through this orchestrated effort, the Agent Funds, including Pisces, Capricorn, and MSI, issued their own promissory notes to investors and then pooled and funneled the investor money to CBSG twice per month in exchange for promissory notes issued by CBSG to the Agent Fund that had funneled the investor money to CBSG.

46. CBSG compensated the Agent Funds (including Pisces, Capricorn, and MSI) and their managers (including Westhead, Alec Vagnozzi, Albert Vagnozzi, and Tierney) by issuing notes to the Agent Funds that provided higher interest returns than the notes the Agent Fund notes provided to investors.

47. The "spread" between the CBSG interest rate paid to the Agent Funds and the interest rate the Agent Funds then passed down to their investors was the compensation CBSG paid to the Agent Funds and their Managers in exchange for raising investor money in the unregistered CBSG offering.

48. The Agent Funds, including Pisces, Capricorn, MSI, Pisces Parallel, Capricorn Parallel, and MSI Parallel, were to use the balance of the funds received from CBSG to pay the individual investors their investment returns under the Pisces, Capricorn, MSI, Pisces Parallel, Capricorn Parallel, and MSI Parallel notes.

49. No registration statement was filed with the Commission or was in effect at the time of the CBSG offering and no exemptions from registration were applicable to the CBSG offering.

B. Albert Vagnozi and Capricorn's Fraudulent Conduct and Participation in the Unregistered CBSG Offering

50. In May 2018, Albert Vagnozzi formed Capricorn for the purpose of raising investor funds for CBSG through the offer and sale of Capricorn promissory notes, and then funneling the investor funds to CBSG in exchange for CBSG promissory notes issued to Capricorn.

51. From no later than May 2018 until at least March 2020, Albert Vagnozzi offered and sold the Capricorn promissory notes, which were securities.

52. The Capricorn promissory notes provided for a 12% or 14% return to investors depending on the amounts invested and the rate negotiated by Albert Vagnozzi, with the return of principal returned to investors at the conclusion of 12 months.

53. Albert Vagnozzi executed the Capricorn promissory notes on behalf of Capricorn.

54. From no later than May 2018 through approximately April 2020, Albert Vagnozzi solicited investors through telephone calls, emails, and/or in-person meetings so that Capricorn could continue raising money to funnel to CBSG by participation in CBSG's unregistered offering.

55. From no later than May 2018 through at least January 2020, Albert Vagnozzi provided investors with private placement memoranda ("PPMs") and subscription agreements, either through the mail or during in-person meetings.

56. The PPM for Capricorn, originally dated March 28, 2018, stated that the investment involved "a high degree of risk" and that Capricorn "is an early stage company that has been organized to operate as a lending company to merchant cash advance businesses."

57. While soliciting investors, Albert Vagnozzi falsely told investors and prospective investors that the offerings complied with the securities laws and that the PPM contained all the information a person would want to know in order to make an informed investment decision.

58. While soliciting investors, Albert Vagnozzi knew that Capricorn only invested in CBSG promissory notes, but the PPM omitted this information and instead told investors that Capricorn invested in merchant cash advance businesses generally.

59. From May 2018 until at least March 2020, during in-person and telephone communications with investors, Albert Vagnozzi and Capricorn touted CBSG's track record as a leader in the MCA industry, but failed to disclose CBSG's regulatory history.

60. Albert Vagnozzi knew about the Pennsylvania Regulatory Action by December 2018.

61. Albert Vagnozzi knew about the New Jersey Regulatory Action and Texas Regulatory Action by no later than April 2020.

62. In March 2019, Albert Vagnozzi solicited investors located in Renton, Washington with initials B.B. and D.K. to invest in Capricorn through emails and phone calls and touted CBSG's track record as a leader in the MCA industry, but failed to disclose the Pennsylvania Regulatory Action.

63. On March 25, 2019 B.B. invested $100,000 in Capricorn by wiring funds to Capricorn in exchange for a Capricorn promissory note Albert Vagnozzi executed on behalf of Capricorn.

64. Similarly, on October 25, 2019, investors B.B. and D.K. invested $100,000 in Capricorn by wiring funds to Capricorn in exchange for a Capricorn promissory note, which Albert Vagnozzi executed on behalf of Capricorn.

65. At no time did Albert Vagnozzi disclose to B.B. or D.K. the Pennsylvania Regulatory Action.

66. From no later than May 2018 until at least March 2020, Albert Vagnozzi and Capricorn raised at least $18.5 million from more than 110 investors, including investors located in Jupiter, Florida.

67. From no later than May 2018 until at least March 2020, Albert Vagnozzi and Capricorn funneled at least $18.5 of investor funds to CBSG in exchange for CBSG promissory notes issued to Capricorn that provided CBSG would pay Capricorn 18 percent interest at the conclusion of a 12-month period.

68. CBSG compensated Albert Vagnozzi and Capricorn for raising investor funds, by paying Albert Vagnozzi and Capricorn 4 percent or 6 percent interest on each dollar Albert Vagnozzi and Capricorn raised for the purchase of CBSG notes in the unregistered CBSG offering.

69. Specifically, CBSG paid Albert Vagnozzi and Capricorn 18 percent interest per month on the investor funds Albert Vagnozzi and Capricorn funneled to CBSG for the purchase of CBSG notes in the unregistered CBSG offering.

70. Albert Vagnozzi and Capricorn then used those funds from CBSG to pay the Capricorn investors 12 percent to 14 percent of the amount invested, and Albert Vagnozzi and Capricorn retained the remaining 4 percent to 6 percent as their compensation for raising investor funds in the unregistered CBSG offering.

71. From May 2018 until March 2020, CBSG paid Capricorn $3.96 million, Capricorn paid its investors $2.75 million of this amount and the balance ($1.1 million) was Capricorn's compensation for raising investor funds in the unregistered CBSG offering.

72. Of the $1.1 million Capricorn received from CBSG as its compensation for raising investor funds in the unregistered CBSG offering, Albert Vagnozzi personally received at least $969,000 as his compensation for raising investor funds in the unregistered CBSG offering.

73. In April 2020, Albert Vagnozzi and Capricorn Parallel solicited Capricorn investors to obtain Capricorn Parallel notes that offered 4% to 6% interest with the principal repaid over a 7-year time period.

74. In April 2020, Albert Vagnozzi solicited investors located in Renton, WA with initials B.B. and D.K. during emails and phone calls to enter into promissory notes with Capricorn Parallel, which notes would replace the Capricorn notes.

75. On April 29, 2020, B.B. entered obtained a Capricorn Parallel promissory note by executing a new agreement with Vagnozzi through which B.B. exchanged his Capricorn note for a Capricorn Parallel note.

C. Pisces, Westhead and Alec Vagnozzi's Fraudulent Conduct and Participation in the Unregistered CBSG Offering

76. In September 2019, Westhead formed Pisces for the purpose of raising investor funds for CBSG through the offer and sale of Pisces promissory notes and then funneling the investor funds to CBSG in exchange for CBSG promissory notes issued to Pisces.

77. From no later October 2019 until at least March 2020, Westhead and Alec Vagnozzi offered and sold the Pisces promissory notes, which are securities.

78. From no later than October 2019 until at least March 2020, Defendants Westhead, Alec Vasgnozzi, and Pisces raised at least $15.4 million from more than 80 investors.

79. The Pisces promissory notes provided for returns as high as 14% to investors depending on the amount invested and the return of principal in 12 months.

80. Each Pisces promissory note was executed by Westhead or Alec Vagnozzi on behalf of Pisces.

81. From October 2019 through at least March 2020, Westhead and Alec Vagnozzi solicited investors through telephone calls, emails, and/or in-person meetings so that they could continue raising investor money for CBSG's unregistered offering.

82. From October 2019 through at least April 2020, Westhead and Alec Vagnozzi solicited investors by providing PPMs and subscription agreements, either through the mail or during in-person meetings.

83. The PPM for Pisces stated that "4000 Units" were being offered of "$100,000,000 Aggregate Amount 12%-14% Promissory Notes."

84. The PPM for Pisces disclosed that the Units involved "a high degree of risk" and that Pisces "is an early stage company that has been organized to operate as a lending company to merchant cash advance businesses."

85. While soliciting investors, Westhead and Alec Vagnozzi falsely told investors and prospective investors that the offerings comply with the securities laws and that the PPM's contained all the information a person would want to know in order to make an informed investment decision.

86. During the period of October 2019 through March 2020, Westhead, Alec Vagnozzi, and Pisces touted CBSG's track record as a leader in the MCA industry but failed to disclose CBSG's regulatory history and Joseph LaForte's criminal background.

87. Westhead knew about the Pennsylvania Regulatory Action by no later than October 2019.

88. Alec Vagnozzi knew about the Pennsylvania Regulatory Agency by no later than October 2019.

89. Westhead knew about the New Jersey Regulatory Action by as early as October 2019 and no later than April 2020 (prior to the Pisces Parallel offering).

90. Alec Vagnozzi knew about the New Jersey Regulatory Agency by no later than April 2020, prior to the Pisces Parallel offering.

91. Westhead knew about the Texas Regulatory Action by no later than April 2020, prior to the Pisces Parallel offering.

92. Alec Vagnozzi knew about the Texas Regulatory Agency by no later than April 2020, prior to the Pisces Parallel offering.

93. Westhead knew about LaForte's criminal conviction and that he managed CBSG by no later than October 2018.

94. Alec Vagnozzi has admitted in testimony that he heard "rumors" about LaForte's criminal background in late 2019 and he did not believe it was his responsibility to follow up for additional information.

95. For example, in November 2019, Westhead solicited an investor located in Chad's Fort, Pennsylvania with initials F.B. to invest in Pisces through email and touted CBSG's track record as a leader in the MCA industry, but failed to disclose the Pennsylvania or New Jersey Actions or that CBSG was managed by a convicted felon.

96. In November 2019, investor F.B. invested $251,000 in Pisces by wiring funds to Pisces in exchange for a Pisces promissory note.

97. From October 2019 through at least March 2020, Westhead and Alec Vagnozzi raised $15.4 million from at least 80 investors in exchange for Pisces promissory notes that provided a 10% to 14% interest rate, with the principal to be repaid to the investor at the conclusion of 12 months.

98. From October 2019 until at least March 2020, Pisces funneled to CBSG the investor funds Westhead and Alec Vagnozzi raised through the Pisces offering.

99. In exchange for the $15.4 million of investor funds, CBSG issued promissory notes to Pisces that provided for a 20% interest rate to be paid through a "monthly distribution payment."

100. The difference between what CBSG paid (20%) and what Pisces paid (12%-14%) was the compensation Pisces received for raising investor funds for CBSG, which resulted in Alec Vagnozzi and Westhead being compensated the difference between the 20% interest rate and the investors' return.

101. From October 2019 until at least April 2020, CBSG paid to Pisces more than $935,000 of compensation for raising investor funds for the unregistered CBSG offering.

102. Of that compensation, Westhead received more than $260,000 and Alec Vagnozzi received more than $67,000 as their compensation for raising investor funds for the unregistered CBSG offering.

103. In March 2020, Westhead and Alec Vagnozzi created Pisces Parallel.

104. Westhead, Alec Vagnozzi, and Pisces Parallel offered the existing Pisces investors the option to either restructure their Pisces promissory notes into new notes issued by Pisces Parallel that promised 4% annual returns and return of principal in seven years (instead of the initial notes that promised between 12-14% interest with return of principal in one year) or face nonpayment on the existing Pisces notes.

105. Westhead, Alec Vagnozzi, and Pisces Parallel told investors that they had three days to accept the exchange note offer.

106. In about May 2020, investors exchanged their Pisces notes for notes issued by Pisces Parallel.

107. When soliciting Pisces investors in the Pisces Parallel offering, Westhead, Alec Vagnozzi, and Pisces told investors that __ and yet failed to disclose the Texas Regulatory Action, Pennsylvania Regulatory Action, or New Jersey Regulatory Action.

D. MSI and Tierney Fraudulent Conduct and
Participation in the Unregistered CBSG Offering

108. In June 2018, Tierney formed MSI for the purpose of raising investor funds for CBSG through the offer and sale of MSI promissory notes and then funneling the investor funds to CBSG in exchange for CBSG promissory notes issued to MSI.

109. From no later August 2018 until at least March 2020, Tierney offered and sold the MSI promissory notes, which are securities.

110. From April 2020 until July 2020, Tierney sold MSI Parallel promissory notes, which are also securities.

111. From no later than August 2018 until at least March 2020, Tierney and MSI raised at least $32.2 million for CBSG from more than 70 investors through the offer and sale of MSI promissory notes.

112. MSI entered into promissory notes with investors, promising annual returns of 12% to 14%, with monthly interest payments and full return of principal at the end of the typical 12-month term.

113. Tierney executed the MSI promissory notes on behalf of MSI.

114. From August 2018 through at least March 2020, Tierney solicited investors through telephone calls, emails, and/or in-person meetings so that they could continue raising investor money in CBSG.

115. Tierney solicited investors by providing PPMs and subscription agreements, either through the mail or during in-person meetings.

116. Tierney also processed investment paperwork and handled investor funds on behalf of investors who decided to invest through MSI.

117. The PPM for MSI stated that the Units involved "a high degree of risk" and that Pisces "is an early stage company that has been organized to operate as a lending company to merchant cash advance businesses."

118. Tierney knew about the Pennsylvania Regulatory Action, New Jersey Regulatory Action, and Texas Regulatory Action by no later than April 2020.

119. By no later than November 2018, Tierney knew about LaForte's criminal record and that LaForte managed CBSG.

120. While soliciting investors, Tierney told investors and prospective investors that the offerings comply with the securities laws and that the PPM's contained all the information a person would want to know in order to make an informed investment decision.

121. Tierney touted CBSG's track record as a leader in the MCA industry but failed to disclose CBSG's regulatory history and that CBSG was operated by a convicted felon.

122. In August 2019, Tierney solicited an investor located in Holland, Pennsylvania with initials R.F. to invest in MSI through email and touted CBSG's track record as a leader in the MCA industry, but failed to disclose the Pennsylvania Action or that CBSG was managed by a convicted felon.

123. On August 6, 2019, investor R.F. invested $110,500 in MSI by wiring funds to Pisces in exchange for a Pisces promissory note.

124. From August 2018 through at least April 2020, Tierney raised at least $32.2 million for CBSG's unregistered offering through the offer and sale of MSI notes.

125. From August 2018 through April 2020, Tierney raised $32.2 million from investors in exchange for MSI promissory notes that provided for a 12% to 14% interest rate, with the principal to be repaid to the investor at the conclusion of 12 months.

126. From August 2018 until at least April 2020, MSI funneled to CBSG the investor funds Tierney raised in the MSI offering.

127. In exchange for the $32,2 million of investor funds, CBSG issued promissory notes to MSI that provided for a 20% interest rate to be paid through a "monthly distribution payment."

128. The difference between what CBSG paid (20%) and what MSI paid (12%-14%) was the compensation MSI received for raising investor funds for CBSG.

129. In May 2020, Tierney created MSI Parallel.

130. Beginning in April 2020, Tierney and MSI Parallel offered the existing MSI investors the option to either restructure their MSI promissory notes into new notes issued by MSI Parallel that promised 4% annual returns and return of principal in seven years (instead of the initial notes that promised between 12-14% interest with return of principal in one year) or face nonpayment on the existing MSI notes.

131. In about May 2020, investors exchanged their MSI notes for notes issued by MSI Parallel.

132. When soliciting MSI investors in the MSI Parallel offering, Tierney and MSI Parallel told investors touted CBSG and and yet failed to disclose the Texas Regulatory Action, Pennsylvania Regulatory Action, or New Jersey Regulatory Action against CBSG.

COUNT I

Sale of Unregistered Securities in Violation of Sections 5(a) and 5(c) of the Securities Act

Against All Defendants

133. The Commission repeats and realleges paragraphs 1 through 132 of this Complaint as if fully set forth herein.

134. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities issued and the transactions conducted by the Defendants as described in this Complaint and no exemption from registration existed with respect to these securities and transactions.

135. Pisces, beginning no later than October 2019 and continuing through at least March 2020; Westhead and Alec Vagnozzi, beginning no later than October 2019 and continuing through at least July 2020; Pisces Parallel, Capricorn Parallel, and MSI Parallel, beginning no later than April 2020 and continuing through at least July 2020; Albert Vagnozzi, beginning no later than May 2018 and continuing through at least July 2020; Capricorn, beginning no later than May 2018 and continuing through at least March 2020; Tierney, beginning no later than August 2018 and continuing through at least July 2020; and MSI, beginning no later than August 2018 and continuing through at least March 2020, directly or indirectly:

(a) made use of means or instruments of transportation or communication in interstate commerce or of the mails to sell securities as described herein, through the use or medium of a prospectus or otherwise;

(b) carried securities or caused such securities, as described herein, to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; or

(c) made use of means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of a prospectus or otherwise, as described herein, without a registration statement having been filed or being in effect with the Commission as to such securities.

136. By reason of the foregoing, the Defendants violated and, unless enjoined, are reasonably likely to continue to violate, Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

COUNT II

Fraud in Violation of Section 10(b) and Rule 10b-5(a) of the Exchange Act

Against Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney

137. The Commission repeats and realleges paragraphs 1 through 132 of this Complaint.

138. Defendants Westhead and Alec Vagnozzi, beginning no later than October 2019 and continuing through at least July 2020; Albert Vagnozzi, beginning no later than May 2018 and continuing through at least July 2020; and Tierney, beginning no later than August 2018 and continuing through at least July 2020, directly or indirectly, by use of the means and instrumentalities of interstate commerce, or of the mails, in connection with the purchase or sale of securities, knowingly or recklessly, employed devices, schemes or artifices to defraud in connection with the purchase or sale of securities.

139. By reason of the foregoing, these Defendants, directly or indirectly violated and, unless enjoined, are reasonably likely to continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(a) [17 C.F.R. § 240.10b-5(a)].

COUNT III

Violations of Section 10(b) and Rule 10b-5(b) of the Exchange Act

Against Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney

140. The Commission adopts by reference paragraphs 1 through 132 of this Complaint.

141. Defendants Westhead and Alec Vagnozzi, beginning no later than October 2019 and continuing through at least July 2020; Albert Vagnozzi, beginning no later than May 2018 and continuing through at least July 2020; and Tierney, beginning no later than August 2018 and continuing through at least July 2020, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, knowingly or recklessly made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, in connection with the purchase or sale of any security.

142. By reason of the foregoing, these Defendants violated and, unless enjoined, are reasonably likely to continue to violate Section 10(b) of the Exchange Act, [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(b) [17 C.F.R. § 240.10b-5(b)].

COUNT IV

Violations of Section 10(b) and Rule 10b-5(c) of the Exchange Act

Against Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney

143. The Commission adopts by reference paragraphs 1 through 132 of this Complaint.

144. Defendants Westhead and Alec Vagnozzi, beginning no later than October 2019 and continuing through at least July 2020; Albert Vagnozzi, beginning no later than May 2018 and

continuing through at least July 2020; and Tierney, beginning no later than August 2018 and continuing through at least July 2020, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, knowingly or recklessly engaged in acts, practices, and courses of business which have operated, are now operating or will operate as a fraud upon any person in connection with the purchase or sale of any security.

145. By reason of the foregoing Defendants violated and, unless enjoined, are reasonably likely to continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5(c), [17 C.F.R. § 240.10b-5(c)].

146. Defendants, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, knowingly or recklessly employed a device, scheme, or artifice to defraud one or more clients or prospective clients.

147. By reason of the foregoing, these Defendants violated and, unless enjoined, are reasonably likely to continue to violate, Section 206(1) of the Advisers Act, 15 U.S.C. § 80b-6(1).

COUNT V

Violation of Section 17(a)(1) of the Securities Act

Against Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney

148. The Commission repeats and realleges paragraphs 1 through 132 of this Complaint.

149. Defendants Westhead and Alec Vagnozzi, beginning no later than October 2019 and continuing through at least July 2020; Albert Vagnozzi, beginning no later than May 2018 and continuing through at least July 2020; and Tierney, beginning no later than August 2018 and continuing through at least July 2020, directly or indirectly, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or of the mails have knowingly or recklessly employed devices, schemes or artifices to defraud.

150. By reason of the foregoing, these Defendants, directly or indirectly violated, and, unless restrained and enjoined, are reasonably likely to continue to violate, Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)].

COUNT VI

Violation of Section 17(a)(2) of the Securities Act

Against Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney

151. The Commission repeats and realleges paragraphs 1 through 132 of this Complaint.

152. Defendants Westhead and Alec Vagnozzi, beginning no later than October 2019 and continuing through at least July 2020; Albert Vagnozzi, beginning no later than May 2018 and continuing through at least July 2020; and Tierney, beginning no later than August 2018 and continuing through at least July 2020, directly or indirectly, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by use of the mails, have negligently obtained money or property by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.

153. By reason of the foregoing, these Defendants, directly or indirectly violated and, unless enjoined, are reasonably likely to continue to violate, Section 17(a)(2) of the Securities Act [15 U.S.C. § 77q(a)(2)].

COUNT VI

Violation of Section 17(a)(3) of the Securities Act

Against Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney

154. The Commission repeats and realleges paragraphs 1 through 132 of this Complaint.

155. Defendants Westhead and Alec Vagnozzi, beginning no later than October 2019 and continuing through at least July 2020; Albert Vagnozzi, beginning no later than May 2018 and continuing through at least July 2020; and Tierney, beginning no later than August 2018 and continuing through at least July 2020, directly or indirectly, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by use of the mails, have negligently engaged in transactions, practices, or courses of business which have operated, are now operating or will operate as a fraud or deceit upon the purchasers.

156. By reason of the foregoing, the Defendants, directly or indirectly violated, and, unless and restrained and enjoined, are reasonably likely to continue to violate, Section 17(a)(3) of the Securities Act [15 U.S.C. § 77q(a)(3)].

COUNT VIII

Violations of Section 15(a) of the Exchange Act

Against Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney

157. The Commission repeats and realleges paragraphs 1 through 132 of this Complaint.

158. Defendants Westhead and Alec Vagnozzi, beginning no later than October 2019 and continuing through at least July 2020; Albert Vagnozzi, beginning no later than May 2018 and continuing through at least July 2020; and Tierney, beginning no later than August 2018 and continuing through at least July 2020, directly or indirectly, made use of the mails or the means or instrumentalities of interstate commerce effected transactions in, or induced or attempted to induce the purchase or sale of securities without being registered as a broker or dealer with the Commission or associated with a broker or dealer registered with the Commission.

159. By reason of the foregoing Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney violated and, unless enjoined, are reasonably likely to continue to violate, Section 15(a)(1) of the Exchange Act [15 U.S.C. §78o(a)(1)].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court find that Defendants committed the violations alleged and:

I.

Permanent Injunction

Issue a Permanent Injunction, restraining and enjoining: Defendants, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Sections 5(a) and 5(c) of the Securities Act, [15 U.S.C. §§ 77e(a) and 77e(c)]; and Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney from violating Sections 17(a) of the Securities Act [15 U.S.C. §77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240 10b-5], and Section 15(a) of the Exchange Act [15 USC § 78q(a)].

II.

Disgorgement

Issue an Order directing all Defendants to disgorge all ill-gotten gains received within the applicable statute of limitations, including prejudgment interest, resulting from the acts or courses of conduct alleged in this Complaint.

III.

Penalties

Issue an Order directing Defendants Albert Vagnozzi, Westhead, Alec Vagnozzi, and Tierney to pay civil money penalties pursuant to Section 20(d) of the Securities Act, [15 U.S.C. § 77t(d)], and Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

IV.

Further Relief

Grant such other and further relief as may be necessary and appropriate.

V.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

DEMAND FOR JURY TRIAL

The Commission hereby demands a jury trial in this case on all issues so triable.

September 29, 2023 Respectfully submitted,

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

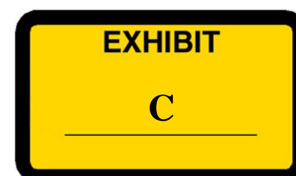
SECURITIES AND EXCHANGE COMMISSION, **Plaintiff,** **v.** **A.G. MORGAN FINANCIAL ADVISORS, LLC, VINCENT J. CAMARDA, and JAMES MCARTHUR,** **Defendants.**	**COMPLAINT** **CASE34.:22-cv-** 3421 **JURY TRIAL DEMANDED**

Plaintiff Securities and Exchange Commission (the "Commission") alleges as follows:

I. INTRODUCTION

1. This case concerns an unregistered securities offering that raised more than $75 million from more than 200 investors.

2. From no later than August 2017 until at least November 2017 and from no later than December 2018 until at least July 2020, investment adviser A.G. Morgan Financial Advisors, LLC ("AGM"), its principal Vincent J. Camarda, and its former Chief Compliance Officer James McArthur violated the federal securities laws.



3. The Defendants solicited investors and offered or sold promissory notes to investors in connection with a more than $500 million unregistered fraudulent offering with lending company Complete Business Solutions Group, d/b/a Par Funding ("Par Funding").

4. While soliciting investors, AGM and Camarda violated their fiduciary duty to their investment adviser clients by failing to disclose to investors that they had a conflict of interest.

5. Specifically, in December 2016, Camarda, on behalf of AGM, began borrowing money from Par Funding through so-called "merchant cash advance" transactions ("the Loans"), and by July 2017, AGM owed Par Funding approximately $750,000 in connection with the Loans.

6. In August 2017, Camarda and McArthur began soliciting investors to invest in promissory notes issued by Par Funding in Par Funding's unregistered securities offering.

7. From August 2017 until November 2017, Camarda and McArthur solicited nearly one dozen investors to invest at least $2.6 million in promissory notes issued by Par Funding.

8. However, in September 2017, Camarda told at least two investors that it was a safe investment, while failing to disclose that his company AGM was in debt to Par Funding and that Camarda was a guarantor on that debt to Par Funding.

9. AGM, Camarda and McArthur collectively received more than $7 million in compensation from Par Funding for their sales of the unregistered securities.

II. DEFENDANTS AND RELATED ENTITIES

A. Defendants

10. **AGM** is a New York limited liability company formed in 2014 with its principal place of business in Massapequa, New York. AGM registered with the Commission as an investment adviser effective January 2015, and is currently registered with the Commission. On April 4, 2022, AGM filed a Form ADV with the Commission, reporting that AGM currently has approximately ten employees and assets under management of over $217 million.

11. **Camarda** resides in Amityville, New York. He is the sole owner of AGM and has been affiliated with AGM as an investment adviser representative since the firm's inception. Along with McArthur, Camarda owned and operated special purpose vehicles that served as the sole manager of AGM Capital Fund I, LLC ("AGM Fund I") and AGM Capital Fund II, LLC ("AGM Fund II") (collectively, the "AGM Funds"). Camarda has held a Series 7 securities license since 1994, a Series 63 securities license since 1994, and a Series 66 securities license since 2005. From April 22, 2014 until December 31, 2018, Camarda was a registered representative of registered broker-dealer American Portfolios Financial Services, Inc. ("American Portfolios"). From January 9, 2019 through September 25, 2020, Camarda was a registered representative of registered broker-dealer Traderfield Securities Inc. ("Traderfield"). Since March 31, 2021, Camarda has been a registered representative of registered broker-dealer IBN Financial Services, Inc.

12. **McArthur** resides in Mount Sinai, New York. From about 2015 through at least August 2020, McArthur served as the Chief Compliance Officer of AGM, and has been and still is affiliated with AGM as an investment adviser representative. Along with Camarda, McArthur owned and operated the special purpose vehicles that served as the sole manager of the AGM Funds. McArthur has held a Series 6 securities license since 1996, a Series 7 securities license since 2004, and a Series 63 securities license since 1996. From April 21, 2014 until December 31, 2018, McArthur was a registered representative for registered broker-dealer American Portfolios. From January 2, 2019 through September 25, 2020, McArthur was a registered representative of registered broker-dealer Traderfield. Since March 31, 2021, McArthur has been a registered representative of registered broker-dealer IBN Financial Services, Inc.

B. <u>Related Entities</u>

13. **Par Funding** is a Delaware company formed in October 2011. Par Funding had its main office in Philadelphia, Pennsylvania through 2017, and starting around January 2020, Par Funding's sole office was in Palm Beach Gardens, Florida. Since July 2020, Par Funding has been in a Court-ordered Receivership. From no later than August 27, 2013 through present, Par Funding has been using the fictitious name Complete Business Solutions Group. Until July 2020, when the Court appointed a Receiver over Par Funding, Par Funding provided short-term loans to small businesses.

14. In 2018, the Commonwealth of Pennsylvania, acting through the Department of Banking and Securities, Bureau of Securities Compliance and Examinations ("Bureau"), conducted an investigation of certain securities-related activities of Par Funding. Based on the results of its investigation, the Bureau concluded that Par Funding violated the Pennsylvania Securities Act of 1972, 70 P .S. § 1-301 ("Pennsylvania Securities Act"). On November 28, 2018, Par Funding consented to entry of an Order by the Pennsylvania Department of Banking and Securities imposing a $499,000 administrative assessment for violations of the Pennsylvania Securities Act through the use of an unregistered agent to offer and sell Par Funding promissory notes in Pennsylvania. *Pennsylvania Dep't of Banking and Securities v. Complete Business Solutions Group, Inc. d/b/a Par Funding* (18-0098-SEC-CAO).

15. On December 27, 2018, the New Jersey Bureau of Securities issued a Cease and Desist Order against Par Funding, based on Par Funding's sale of unregistered securities in New Jersey and use of unregistered agents, in violation of the New Jersey securities laws. *In re the Matter of Complete Business Solutions Group, Inc. and Complete Business Solutions Group, Inc. d/b/a Par Funding.*

16. In February 2020, the Texas State Securities Board issued an Emergency Cease and Desist Order against Par Funding and others, alleging fraud and registration violations, and that matter is in active litigation. *In the Matter of Senior Asset Protection, Inc. dba Encore Financial Solutions, Merchant Growth & Income Funding, LLC, ABetterFinancialPlan.com, LLC aka ABetterFinancialPlan, Complete Business Solutions Group, Inc. dba Par Funding, Gary Neal Beasley and Perry Abbonizio* (ENF-CDO-20-1798). The Texas action alleges that all of the respondents engaged in fraud based on their failure to disclose to investors the Pennsylvania and New Jersey Orders against Par Funding and court actions filed against Par Funding based on its lending practices.

17. On July 31, 2020, the Commission filed an enforcement action against Par Funding for violating the registration and anti-fraud provisions of the federal securities laws, resulting in a Temporary Restraining Order and the appointment of a Receiver. *SEC v. Complete Business Solutions Group, et al.,* No. 9:20-cv-81205 (S.D. Fla. 2020).

18. **The AGM Funds** are AGM Fund I, which Camarda and McArthur organized on September 28, 2018, and AGM Fund II, which Camarda and McArthur organized on February 21, 2019. The AGM Funds are Delaware limited liability companies with their principal place of business in Massapequa, New York. AGM Fund I's sole manager is AGM Capital Fund Manager, LLC and AGM Fund II's sole manager is AGM Capital Fund II Manager, LLC, both of which have been owned and operated by Camarda and McArthur since inception.

19. **AG Morgan Tax & Accounting LLC** ("Tax & Accounting") is a New York limited liability company formed on January 2, 2017, with its principal place of business during the relevant time period in Massapequa, New York. In 2017, Tax & Accounting entered into a so-called "Par Funding Finder's Fee Agreement" (the "Finder's Agreement"), whereby Par Funding paid Tax & Accounting "the difference between 20.0% and the total annual cost of the Creditor's

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principal Capital." Pursuant to the Finder's Agreement, Camarda and McArthur recommended their advisory clients invest in Par Funding. Par Funding subsequently forwarded some of the commissions generated pursuant to the Finder's Agreement to a Tax & Accounting bank account, from which monies were then paid to AGM and Camarda based on the amount raised as compensation for soliciting investors for the purchase of Par Funding notes.

III. JURISDICTION AND VENUE

20. The Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. §§ 77t(b), 77t(d), and 77v(a); Sections 21(d), 21(e), and Section 27 of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78u(d), 78u(e), and 78aa; and Section 214 of the Investment Advisers Act of 1940 ("Advisers Act"), 15 U.S.C. § 80b-14. This Court has personal jurisdiction over the Defendants, and venue is proper in the Eastern District of New York, because the Defendants engaged in acts and transactions in the Eastern District of New York that constitute violations of the Securities Act, Exchange Act, and the Advisers Act. AGM's sole office is located in the Eastern District of New York, and Camarda and McArthur reside in the Eastern District of New York. The Defendants solicited and sold Par Funding and AGM promissory notes to investors located in the Eastern District of New York.

21. In connection with the conduct alleged in this Complaint, the Defendants, directly and indirectly, singly or in concert with others, have made use of the means or instrumentalities of interstate commerce, the means or instruments of transportation and communication in interstate commerce, and the mails.

IV. THE DEFENDANTS' VIOLATIVE CONDUCT

A. Par Funding

22. From no later than August 1, 2012 until July 2020, Par Funding was in the business of funding short-term loans to small-sized businesses, which Par Funding refers to as "merchant cash advances" ("Loans" or "MCAs").

23. During that same time period, Par Funding offered and sold securities in the form of promissory notes.

24. Par Funding never registered any securities offering with the Commission.

25. From no later than August 1, 2012 until July 7, 2020, Par Funding raised in excess of $500 million from investors located nationwide through the offer and sale of promissory notes.

26. To solicit and raise money from investors, Par Funding utilized a network of individuals and investment funds located nationwide.

27. Par Funding did not register its securities offerings.

B. From 2016 through 2017, Camarda and AGM Become Indebted to Par Funding

28. In 2016 and 2017, AGM entered into MCA Loan agreements with Par Funding through which Par Funding loaned or advanced AGM about three-quarters of a million dollars on future receivables anticipated from AGM's advisory business.

29. Camarda, on behalf of AGM, executed the MCA Loan agreements with Par Funding.

30. On December 29, 2016, AGM obtained an MCA Loan of about $100,000 from Par Funding that required AGM to make daily payments of $1,075.76 to Par Funding every day for 132 days.

31. On February 2, 2017, AGM obtained a second MCA Loan of about $485,791 from Par Funding that required AGM to make daily payments of about $3,598 to Par Funding every day for 201 days.

32. On June 19, 2017, Camarda emailed Par Funding a message with the subject line "arrears," to notify Par Funding that Camarda was asking "the CEO of [Camarda's] broker/dealer" for "an advance on commissions" and that Camarda hoped to have money to "catch up" by that Friday.

33. On July 3, 2017, Camarda emailed Par Funding about AGM's missed payments to Par Funding, stating that "[o]ur cash flow is very inconsistent which has caused us to need these short term loans" and notifying Par Funding that AGM would not be able to make its upcoming loan payment and had obtained a longer term loan that AGM would use to resolve AGM's problems.

34. On July 13, 2017, AGM obtained a third MCA Loan of about $125,000 form Par Funding that required AGM to pay about $2,000.00 to Par Funding every day for 278 days.

35. On July 18, 2017, Camarda met with Par Funding staff regarding soliciting investors for Par Funding's securities offering, including at least a female Par Funding staff member with initials A.A. who served as one of Par Funding's contacts with individuals who were soliciting investors for Par Funding's securities offerings.

36. On July 19, 2017, this same Par Funding staff member emailed Camarda the Par Funding offering materials and marketing materials for Camarda's use in soliciting investors.

37. On July 28, 2017, Par Funding's Chief Financial Officer emailed Camarda a sample of the promissory notes Par Funding was issuing in Par Funding's unregistered securities offering.

38. In each of the three MCA Loan agreements Camarda executed on behalf of AGM, Camarda agreed to act as the guarantor.

39. Camarda required the money from these MCA Loans from Par Funding in order to continue the operations of AGM.

40. Camarda was certain that without Par Funding's MCA Loans, AGM would not have been able to continue operations.

41. But for the Par Funding MCA Loans, Camarda believed he would have had to file for bankruptcy.

42. But for the Par Funding MCA Loans, Camarda believed he would have to let go of his entire staff at AGM and would not have been able to operate AGM.

43. By December 2017, AGM still had not paid Par Funding the amount owed on the MCA Loan.

44. On December 14, 2017, Camarda texted Joseph LaForte, a/k/a Joe Mack, who was the *de facto* CEO of Par Funding, regarding the new business Camarda was sending Par Funding and asking to speak so that Camarda could update LaForte about AGM's loan.

45. On December 28, 2017, LaForte, on behalf of Par Funding, emailed Camarda: "Please understand the situation you are in with our company; the lack of compliance in our modified agreement has stopped us from collecting the receivables we have already purchased. Please see attached Judgement that will be filed by end of business day due to breaching our legally binding agreement."

46. Attached to the December 28, 2017 email from Par Funding to Camarda was a draft Notice of Judgment and "Complaint – Confession of Judgment" by Par Funding against AGM and Camarda personally.

47. On December 28, 2017, Camarda responded to Par Funding's email message by sending an email to Par Funding in which Camarda wrote only "Please see attached."

48. Attached to Camarda's December 28, 2017 email to Par Funding was an excel file entitled "Process Spreadsheets."

49. The Process Spreadsheets document was an excel chart that listed investors, at least eleven of whom were AGM clients, together with the amount each investor had invested and the rate and payout percentages of the investments.

C. Camarda, AGM, and McArthur Raise Investor Funds
For Par Funding's Unregistered Securities Offering

50. From August 2017 until November 2017, and again from December 2018 until July 2020, Camarda and McArthur raised at least $75 million from investors in connection with Par Funding's unregistered securities offering.

1. August 2017 – November 2017

51. In August 2017, Camarda and McArthur began raising funds for Par Funding pursuant to the Finder's Agreement.

52. The Finder's Agreement was dated August 18, 2017.

53. Camarda and McArthur solicited investors through in-person meetings, by phone, and through correspondence.

54. From August 2017 until November 2017, Camarda and McArthur recommended to their investment advisory clients through in-person meetings and by phone to invest in Par Funding by purchasing securities in the form of Par Funding promissory notes, which generally offered investors 12% percent interest with the return of principal after 12 months.

55. For example, in or around September 2017, Camarda recommended to an AGM client with the initials E.S., who was retired and resided in New York, that E.S. invest in Par Funding.

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56. Camarda explained the details of the promissory note and returns to E.S., and described the investment as being a low risk investment.

57. Camarda told E.S. that E.S.'s investment would be used by a company to make short term loans to small businesses.

58. AGM provided E.S. with a "Security Agreement" and "Non-Negotiable Term Promissory Note" in the amount of $200,000 on which interest was to accrue at the rate of 12% over a period of a year.

59. E.S. signed the Security Agreement and Non-Negotiable Term Promissory Note, which were dated September 2017, at AGM's office in Massapequa, New York.

60. On September 29, 2017, E.S. invested $200,000, wired to Par Funding from E.S.'s retirement account, in exchange for a Par Funding promissory note.

61. After E.S. invested, AGM had E.S. complete an "Accredited Investor Questionnaire" dated January 28, 2018, and then AGM faxed this questionnaire on E.S.'s behalf to Par Funding.

62. Around the same time, in September 2017, McArthur recommended to an AGM client with the initials F.R., who was retired and resided in New Jersey, that F.R. invest in Par Funding.

63. McArthur explained the details of the promissory note and returns to F.R., and described the investment as being a low risk investment.

64. McArthur told F.R. that Par Funding was a "factoring company" that made loans to small businesses and that the loans were secured by the businesses' receivables.

65. McArthur described the investment to F.R. as being fairly safe because of its short one-year term, and given the large volume of loans made by Par Funding, investors had the ability to curtail losses should a large number of loans go into default.

66. McArthur met with this investor through an in-person meeting and AGM provided F.R. a "Security Agreement" and "Non-Negotiable Term Promissory Note" in the amount of $250,000 on which interest was to accrue at the rate of 12% over a period of a year.

67. F.R. signed the Security Agreement and Non-Negotiable Term Promissory Note, which were dated September 2017.

68. On September 19, 2017, F.R. invested $250,000 through a check payment to Par Funding in exchange for the Par Funding promissory note.

69. After F.R. invested, AGM had F.R. complete an "Accredited Investor Questionnaire" dated January 28, 2018, and then AGM faxed this questionnaire to Par Funding.

70. Also, in or around September 2017, Camarda recommended to an AGM client with the initials P.R., who was widowed and resided in New York, to invest in Par Funding.

71. Camarda explained the details of the promissory note and returns to P.R., and described the investment as being a low risk investment.

72. Camarda told P.R. that Par Funding was a company that loaned money to small businesses secured by their receivables.

73. Camarda also told P.R. that Camarda knew the owner of Par Funding and that he considered the investment to be "safe," and that there was "no problem collecting" as Par Funding was a "highly rated" company.

74. AGM provided P.R. a "Security Agreement" and "Non-Negotiable Term Promissory Note" in the amount of $200,000 on which interest was to accrue at the rate of 12% over a period of a year.

75. P.R. signed the Security Agreement and Non-Negotiable Term Promissory Note, which were dated September 2017.

76. On September 20, 2017, P.R. invested $200,000 through a check payment to Par Funding in exchange for a Par Funding promissory note.

77. After P.R. invested, AGM had P.R. complete an "Accredited Investor Questionnaire" dated January 28, 2018, and then AGM faxed this questionnaire to Par Funding.

78. From August 2017 until November 2017, Camarda and McArthur solicited approximately twelve of AGM's clients to invest about $2.6 million in Par Funding by purchasing Par Funding promissory notes.

79. From August 2017 until November 2017, Par Funding paid Tax & Accounting at least $200,000 in commissions, based on approximately 5% to 8% of the investment amount each investor Camarda and McArthur successfully solicited to purchase Par Funding promissory notes.

80. Between August 18, 2017 and September 6, 2017, Tax & Accounting transferred about $70,000 of the $92,000 received from Par Funding to AGM and Camarda.

81. McArthur received 10% of AGM's gross revenues in exchange for his efforts, including soliciting individuals to invest in Par Funding securities.

2. December 2018 – July 2020

82. In 2018, Par Funding notified Camarda that Par Funding would only receive investor funds raised by investment funds.

83. By February 2018, AGM's outstanding debt to Par Funding under the MCA Loan agreements as well as to other creditors had grown to $2.63 million.

84. On February 6, 2018, AGM paid Par Funding in full by consolidating the MCA Loan debt (over $550,000 outstanding) with another lender.

85. In September 2018, Camarda and McArthur formed an investment fund called AGM Fund I for the purpose of raising investor funds for Par Funding through the offer and sale

of AGM Fund I promissory notes, and then funneling the investor funds to Par Funding in exchange for Par Funding promissory notes issued to AGM Fund I.

86. From no later than December 2018 until at least the end of 2019, Camarda and McArthur offered and sold the AGM Fund I promissory notes, which were securities.

87. The AGM Fund I promissory notes provided for a 12% or 14% return to investors depending on whether the investor invested less than or more than $1 million.

88. From December 2018 through at least the end of 2019, Camarda and McArthur recommended AGM Fund I to their existing advisory clients through telephone calls, emails, and/or in-person meetings so that they could continue raising investor money in Par Funding.

89. Camarda and McArthur solicited AGM's clients to invest by providing private placement memoranda ("PPMs") and subscription agreements, either through the mail or during in-person meetings.

90. The PPM for AGM Fund I (originally dated October 10, 2018) stated that "4000 Units" were being offered of "$100,000,000 Aggregate Amount 12%-14% Promissory Notes."

91. The PPM for AGM Fund I also disclosed that the Units involved "a high degree of risk" and that AGM Fund I "is an early stage company that has been organized to operate as a lending company to merchant cash advance businesses."

92. From December 2018 through at least the end of 2019, Camarda and McArthur raised over $60 million for Par Funding's unregistered offering through the offer and sale of AGM Fund I notes.

93. Specifically, from December 2018 through at least the end of 2019, Camarda and McArthur raised over $60 million from investors and AGM clients, in exchange for AGM Fund I promissory notes that provided for 12% to 14% interest rate, with the principal to be repaid to the investor at the conclusion of 12 months.

94. From December 2018 until at least the end of 2019, AGM funneled to Par Funding investor funds Camarda and McArthur had raised.

95. In exchange for the $60 million of investor funds, Par Funding issued promissory notes to AGM Fund I that provided for a 20% interest rate to be paid through a "monthly distribution payment."

96. The difference between what Par Funding paid (20%) and what AGM Fund I paid (12%-14%) was the compensation AGM Fund I received for raising investor funds for Par Funding.

97. From December 2018 until at least the end of 2019, Par Funding paid to AGM Fund I over $5.5 million of compensation for raising investor funds.

98. Of that compensation, McArthur received 10% (over $550,000) and Camarda received 90% (over $5 million) before expenses.

99. In February 2019, Camarda and McArthur formed an investment fund called AGM Fund II for the purpose of raising investor funds for Par Funding through the offer and sale of AGM Fund II promissory notes, and then funneling the investor funds to Par Funding in exchange for Par Funding promissory notes issued to AGM Fund II.

100. For AGM Fund II, the promissory notes AGM Fund II entered into with investors provided for a 9% or 11% return depending on whether the investor invested less than or more than $1 million, and AGM Fund II's promissory notes with Par Funding provided for an 18% interest rate.

101. Like with AGM Fund I, the difference between the amount Par Funding paid AGM Fund II (18%) and the amount AGM Fund II paid investors (9% or 11%) was AGM Fund II's compensation for soliciting investors for Par Funding.

102. As with AGM Fund I, Camarda and McArthur recommended AGM Fund II to their existing advisory clients through telephone calls, emails, and/or in-person meetings.

103. In doing so, Camarda and McArthur provided these clients with various documents such as PPMs and subscription agreements.

104. Similar to the PPM for AGM Fund I, the PPM for AGM Fund II (for "3000 Units" of "$75,000,000 Aggregate Amount 9%-11% Promissory Notes") disclosed that the Units involved "a high degree of risk" and that AGM Fund II "is an early stage company that has been organized to operate as a lending company to merchant cash advance businesses."

105. In addition, in March 2019, AGM and Camarda solicited others to invest in AGM Fund II by airing a television commercial.

106. From January 2019 until at least July 2020, McArthur and Camarda raised at least $14 million for Par Funding's unregistered offering through the offer and sale of AGM Fund II notes that provided for 9% to 11% interest, with the principal to be repaid to the investor at the conclusion of 12 months.

107. From January 2019 until at least July 2020, AGM funneled to Par Funding investor funds Camarda and McArthur had raised.

108. In exchange for the investor funds, Par Funding issued promissory notes to AGM Fund II that provided for a 18% interest rate to be paid through a "monthly distribution payment."

109. The difference between what Par Funding paid AGM Fund II (18%) and what AGM Fund II paid to investors (9%-11%) was the compensation AGM Fund II received for raising investor funds for Par Funding.

110. From January 2019 until at least July 2020, Par Funding paid to AGM Fund II more over $1.4 million of compensation.

111. Of that compensation, McArthur received 10% (almost $150,000) and Camarda received 90% (approximately $1.3 million) before expenses.

112. While both Camarda and McArthur were registered representatives of registered broker-dealer American Portfolios during the formation of AGM Fund I, they did not receive approval from American Portfolios for this outside business activity.

113. Consequently, Camarda and McArthur sought to associate as registered representatives of a different registered broker-dealer.

114. On November 14, 2018, Camarda sent a text message to Joseph LaForte, Par Funding's *de facto* CEO, stating that he needed a new broker-dealer and asking LaForte about a broker-dealer LaForte owned: "I spoke to [Par Funding Principal] Perry [Abbonizio] today and we need a BD to move too [sic]. He said you own one. Are you free tomorrow morning to talk about that and what you wanted to go over as well?"

115. Later that same day, LaForte responded to Camarda's text message with a text message stating, "I have one. Clean."

116. LaForte went on to text Camarda on November 14, 2018, that the broker-dealer was "100 percent clean. 27 years in biz. Traderfield securities." LaForte provided Camarda with the contact information for the owner of Traderfield securities and directed Camarda to call him.

117. In early January 2019, Camarda and McArthur became associated with registered broker-dealer Traderfield.

118. Traderfield did not approve of Camarda and McArthur's outside business activity with respect to raising investor funds through the AGM Funds' securities offerings until September 25, 2019 – well after all investments were made in AGM Fund I and sometime after some investments were already made in AGM Fund II.

D. Defendants' Breach of Fiduciary Duty to Their Clients and Participation In An Unregistered Securities Offering

119. AGM and Camarda are investment advisers subject to the Advisers Act.

120. At all relevant times, AGM was registered as an investment adviser with the Commission, and remains registered.

121. Camarda engaged in activities and acted as an investment adviser.

122. Camarda provided advice about securities to his clients, including advice to purchase the Par Funding promissory notes and to invest in the AGM Funds.

123. Camarda received compensation for his services in the form of commissions generated from the sale of promissory notes related to the Par Funding securities offering.

124. Camarda was also the control person, majority owner, and a representative of AGM.

125. As investment advisers, AGM and Camarda have a fiduciary duty to their advisory clients.

126. As such, AGM and Camarda owe their clients an affirmative duty of utmost good faith, must provide full and fair disclosure of all material facts, and have an obligation to employ reasonable care to avoid misleading their clients.

127. AGM and Camarda's duty to disclose all material facts includes a duty to tell clients about conflicts of interest that might incline AGM and Camarda to render investment advice that is not disinterested.

128. AGM and Camarda breached their fiduciary duty to their clients by failing to disclose AGM's debt to Par Funding and that Camarda had personally guaranteed the MCA Loans.

129. From no later than August 2017 until at least November 2017, AGM and Camarda solicited their AGM clients to invest in Par Funding promissory notes, and failed to disclose to

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their clients that AGM was in debt to Par Funding and that Par Funding was crediting AGM's debt in exchange for Camarda raising money for Par Funding's unregistered securities offering.

130. AGM and Camarda had an incentive for their clients to invest in Par Funding because Par Funding was paying down AGM's debt on the MCA Loans in exchange for Camarda soliciting investors to purchase Par Funding promissory notes.

131. The existence of this conflict of interest is a material fact which AGM and Camarda as investment advisers were required to disclose to their clients.

132. On September 1, 2017, AGM owed $677,486 to Par Funding on the MCA Loans.

133. For example, in September 2017, Camarda solicited AGM clients P.R. and E.S. to purchase Par Funding promissory notes, but made a material omission by failing to disclose to P.R. or E.S. that his company AGM had borrowed money from or owed money to Par Funding.

134. Accordingly, AGM and Camarda failed to satisfy their fiduciary obligations by placing their own interests above those of their clients.

135. By November 2017, AGM's debt to Par Funding on the MCA Loan was more than half a million dollars.

136. On February 8, 2018, Camarda sent a text message to LaForte's cell phone stating he had finally paid the loan: " Hey Joe, A wire was just sent to you for the full amount. I want to thank you so much for all your help this year. If it wasn't for you, we wouldn't have made it thru. Thank you again for everything and I look forward to continuing to do business in the future."

COUNT I

Sale of Unregistered Securities in Violation of
Sections 5(a) and 5(c) of the Securities Act

Against All Defendants

137. The Commission repeats and realleges paragraphs 1 through 136 of this Complaint as if fully set forth herein.

138. No registration statement was filed or in effect with the Commission pursuant to the Securities Act with respect to the securities issued and the transactions conducted by the Defendants as described in this Complaint and no exemption from registration existed with respect to these securities and transactions.

139. AGM, Camarda, and McArthur, beginning no later than August 2017 and continuing through July 2020, directly or indirectly:

(a) made use of means or instruments of transportation or communication in interstate commerce or of the mails to sell securities as described herein, through the use or medium of a prospectus or otherwise;

(b) carried securities or caused such securities, as described herein, to be carried through the mails or in interstate commerce, by any means or instruments of transportation, for the purpose of sale or delivery after sale; or

(c) made use of means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of a prospectus or otherwise, as described herein, without a registration statement having been filed or being in effect with the Commission as to such securities.

140. By reason of the foregoing, the Defendants violated, and, unless restrained and enjoined, are reasonably likely to continue to violate, Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

COUNT II

Violations of Section 206(1) of the Advisers Act

Against Camarda and AGM

141. The Commission repeats and realleges paragraphs 1 through 136 of this Complaint as if fully set forth herein.

142. From no later than August 2017 through November 2017, AGM and Camarda, by engaging in the conduct set forth above, directly or indirectly, knowingly or severely recklessly, through use of the mails or the means or instrumentalities of interstate commerce, and while engaged in the business of advising others for compensation as to the advisability of investing in, purchasing, or selling securities, employed devices, schemes, or artifices to defraud.

143. By reason of the foregoing, AGM and Camarda violated, and, unless enjoined, are reasonably likely to continue to violate, Section 206(1) of the Advisers Act, 15 U.S.C. § 80b-6(1).

COUNT III

Violations of Section 206(2) of the Advisers Act

Against Camarda and AGM

144. The Commission repeats and realleges paragraphs 1 through 136 of this Complaint as if fully set forth herein.

145. From no later than August 2017 through November 2017, AGM and Camarda, by engaging in the conduct set forth above, directly or indirectly, knowingly or severely recklessly, through use of the mails or the means or instrumentalities of interstate commerce, and while engaged in the business of advising others for compensation as to the advisability of investing in,

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purchasing, or selling securities, engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon clients or prospective clients.

146. By reason of the foregoing AGM and Camarda violated, and, unless enjoined, are reasonably likely to continue to violate, Section 206(2) of the Advisers Act, 15 U.S.C. § 80b-6(2).

COUNT IV

Violations of Section 15(a) of the Exchange Act

Against Camarda, McArthur and AGM

147. The Commission repeats and realleges paragraphs 1 through 136 of this Complaint as if fully set forth herein.

148. By engaging in the conduct described above, Camarda, McArthur and AGM, and each of them:

a. engaged in the business of effecting transactions in securities for the account of others; and

b. directly or indirectly, made use of the mails or the means or instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, securities without being registered as a broker or dealer with the Commission or associated with a broker or dealer registered with the Commission.

149. By reason of the foregoing AGM, Camarda, and McArthur violated, and, unless enjoined, are reasonably likely to continue to violate,Section 15(a)(1) of the Exchange Act [15 U.S.C. §78o(a)(1)].

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court find that Defendants committed the violations alleged and:

I.

Permanent Injunction

Issue a Permanent Injunction, restraining and enjoining: AGM, Camarda, and McArthur, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Sections 5(a) and 5(c) of the Securities Act, Section 15(a) of the Exchange Act; and AGM and Camarda, their officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, and each of them, from violating Sections 206(1) and 206(2) of the Advisers Act.

II.

Disgorgement

Issue an Order directing all Defendants to disgorge all ill-gotten gains received within the applicable statute of limitations, including prejudgment interest, resulting from the acts or courses of conduct alleged in this Complaint.

III.

Penalties

Issue an Order directing all Defendants to pay civil money penalties pursuant to Section 20(d) of the Securities Act, 15 U.S.C. § 77t(d), and Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d), and also, as to AGM and Camarda, pursuant to Section 209(e) of the Advisers Act, 15 U.S.C. § 80b-9(e).

IV.

Further Relief

Grant such other and further relief as may be necessary and appropriate.

V.

Retention of Jurisdiction

Further, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement and carry out the terms of all orders and decrees that it may enter, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

DEMAND FOR JURY TRIAL

The Commission hereby demands a jury trial in this case on all issues so triable.

June 9, 2022

Respectfully submitted,

By: *Amie Riggle Berlin*

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US DISTRICT COURT
E.D.N.Y.
* NOVEMBER 02, 2023 *
BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
- X

UNITED STATES OF AMERICA

- against -

JOSEPH LANNI,
also known as "Joe Brooklyn"
and "Mommino,"
DIEGO TANTILLO,
also known as "Danny" and
"Daniel,"
ROBERT BROOKE,
SALVATORE DILORENZO,
ANGELO GRADILONE,
also known as "Fifi,"
KYLE JOHNSON,
also known as "Twin,"
JAMES LAFORTE,
also known as "Jimmy,"
VINCENT MINSQUERO,
also known as "Vinny Slick,"
VITO RAPPA,
also known as "Vi," and
FRANCESCO VICARI,
also known as "Frank" and
"Uncle Ciccio,"

Defendants.

I N D I C T M E N T

Cr. No. 23-CR-443
(T. 18, U.S.C. §§ 371, 664, 922(g)(1), 924(a)(2), 924(d)(1), 981(a)(1)(C), 1349, 1513(b)(1), 1513(b)(2), 1951(a), 1955(d), 1962(d), 1963(a), 1963(m), 2 and 3551 et seq.; T. 21, U.S.C., § 853(p); T. 28, U.S.C. § 2461(c))

Judge Frederic Block
Magistrate Judge Joseph A. Marutollo

- X

THE GRAND JURY CHARGES:

INTRODUCTION

At all times relevant to this Indictment, unless otherwise indicated:

<u>The Enterprise</u>

1. The Gambino organized crime family of La Cosa Nostra, including its leaders, members and associates, constituted an "enterprise," as defined in Title 18, United States Code, Section 1961(4), that is, a group of individuals associated in fact (hereinafter, the "Gambino crime family" or the "Enterprise"). The Enterprise constituted an ongoing organization whose members functioned as a continuing unit for a common purpose of achieving the objectives of the Enterprise. The Gambino crime family engaged in, and its activities affected, interstate and foreign commerce. The Gambino crime family was an organized criminal group that operated in the Eastern District of New York and elsewhere.

2. La Cosa Nostra operated through organized crime families. Five of these crime families — the Bonanno, Colombo, Gambino, Genovese and Lucchese crime families — were headquartered in New York City and supervised criminal activity in New York, in other areas of the United States and, in some instances, in other countries. Another crime family, the Decavalcante crime family, operated principally in New Jersey, but from time to time also in New York City.

3. The ruling body of La Cosa Nostra, known as the "Commission," consisted of leaders from each of the crime families. The Commission convened from time to time to decide certain issues affecting all of the crime families, such as rules governing crime family membership.

4. The Gambino crime family had a hierarchy and structure. The head of the Gambino crime family was known as the "boss." The Gambino crime family boss was assisted by an "underboss" and a counselor known as a "consigliere." Together, the boss, the underboss and consigliere were the crime family's "administration." With the assistance of the

underboss and consigliere, the boss was responsible for, among other things, setting policy and resolving disputes within and between La Cosa Nostra crime families and other criminal groups. The administration further supervised, supported, protected and disciplined the lower-ranking participants in the crime family. In return for their supervision and protection, the administration received part of the illegal earnings generated by the crime family.

5. Members of the Gambino crime family served in an "acting" rather than "official" capacity in the administration on occasion due to another administration member's incarceration or ill health, or for the purpose of seeking to insulate another administration member from law enforcement scrutiny. When this occurred, the member functioned in an "acting" capacity instead of an incarcerated or temporarily incapacitated Gambino family member who continued to hold the "official," as opposed to acting, position within the family. Further, on occasion, the Gambino crime family was overseen by a "panel" of crime family members that did not include the boss, underboss and/or consigliere.

6. Below the administration of the Gambino crime family were numerous "crews," also known as "regimes" and "decinas." Each crew was headed by a "captain," also known as a "skipper," "caporegime" and "capodecina." Each captain's crew consisted of "soldiers" and "associates." The captain was responsible for supervising the criminal activities of his crew and providing the crew with support and protection. In return, the captain often received a share of the crew's earnings.

7. Only members of the Gambino crime family could serve as a boss, underboss, consigliere, captain or soldier. Members of the crime family were referred to on occasion as "goodfellas" or "wiseguys," or as persons who had been "straightened out" or who

had their "button." Associates were individuals who were not members of the crime family, but who nonetheless engaged in criminal activity for, and under the protection of, the crime family.

8. Many requirements existed before an associate could become a member of the Gambino crime family. The Commission of La Cosa Nostra from time to time limited the number of new members who could be added to a crime family. An associate was also required to be proposed for membership by an existing crime family member. When the crime family's administration considered the associate worthy of membership, the administration then circulated the proposed associate's name on a list given to other La Cosa Nostra crime families, which the other crime families reviewed and either approved or disapproved. Unless there was an objection to the associate's membership, the crime family then "inducted," or "straightened out," the associate as a member of the crime family in a secret ceremony. During the ceremony, the associate, among other things, swore allegiance for life to the crime family above all else, even the associate's own family; swore, on penalty of death, never to reveal the crime family's existence, criminal activities and other secrets; and swore to follow all orders issued by the crime family boss, including swearing to commit murder if the boss directed it.

Methods and Means of the Enterprise

9. The principal purpose of the Gambino crime family was to generate money for its members and associates. This purpose was implemented by members and associates of the Gambino crime family through various criminal activities, including drug trafficking, robbery, extortion, fraud, illegal gambling and loansharking. The members and associates of the Gambino crime family also furthered the Enterprise's criminal activities by threatening economic injury and using and threatening to use physical violence, including murder.

10. Although the primary purpose of the Gambino crime family was to generate money for its members and associates, the members and associates at times used the resources of the family to settle personal grievances and vendettas, sometimes without the approval of higher-ranking members of the family. For those purposes, members and associates of the Enterprise were asked and expected to carry out, among other crimes, acts of violence, including murder and assault.

11. The members and associates of the Gambino crime family engaged in conduct designed to prevent government detection of their identities, their illegal activities and the location of proceeds of those activities. That conduct included attempts to obstruct justice and to retaliate against those individuals perceived to be potential witnesses against members and associates of the Enterprise.

12. Members and associates of the Gambino crime family often coordinated criminal activity with members and associates of other organized crime families, including those located in Italy.

The Defendants

13. The defendant JOSEPH LANNI, also known as "Joe Brooklyn" and "Mommino," was a captain in the Gambino crime family.

14. The defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," ANGELO GRADILONE, also known as "Fifi," and JAMES LAFORTE, also known as "Jimmy," were soldiers within the Gambino crime family.

15. The defendants ROBERT BROOKE, SALVATORE DILORENZO, KYLE JOHNSON, also known as "Twin," and VINCENT MINSQUERO, also known as "Vinny Slick," were associates of the Gambino crime family.

16. The defendant VITO RAPPA, also known as "Vi," was a member of the Sicilian mafia and an associate of the Gambino crime family.

17. The defendant FRANCESO VICARI, also known as "Frank" and "Uncle Ciccio," was an associate of the Sicilian mafia and an associate of the Gambino crime family.

COUNT ONE
(Racketeering Conspiracy)

18. The allegations contained in paragraphs one through seventeen are realleged and incorporated as if fully set forth in this paragraph.

19. In or about and between January 2017 and the date of this Indictment, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants JOSEPH LANNI, also known as "Joe Brooklyn" and "Mommino," DIEGO TANTILLO, also known as "Danny" and "Daniel," SALVATORE DILORENZO, ANGELO GRADILONE, also known as "Fifi," KYLE JOHNSON, also known as "Twin," JAMES LAFORTE, also known as "Jimmy," VINCENT MINSQUERO, also known as "Vinny Slick," VITO RAPPA, also known as "Vi," and FRANCESCO VICARI, also known as "Frank" and "Uncle Ciccio," together with others, being persons employed by and associated with the Gambino crime family, an enterprise that engaged in, and the activities of which affected, interstate and foreign commerce, did knowingly and intentionally conspire 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 defined in Title 18, United States Code, Sections 1961(1) and 1961(5).

20. The pattern of racketeering activity through which the defendants JOSEPH LANNI, DIEGO TANTILLO, SALVATORE DILORENZO, ANGELO GRADILONE, KYLE JOHNSON, JAMES LAFORTE, VINCENT MINSQUERO, VITO

RAPPA and FRANCESCO VICARI, together with others, agreed to conduct and participate, directly and indirectly, in the conduct of the affairs of the Enterprise consisted of (a) multiple acts indictable under Title 18, United States Code, Sections 664 (relating to embezzlement from pension and welfare funds), 1343 (relating to wire fraud), 1513 (relating to retaliating against a witness, victim or an informant), 1951(a) (relating to interference with commerce by robbery or extortion), 1955 (relating to the prohibition of illegal gambling businesses) and 1956 (relating to the laundering of monetary instruments); (b) multiple acts involving extortion, in violation of New York Penal Law Sections 155.30(6), 155.40(2), 155.05(2)(e)(i), 155.05(2)(e)(iii), 155.05(2)(e)(ix) and 105.10(1); and (c) multiple acts involving arson, in violation of New York Penal Law Sections 150.10, 150.15 and 150.00(1). It was part of the conspiracy that each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the Enterprise.

(Title 18, United States Code, Sections 1962(d), 1963 and 3551 et seq.)

COUNT TWO
(Hobbs Act Extortion Conspiracy — John Doe 1)

21. In or about and between 2017 and March 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," KYLE JOHNSON, also known as "Twin," VITO RAPPA, also known as "Vi," and FRANCESCO VICARI, also known as "Frank" and "Uncle Ciccio," together with others, did knowingly and intentionally conspire to obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, in that the defendants and others agreed to obtain property, to wit: money, from John Doe 1, an individual whose identity is known to the Grand Jury, with the

consent of John Doe 1, which consent was to be induced by wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a) and 3551 et seq.)

COUNT THREE
(Hobbs Act Extortion – John Doe 1)

22. In or about and between 2017 and March 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," KYLE JOHNSON, also known as "Twin," VITO RAPPA, also known as "Vi," and FRANCESCO VICARI, also known as "Frank" and "Uncle Ciccio," together with others, did knowingly and intentionally obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, in that the defendants and others obtained property, to wit: money, from John Doe 1, with the consent of John Doe 1, which consent was induced by wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a), 2 and 3551 et seq.)

COUNT FOUR
(Hobbs Act Extortion Conspiracy – Demolition Company 1, John Doe 2, John Doe 3 and John Doe 4)

23. In or about and between January 2019 and February 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," and KYLE JOHNSON, also known as "Twin," together with others, did knowingly and intentionally conspire to obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, in that the defendant and others agreed to obtain property, to wit: money and reduced rates for dumping debris and scrap metals at a transload facility operated by the

owners of Demolition Company 1, the identity of which is known to the Grand Jury, and its officers, agents and representatives, including John Doe 2, John Doe 3 and John Doe 4, individuals whose identities are known to the Grand Jury, with the consent of Demolition Company 1's officers, agents and representatives, including John Doe 2, John Doe 3 and John Doe 4, which consent was to be induced by wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a) and 3551 et seq.)

COUNT FIVE
(Hobbs Act Extortion – Demolition Company 1, John Doe 2,
John Doe 3 and John Doe 4)

24. In or about and between January 2019 and February 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," and KYLE JOHNSON, also known as "Twin," together with others, did knowingly and intentionally obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, in that the defendants and others obtained property, to wit: money and reduced rates for dumping debris and scrap metals at a transload facility operated by the owners of Demolition Company 1, with the consent of Demolition Company 1's officers, agents and representatives, including John Doe 2, John Doe 3 and John Doe 4, which consent was induced by wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a), 2 and 3551 et seq.)

COUNT SIX
(Theft from Employee Benefit Plan)

25. In or about and between January 2019 and February 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the

defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," and ANGELO GRADILONE, also known as "Fifi," together with others, did knowingly and willfully embezzle, steal and unlawfully abstract and convert to their own use and the use of one or more others monies, funds, credits, property and other assets of one or more employee pension and welfare benefit plans subject to Title I of ERISA, to wit: health care benefits and other benefits.

(Title 18, United States Code, Sections 664, 2 and 3551 et seq.)

COUNT SEVEN
(Hobbs Act Extortion Conspiracy – Demolition Company 1, John Doe 2, John Doe 3 and John Doe 4)

26. In or about and between November 2019 and January 2020, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," and ROBERT BROOKE, together with others, did knowingly and intentionally conspire to obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, in that the defendants and others agreed to obtain property, to wit: money, from Demolition Company 1 and its officers, agents and representatives, including John Doe 2, John Doe 3 and John Doe 4, with the consent of Demolition Company 1's officers, agents and representatives, including John Doe 2, John Doe 3 and John Doe 4, which consent was to be induced by wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a) and 3551 et seq.)

COUNT EIGHT
(Hobbs Act Extortion – Demolition Company 1, John Doe 2, John Doe 3 and John Doe 4)

27. In or about and between November 2019 and January 2020, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the

defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," and ROBERT BROOKE, together with others, did knowingly and intentionally obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, in that the defendants and others obtained property, to wit: money, from Demolition Company 1 and its officers, agents and representatives, including John Doe 2, John Doe 3 and John Doe 4, with the consent of Demolition Company 1's officers, agents and representatives, including John Doe 2, John Doe 3 and John Doe 4, which consent was induced by wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a), 2 and 3551 et seq.)

COUNT NINE
(Embezzlement from Employee Benefit Plans)

28. In or about and between March 2020 and April 2020, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant DIEGO TANTILLO, also known as "Danny" and "Daniel," together with others, did knowingly and willfully embezzle, steal and unlawfully abstract and convert to his own use and the use of one or more others monies, funds, credits, property and other assets of one or more employee pension and welfare benefit plans subject to Title I of ERISA, including unpaid monetary contributions contractually vested in such plans and their right to collect monies and funds contractually owed to employee benefit plans established and maintained by Laborers Local Union No. 3 and the New Jersey Building Construction Laborers District Council.

(Title 18, United States Code, Sections 664, 2 and 3551 et seq.)

COUNT TEN
(Hobbs Act Extortion Conspiracy – John Doe 5)

29. In or about and between November 2020 and March 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant JAMES LAFORTE, also known as "Jimmy," together with others, did knowingly and intentionally conspire to obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, in that the defendant and others agreed to obtain property, to wit: money, from John Doe 5, an individual whose identity is known to the Grand Jury, which consent was to be induced by wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a) and 3551 et seq.)

COUNT ELEVEN
(Hobbs Act Extortion – John Doe 5)

30. In or about and between November 2020 and February 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant JAMES LAFORTE, also known as "Jimmy," together with others, did knowingly and intentionally obstruct, delay and affect commerce, and the movement of articles and commodities in commerce, by extortion, in that the defendant and others obtained property, to wit: money, from John Doe 5, with his consent, which consent was induced by wrongful use of actual and threatened force, violence and fear.

(Title 18, United States Code, Sections 1951(a), 2 and 3551 et seq.)

COUNT TWELVE
(Wire Fraud Conspiracy)

31. In or about and between November 2020 and April 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the

defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," and SALVATORE DILORENZO, together with others, did knowingly and intentionally conspire to devise a scheme and artifice to defraud one or more companies that solicited bids for demolition projects in New York City, and to obtain money and property from those companies by means of materially false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice, to transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce writings, signs, signals, pictures and sounds, contrary to Title 18, United States Code, Section 1343.

(Title 18, United States Code, Sections 1349 and 3551 et seq.)

COUNT THIRTEEN
(Theft from Employee Benefit Plan)

32. In or about and between December 2020 and February 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," SALVATORE DILORENZO and VITO RAPPA, also known as "Vi," together with others, did knowingly and willfully embezzle, steal and unlawfully abstract and convert to their own use and the use of one or more others monies, funds, credits, property and other assets of one or more employee pension and welfare benefit plans subject to Title I of ERISA, to wit: health care benefits and other benefits.

(Title 18, United States Code, Sections 664, 2 and 3551 et seq.)

COUNT FOURTEEN
(Conspiracy to Commit Theft from Employee Benefit Plans)

33. In or about and between September 2020 and March 2021, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the

defendants DIEGO TANTILLO, also known as "Danny" and "Daniel," and KYLE JOHNSON, also known as "Twin," together with others, did knowingly and intentionally conspire to embezzle, steal and unlawfully and willfully abstract and convert to their own use and the use of one or more others monies, funds, credits, property and other assets of one or more employee pension and welfare benefit plans subject to Title I of ERISA, to wit: employee health care benefits and employee benefit plan payments, contrary to Title 18, United States Code, Section 664.

34. In furtherance of the conspiracy and to effect its objects, within the Eastern District of New York and elsewhere, the defendants committed and caused to be committed, among others, the following:

OVERT ACTS

(a) In or about December 2020, TANTILLO asked an individual whose identity is known to the Grand Jury ("Individual 1"), who had connections to Laborers' International Union of North America Local 79 ("Local 79"), to assist TANTILLO and JOHNSON with obtaining JOHNSON's admission to Local 79.

(b) On or about December 21, 2020, JOHNSON provided false information relating to his previous employment to TANTILLO, which information JOHNSON and TANTILLO knew to be false.

(c) On or about December 21, 2020, TANTILLO called Individual 1 and provided Individual 1 with the false information relating to JOHNSON's previous employment, which information Individual 1 required in order to help obtain JOHNSON's admission to Local 79.

(d) On or about December 28, 2020, TANTILLO sent documentation containing false information relating to JOHNSON's previous employment to Individual 1, which documentation Individual 1 provided to Local 79.

(e) On or about January 6, 2021, TANTILLO directed Individual 1 to shift hours for work JOHNSON purportedly performed for a non-union company operated by TANTILLO to a union company operated by TANTILLO and others.

(Title 18, United States Code, Sections 371 and 3551 et seq.)

COUNT FIFTEEN
(Witness Retaliation)

35. On or about February 17, 2021, within the Eastern District of New York and elsewhere, the defendants JAMES LAFORTE, also known as "Jimmy," and VINCENT MINSQUERO, also known as "Vinny Slick," together with others, did knowingly and intentionally engage in conduct and thereby cause bodily injury to another person, to wit: John Doe 6, an individual whose identity is known to the Grand Jury, with intent to retaliate against John Doe 6 for (a) the attendance of John Doe 6 as a witness at an official proceeding; and (b) information relating to the commission and possible commission of a Federal offense given by John Doe 6 to one or more law enforcement officers.

(Title 18, United States Code, Sections 1513(b)(1), 1513(b)(2), 2 and 3551 et seq.)

COUNT SIXTEEN
(Felon in Possession of a Firearm)

36. In or about May 2023, within the Southern District of New York, the defendant JAMES LAFORTE, also known as "Jimmy," knowing that he had previously been convicted in a court of one or more crimes punishable by a term of imprisonment exceeding one

year, did knowingly and intentionally possess in and affecting commerce a firearm, to wit: a Smith and Wesson .38 Special caliber revolver.

(Title 18, United States Code, Sections 922(g)(1), 924(a)(2) and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT ONE

37. The United States hereby gives notice to the defendants charged in Count One that, upon their conviction of such offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 1963(a), which requires any person convicted of such offense to forfeit: (a) any interest the person acquired or maintained in violation of Title 18, United States Code, Section 1962; (b) any interest in, security of, claim against, or property or contractual right of any kind affording a source of influence over, any enterprise which the person has established, operated, controlled, conducted or participated in the conduct of, in violation of Title 18, United States Code, Section 1962; and (c) any property constituting, or derived from, any proceeds which the person obtained, directly or indirectly, from racketeering activity, in violation of Title 18, United States Code, Section 1962.

38. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(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 the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 1963(m), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 1963(a) and 1963(m))

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS TWO THROUGH FIVE,
SEVEN, EIGHT, TEN AND ELEVEN

39. The United States hereby gives notice to the defendants charged in Counts Two through Five, Seven, Eight, Ten and Eleven, that, upon their conviction of any such offenses, the government will seek forfeiture in accordance with: (a) Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offenses to forfeit any property, real or personal, constituting or derived from proceeds obtained directly or indirectly as a result of such offenses; and (b) Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, 2461(c), which require the forfeiture of any firearm or ammunition involved in or used in any violation of any criminal law of the United States.

40. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(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 the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 924(d)(1) and 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNTS SIX, NINE AND TWELVE THROUGH FOURTEEN

41. The United States hereby gives notice to the defendants charged in Counts Six, Nine and Twelve through Fourteen that, upon their conviction of any such offenses, the government will seek forfeiture in accordance with Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offenses to forfeit any property, real or personal, constituting, or derived from, proceeds obtained directly or indirectly as a result of such offenses.

42. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(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 the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 981(a)(1)(C); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT FIFTEEN

43. The United States hereby gives notice to the defendants charged in Count Fifteen that, upon their conviction of such offense, the government will seek forfeiture in accordance with (a) Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), which require any person convicted of such offense to forfeit any property constituting, or derived from, proceeds obtained directly or indirectly as a result of such offense; and (b) Title 18, United States Code, Section 1955(d), which provides for the forfeiture of any property, including money, used in violation of Title 18, United States Code, Section 1955.

44. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

(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 the court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Sections 981(a)(1)(C) and 1955(d); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

CRIMINAL FORFEITURE ALLEGATION
AS TO COUNT SIXTEEN

45. The United States hereby gives notice to the defendant charged in Count Sixteen that, upon his conviction of such offense, the government will seek forfeiture in accordance with Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), which require the forfeiture of any firearm or ammunition involved in or used in any knowing violation of Title 18, United States Code, Section 922, including but not limited to a Smith and Wesson .38 Special caliber revolver.

46. If any of the above-described forfeitable 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 the court;

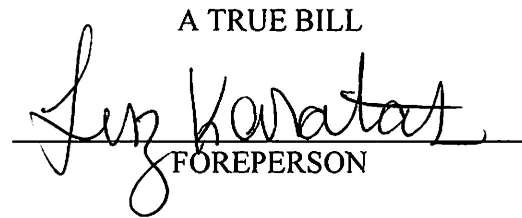
(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the forfeitable property described in this forfeiture allegation.

(Title 18, United States Code, Section 924(d)(1); Title 21, United States Code, Section 853(p); Title 28, United States Code, Section 2461(c))

A TRUE BILL



FOREPERSON

BREON PEACE
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

F.#: 2020R00939
FORM DBD-34
JUN. 85

No.

UNITED STATES DISTRICT COURT

EASTERN *District of* NEW YORK

CRIMINAL DIVISION

THE UNITED STATES OF AMERICA

vs.

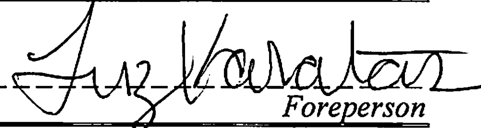
JOSEPH LANNI, also known as "Joe Brooklyn" and "Mommino," DIEGO TANTILLO, also known as "Danny" and "Daniel," ROBERT BROOKE, SALVATORE DILORENZO, ANGELO GRADILONE, also known as "Fifi," KYLE JOHNSON, also known as "Twin," JAMES LAFORTE, also known as "Jimmy," VINCENT MINSQUERO also known as "Vinny Slick," VITO RAPPA, also known as "Vi," and FRANCESCO VICARI, also known as "Frank" and "Uncle Ciccio,"

Defendants.

INDICTMENT

(T. 18, U.S.C. §§ 371, 664, 922(g)(1), 924(a)(2), 924(d)(1), 981(a)(1)(C), 1349, 1513(b)(1), 1513(b)(2), 1513, 1951(a), 1955(d), 1962(d), 1963(a), 1963(m), 2 and 3551 et seq.; T. 21, U.S.C., § 853(p); T. 28, U.S.C. § 2461(c))

A true bill.



_________________________________ *Foreperson*

Filed in open court this ____________________ *day,*
of _____________ *A.D. 20* _____

_______________________________________ *Clerk*

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*Bail, $*_______________________________________

Matthew R. Galeotti, Anna L. Karamigios, Andrew M. Roddin
Assistant U.S. Attorneys (718) 254-7000

U.S. Department of Justice

United States Attorney
Eastern District of New York

MRG/ALK/AMR
F. #2020R00939

271 Cadman Plaza East
Brooklyn, New York 11201

November 8, 2023

By Email and ECF

The Honorable Ramon E. Reyes, Jr.
United States Magistrate Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Joseph Lanni, et al.
Criminal Docket No. 23-443

Dear Judge Reyes:

The government respectfully submits this letter in support of its request that the Court enter permanent orders of detention against the defendants Joseph Lanni, Diego Tantillo, Robert Brooke, Kyle Johnson, Angelo Gradilone, Vincent Minsquero, Vito Rappa and Francesco Vicari, each of whom is a member or associate of the Gambino organized crime family of La Cosa Nostra ("the Gambino crime family" or the "Enterprise"). As set forth below, these defendants pose a danger to the community and a risk of flight and obstruction of justice and cannot be trusted to abide by the terms of release. Therefore, they should be detained pending trial. As to defendant Salvatore DiLorenzo, the government respectfully submits that he should be released only with strict conditions and only after posting substantial, heavily secured bonds signed by financially responsible sureties with adequate moral suasion over him.[1]

I. Background

On November 2, 2023, a grand jury sitting in the Eastern District of New York returned a sixteen-count Indictment variously charging Joseph Lanni, also known as "Joe Brooklyn" and "Mommino," Diego Tantillo, also known as "Danny" and "Daniel," Robert Brooke, Salvatore DiLorenzo, James LaForte, also known as "Jimmy," Angelo Gradilone, also known as "Fifi," Kyle Johnson, also known as "Twin," Vincent Minsquero, also known as "Vinny Slick," Vito Rappa, also known as "Vi," and Francesco Vicari, also known as "Frank" and "Uncle

[1] The defendant James LaForte is currently in pre-trial detention at FDC Philadelphia in connection with charges filed against him in the Eastern District of Pennsylvania, which are described further below. He will appear in this District at a later date.

Ciccio," with the following offenses: racketeering conspiracy, in violation of 18 U.S.C. § 1962(d); multiple counts of Hobbs Act extortion and conspiracy to commit Hobbs Act extortion, in violation of 18 U.S.C. § 1951(a); wire fraud conspiracy, in violation of 18 U.S.C. § 1349; multiple counts of theft and embezzlement from union employee benefit plans, in violation of 18 U.S.C. § 664; witness retaliation, in violation of 18 U.S.C. § 1513; and unlawful possession of firearms, in violation of 18 U.S.C. § 922(g) (the "Indictment").

The Indictment is the result of a multi-year investigation by this Office, the Federal Bureau of Investigation, the Department of Labor – Office of the Inspector General and the New York City Police Department, among others, into the ongoing criminal activities of the Gambino crime family of La Cosa Nostra—a violent criminal enterprise that engages in conduct involving murder, robbery, extortion, money laundering and obstruction of justice. The evidence supporting the charges includes, among other things, the following: (1) judicially-authorized wiretaps on multiple telephones used by defendants Tantillo and Rappa;[2] (2) evidence seized pursuant to search warrants executed at certain of the defendants' residences and offices; (3) text messages, photographs and other materials recovered from cellular telephones and iCloud accounts belonging to the defendants and their co-conspirators; (4) witness statements; (5) consensual recordings; (6) law enforcement surveillance; (7) bank and other financial records; (8) telephone records; and (9) physical evidence.

In a coordinated operation, following a parallel investigation, Italian law enforcement today arrested six organized crime members and associates who are charged with, among other crimes, narcotics trafficking.

II. Relevant Offense Conduct[3]

A. The Defendants' Membership in, and Association with, the Gambino Crime Family

As alleged in the Indictment, the defendant Joseph Lanni is a captain in the Gambino crime family; Diego Tantillo, Angelo Gradilone and James LaForte are soldiers in the Gambino crime family; Robert Brooke,[4] Salvatore DiLorenzo, Kyle Johnson and Vincent Minsquero are associates of the Gambino crime family; Vito Rappa is a member of the Sicilian

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[2] The government hereby provides notice to the defendants pursuant to 18 U.S.C. § 2518(9) of its intent to rely on wiretap and oral interceptions at the detention hearing in this case. In order to preserve the integrity and confidentiality of the government's investigation, notice to the defendants of the interceptions prior to their arrest was not feasible.

[3] The proffer of facts set forth herein does not purport to provide a complete statement of all facts and evidence of which the government is aware or that it will seek to introduce at trial. The government is entitled to proceed by proffer in a detention hearing. United States v. Abuhamra, 389 F.3d 309, 320 n.7 (2d Cir. 2004); United States v. LaFontaine, 210 F.3d 125, 130-31 (2d Cir. 2000).

[4] Brooke is not charged with racketeering conspiracy.

mafia and an associate of the Gambino crime family; and Francesco Vicari is an associate of the Sicilian mafia and an associate of the Gambino crime family.

The government will prove the defendants' membership in and/or association with the Gambino crime family through wiretap intercepts, consensual recordings, text messages, bank records, witness testimony, surveillance evidence and physical evidence. For example, the investigation has revealed that Tantillo and LaForte were "made"—or formally inducted—into the Gambino crime family on October 17, 2019. Below is a photograph of Tantillo and Gradilone together the day of the induction ceremony.

Earlier that morning, Tantillo and Rappa exchanged the following text messages, using the thinly veiled code of "new job" and "contract" to signify Tantillo's induction into the Gambino crime family:

RAPPA:	Good morning Dani have a great day so happy for your new job and when you sign the contract even if I'm not there is like I am very proud good luck !!
TANTILLO:	Ty Vito I really wish you were there since you were one of the people help me get this contract. I hope we continue getting more work and everything gets even better than before. Ty as always
RAPPA:	We will continue have a great day!!

Rappa, who is a member of the Sicilian mafia but not a "made" Gambino crime family member, was not permitted to be present during the ceremony under the Gambino crime family's rules.

Financial records demonstrate that Tantillo, Gradilone and LaForte "kicked up" to their captain, Lanni. "Kick ups" are portions of any earnings made by lower ranking members and associates of a crime family that are paid up to higher ranking members of the crime family as tribute. For example, records demonstrate that two companies owned or operated by LaForte, namely Complete Business Solutions Group, Inc. ("CBSG," also known as "Par Funding") and Eagle Six Consultants, through a series of transactions, provided more than one and half million dollars in purported "loans" to Lanni-operated companies which were in fact payments from LaForte to Lanni to conceal the underlying source of the funds—proceeds of LaForte's criminal activity—and to promote the criminal activity and enrich the members of the Enterprise (i.e., kick up payments).

In addition, associates of the Enterprise made payments to members of the Enterprise to further their mutual financial interests, in particular in the carting and demolition industries. For example, JAS Holding LLC, an entity operated by DiLorenzo, issued six checks to Tantillo—totaling $300,000—between February 10, 2020 and March 27, 2020. At the time DiLorenzo made those payments, DiLorenzo was the trustee of a particular union benefit fund, and Tantillo was in control of companies that were signatories to the union's collective bargaining agreement.

B. Carting and Demolition Industry Extortions, Thefts, Embezzlements and Frauds

The investigation has revealed that, since at least 2017, the defendants have profited from extorting individuals in the New York carting and demolition industries, including through actual and threatened violence, stealing and embezzling from union employee benefit plans and conspiring to rig bids for lucrative demolition jobs.

1. Extortions of John Does 1-4 and Demolition Company 1

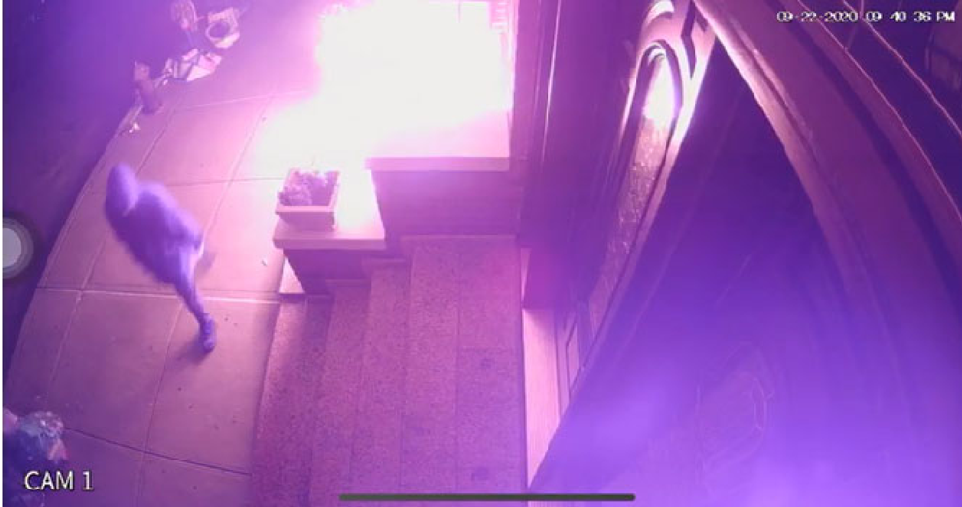
The government's investigation has shown that, beginning in approximately 2017 and continuing for years, defendants Tantillo, Johnson, Rappa and Vicari extorted an individual who owns a carting and hauling company in the New York City area (John Doe 1). Tantillo, Johnson and Brooke also variously extorted three individuals (John Does 2–4) who own a demolition company (Demolition Company 1). As explained in more detail below, these extortions involved lighting the steps of John Doe 1's home on fire, attempts to damage John Doe 1's carting trucks, the violent assault—with a hammer—of an employee at Demolition Company 1, and the violent assault of one of the owners of Demolition Company 1 (John Doe 2).

i. Extortion of John Doe 1

As noted, the government's investigation has shown that, beginning in late 2017, Tantillo began demanding monthly extortion payments from John Doe 1. The collection of those extortionate payments included repeated threats of physical and economic harm from Tantillo, Rappa and Vicari. For example, while John Doe 1 was making a $1,000 payment to Tantillo, Tantillo showed John Doe 1 a metal baseball bat and told John Doe 1 the baseball bat was for him. When law enforcement executed a judicially-authorized search on Tantillo's premises, they recovered a bat from Tantillo's vehicle, which is pictured below.

On another occasion, Rappa sent John Doe 1 a photograph of John Doe 1's place of business late at night, conveying that Rappa, or someone acting for him, had been there.

After John Doe 1 attempted to stop making extortionate payments, the defendants took increasingly violent action, and enlisted defendant Kyle Johnson, a close associate of Tantillo and other Gambino crime family members, to assist them in those efforts. For example, the investigation revealed that Johnson's iCloud contained a photograph of John Doe 1's place of business dated March 30, 2020 and a note containing the address, including the suite number, with the instruction, "gotta get past front gates." Then, on September 22, 2020, at approximately 9:40 p.m., someone set fire to the steps of John Doe 1's home, while his wife and children were inside. A still image of surveillance video of the arson is below.



Less than a month later, on or about October 15, 2020, an individual who was sent by defendants Tantillo and Johnson broke into John Doe 1's place of business and attempted to slash the tires to several of John Doe 1's hauling trucks. When those efforts failed, the individual let the air out of the tires. An employee who did not notice the flat tires attempted to drive one of the trucks, at which point the tires came off the truck, damaging the vehicle.

Two weeks later, on October 29, 2020, an employee at Demolition Company 1 ("the Employee"), who often gave business to John Doe 1's hauling company and was a close

business associate of John Doe 1, was violently assaulted with a hammer. The Employee bled badly and was hospitalized. As detailed further below, this hammer assault also furthered the purposes of a separate extortion scheme by Tantillo and Johnson to extort Demolition Company 1 and John Does 2–4.

After the arson at John Doe 1's home, the damage to John Doe 1's trucks, and the hammer assault of the Employee, Vicari and Rappa approached John Doe 1's associate and threatened him and John Doe 1 if the associate did not get John Doe 1 to make extortionate payments. Rappa and Vicari called Tantillo immediately afterwards to summarize the events and reported to Tantillo that the associate "almost started crying." During another intercepted phone call, Rappa told Tantillo that Vicari "acted like the 'Last of the Samurai,'" during their meeting with the associate. Rappa described how Vicari picked up a knife and directed John Doe 1's associate to threaten to cut John Doe 1 in half in order to get John Doe 1 to make extortionate payments: "Get this axe and you make him – two."

Shortly after the defendants approached John Doe 1's associate, John Doe 1 resumed making extortionate payments to Tantillo, which were coordinated through Rappa and Vicari. After John Doe 1 made one such extortionate payment to Vicari, Rappa and Vicari met and took a photo of Vicari toasting a small champagne bottle (below), which Rappa then sent to Tantillo.

ii. Extortions of Demolition Company 1 and John Does 2–4

The investigation has also revealed that Tantillo, Brooke and Johnson engaged in two separate violent extortion schemes of Demolition Company 1 and its owners, John Does 2–4, over purported debts owed to Tantillo and to a company operated by Tantillo and Brooke, Specialized Concrete Cutting Corp. ("Specialized").

With respect to the latter extortion, Tantillo and Brooke demanded $40,000 from the owners of Demolition Company 1, in connection with amounts Tantillo and Brooke alleged Demolition Company 1 owed to Specialized. When the owners of Demolition Company 1 did not pay the $40,000, Brooke violently assaulted one of the owners (John Doe 2) on a street corner in midtown Manhattan, including by punching him in the face repeatedly, bloodying his face and giving him a black eye. A photograph of John Doe 2, bruised and bleeding after his face had been cleaned by emergency responders, is attached under seal as Exhibit 1.[5]

As noted, Tantillo and Johnson also extorted Demolition Company 1 and John Does 2–4 in connection with money and other financial benefits Tantillo demanded as part of his buyout from Demolition Company 1 (where he at one time worked and was a part owner). The investigation has revealed that John Does 2–4 fired Tantillo from Demolition Company 1 due to his ties to organized crime in approximately spring or summer 2019. In the ensuing months, Tantillo often called and texted John Does 2–4 about being bought out of the company. At times, Tantillo's communications were aggressive. Then, as noted above, in December 2019, John Doe 2 was violently assaulted in the street. After that assault, John Does 2-4 paid Tantillo $50,000 and $3,950,000 in the form of 20% discounts for the use of a transload facility operated by the owners of Demolition Company 1.

Negotiations over additional amounts Tantillo demanded continued throughout 2020 and became increasingly contentious. Then, on October 29, 2020, the Employee was violently assaulted with a hammer by an individual sent by Tantillo and Johnson. That morning, at approximately 6:30 a.m., an unknown individual came to the Employee's office, knocked on the door, and, when the Employee opened the door, began assaulting the Employee with a hammer. The assailant stopped only when another employee arrived and disrupted the assault. A photograph of the Employee taken at the hospital is attached in a sealed filing as Exhibit 2.

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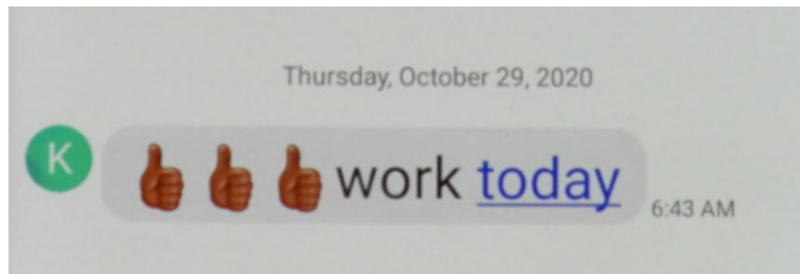
[5] The government files this photograph, and the photograph of the Employee referenced below, under seal to protect the privacy interests of John Doe 2 and the Employee. See, e.g., United States v. Longueuil, 567 F. App'x 13, 16 (2d Cir. 2014) (summary order) (discussing the sealing of documents which contain sensitive witness information); United States v. Amodeo, 71 F.3d 1044, 1050 (2d Cir. 1995) ("The privacy interests of innocent third parties . . . should weigh heavily" when determining whether public access is appropriate.).

Minutes after the assault, Johnson texted Tantillo three thumbs-up emojis followed by "work today," as pictured below.



The investigation further revealed that Johnson had photographs of John Doe 3 and of John Doe 3's house, with a post-it note containing John Doe 3's name and home address, in his iCloud account. Similarly, Johnson also had the names of John Doe 2 and John Doe 4 and their addresses saved in his iCloud account.

2. <u>Theft and Embezzlement from Employee Benefit Plans</u>

The defendants also committed a series of crimes to steal and embezzle from unions and employee benefit plans. Specifically, Tantillo, aided by co-conspirators, obtained no-show and low-show jobs for his associates Rappa and Gradilone and attempted to obtain a no-show or low-show job for Johnson. As to Rappa, defendant Salvatore DiLorenzo provided Rappa with a no-show job at a company owned by DiLorenzo. Through the no-show jobs, Gradilone and Rappa received health care benefits, paid for by unions, to which they were not entitled, in addition to receiving paychecks for work they did not perform.

Tantillo also embezzled from union employee benefits plans by using laborers from a non-union company, Gane Services, Inc., to perform work for union companies operated by Tantillo, and failing to make contributions for such work as required by collective bargaining agreements.

3. <u>Bid Rigging Conspiracy</u>

The investigation also revealed that Tantillo, DiLorenzo and others conspired to rig bids for lucrative demolition jobs. Pursuant to the conspiracy, Tantillo, DiLorenzo and their co-conspirators agreed to share information regarding their bids and to adjust their bids so that DiLorenzo's company would win the contract. DiLorenzo's company would then subcontract portions of the job to the co-conspirators' companies. The investigation revealed that, in early 2021, Tantillo, DiLorenzo and other co-conspirators agreed to rig their bids for a demolition job at 665 Fifth Avenue in New York City ("the Rolex Building"). For example, during an intercepted phone call, Tantillo informed DiLorenzo, "Tomorrow I got that call with the Rolex Building." DiLorenzo responded, "ok," to which Tantillo stated "that's what I wanted to tell you." DiLorenzo then told Tantillo "I know we put a number in on it too. I don't know what the fuck is going on with that. Did you talk to [Co-Conspirator-1] on that?" Emails seized pursuant to judicially-authorized search warrants reflect that Co-Conspirator-1, who worked at DiLorenzo's company, later sent Tantillo DiLorenzo's company's bid estimate.

C. Witness Retaliation

In February 2021, LaForte and Minsquero assaulted a person (John Doe 6), who they believed had previously provided information to law enforcement about members and associates of organized crime, while Lanni sat nearby. That evening, John Doe 6, his girlfriend, and their friends went to Sei Less, a restaurant near West 38th Street and Broadway in Manhattan. According to witnesses, while the group was waiting to pay their bill, LaForte and Minsquero approached their table. LaForte called John Doe 6 a "rat" and hit John Doe 6 in the face with a bottle. LaForte and Minsquero also flipped John Doe 6's table, sending drinks and shattered glass everywhere. John Doe 6 suffered a bloody nose from being hit with the bottle by LaForte.

D. Extortion of John Doe 5

In 2020 and 2021, LaForte extorted John Doe 5, a person who owed money to a third individual (the "Lender"), who was an associate of LaForte. In approximately November 2020, John Doe 5 borrowed $50,000 from the Lender and failed to pay it back on time. Within a few weeks of being introduced to the Lender, John Doe 5 was also introduced to LaForte, who asked John Doe 5 to run an illegal poker game for LaForte in exchange for a loan of $250,000 from LaForte. John Doe 5 agreed to run the poker game and later agreed to run a second poker game for LaForte in exchange for LaForte's promise to cover part of John Doe 5's debt to the Lender. LaForte also offered to be "partners" in running a craps game with John Doe 5 and included players in the craps game who bet on credit—that is, without having to pay in. When John Doe 5 asked LaForte after the craps game for John Doe 5's share of the earnings from running the game, LaForte became angry, screaming at John Doe 5 that John Doe 5 could not tell him what to do, and hit John Doe 5 in the face, knocking John Doe 5 backward and giving him a black eye. LaForte later contacted John Doe 5's father in an effort to force John Doe 5 to pay what LaForte said was John Doe 5's debt.

In text messages exchanged in November 2020, shortly after John Doe 5's loan from the Lender, the Lender wrote that "[t]his other punk [John Doe 5] is playing games," "Might ride up to his house Saturday with one of my guys from down here." Another party to the conversation responded, "I took him up to c jimmy made it clear" and later added, "Well [sic] get it. He's scared to death of jimmy".

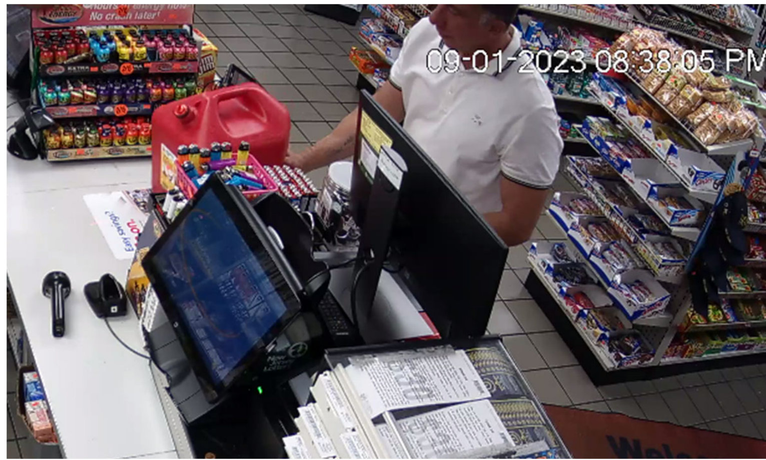
E. Uncharged Violent Acts and Threats

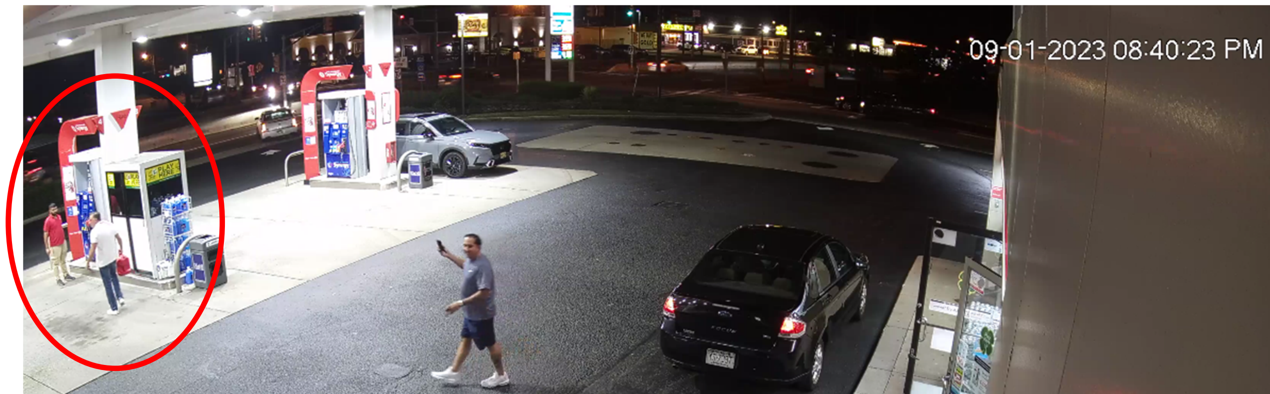
On September 1, 2023, Lanni and Minsquero caused a disturbance at Roxy's Bar and Grille, a restaurant in Toms River, New Jersey, and threatened the owner of the restaurant (the "Owner") and the Owner's spouse (the "Spouse").

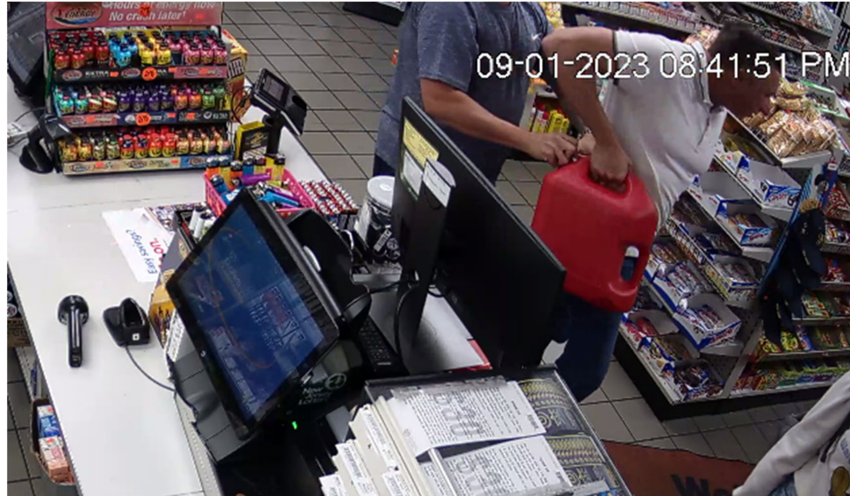
The Owner and the Spouse were working at the restaurant on September 1, 2023. The Owner was introduced to Lanni and Minsquero during the afternoon or evening by the bartender who was serving them, and the Owner learned Lanni's name to be Joe. At approximately 8:15 p.m. that evening, Lanni and Minsquero got into an argument with another patron that led the restaurant's staff to ask them to leave. While being escorted out of the restaurant, both Lanni and Minsquero became belligerent. Minsquero damaged a painting and punched a wall, and Lanni told the Owner, in substance, that he would "burn this place down with you in it." Lanni referred

to himself as a "Gambino" around this time. A member of the restaurant's staff called the Toms River Police Department, who responded to the restaurant and told Lanni and Minsquero not to return. Lanni and Minsquero left.

Video footage from a gas station across the street from Roxy's Bar and Grille shows Lanni and Minsquero at the gas station approximately 18 minutes after the above-described incident. The video shows Lanni—minutes after threatening to burn down the restaurant—purchasing a red gas container, walking to a pump, and trying briefly to fill the container with gas before apparently being dissuaded by Minsquero and a gas station attendant. The video then shows Minsquero reentering the gas station and returning the gas container (while Lanni attempted to physically prevent him from doing so). The still images below show Lanni buying the gas container, attempting to fill it, and trying to prevent Minsquero from taking the gas container away from him.







Telephone records show that, after being told to leave, Lanni called Roxy's Bar and Grille approximately 39 times between September 1, 2023 and September 2, 2023. At approximately 9:41 p.m., body-worn camera video from a Toms River police officer shows the Owner on the phone with Lanni and saying, "Stop calling my business," as the officer approached. When the officer took the phone from the Owner and tried to speak with Lanni, Lanni—who had already attempted to intimidate the Owner by identifying himself as a member of an organized crime family—said, "Apologize to me," and repeated, "Beg for my forgiveness. Beg for my forgiveness. Beg for my forgiveness . . . Beg. Beg. Beg for my forgiveness. Beg. Beg. Beg for my forgiveness. Say, 'I'm sorry, Joe.'"

At approximately 12:00 a.m. on September 2, 2023—i.e., approximately four hours after Lanni and Minsquero were asked to leave Roxy's Bar and Grille, approximately three and a half hours after Lanni attempted to buy a gasoline container, and approximately two and a half hours after Lanni demanded that the Owner "beg for [his] forgiveness"—the Owner walked out of Roxy's and into the parking lot, accompanied by the Spouse. The Owner got into the driver's seat of a car while the Spouse stood outside the car talking with the Owner through the open driver's side window. While the Owner and the Spouse were talking, a man got into the front passenger door of the Owner's car, punched the Owner in the head, put a knife to the Owner's neck, and threatened to kill the Owner. The Spouse ran to help the Owner and was punched and knocked to the ground by a second man. Both perpetrators then beat the Spouse while the Spouse was on the ground. The man with the knife slashed the Owner's tires with the knife and pointed the knife at the Spouse before leaving on foot.

F. <u>James LaForte is Detained on Other Charges</u>

Defendant James LaForte is currently in pre-trial detention at FDC Philadelphia in relation to charges filed against him in the Eastern District of Pennsylvania. There, LaForte has been charged with conspiracy to commit wire fraud and securities fraud in connection with funds that were raised from investors Complete Business Solutions Group, Inc., doing business as Par Funding, and its affiliates, and extortionate collection of credit. The indictment also alleges that Joseph LaForte and James LaForte engaged in obstruction of justice, witness tampering, and retaliation. Specifically, it is alleged that in late February 2023, on the streets of Center City

Philadelphia, James LaForte, with the assistance of and in coordination with Joseph LaForte, physically assaulted counsel for the receiver for Par Funding in a lawsuit brought by the U.S. Securities and Exchange Commission in the Southern District of Florida. Moreover, in connection with the same lawsuit, the indictment alleges that Joseph LaForte threatened to cause serious bodily injury to another individual in November 2022. Lastly, it is alleged that James LaForte made threats of violence to multiple parties in early 2023 in an effort to interfere with the SEC lawsuit, a federal grand jury investigation, and an anticipated federal prosecution, as well as to retaliate against these parties.

III. Summary of the Counts Against Each Defendant

As noted, on November 2, 2023, a grand jury in this District returned the Indictment, which charges the defendants with various crimes stemming from the above-detailed offense conduct. The chart below sets forth the crimes charged against each defendant:

Defendant	**Charges**
Joseph Lanni	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One)
Diego Tantillo	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One) • Hobbs Act Extortion and Conspiracy – John Doe 1, in violation of 18 U.S.C. § 1951(a) (Counts Two and Three) • Hobbs Act Extortion and Conspiracy – Demolition Company 1 and John Does 2 through 4 from January 2019 through February 2021, in violation of 18 U.S.C. § 1951(a) (Counts Four and Five) • Theft from Employee Benefit Plan – Gradilone No Show Job, in violation of 18 U.S.C. § 664 (Count Six) • Hobbs Act extortion and conspiracy – Demolition Company 1 and John Does 2 through 4 from November 2019 through January 2020, in violation of 18 U.S.C. § 1951(a) (Counts Seven and Eight) • Embezzlement from Employee Benefit Plans, in violation of 18 U.S.C. § 664 (Count Nine) • Wire Fraud Conspiracy, in violation of 18 U.S.C. § 1349 (Count Twelve)

Defendant	Charges
	• Theft from Employee Benefit Plan – Rappa No Show Job, in violation of 18 U.S.C. § 664 (Count Thirteen) • Conspiracy to Commit Theft from Employee Benefit Plan – Johnson No Show Job, in violation of 18 U.S.C. § 371 (Count Fourteen)
Robert Brooke	• Hobbs Act extortion and conspiracy – Demolition Company 1 and John Does 2 through 4 from November 2019 through January 2020, in violation of 18 U.S.C. § 1951(a) (Counts Seven and Eight)
Salvatore DiLorenzo	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One) • Wire Fraud Conspiracy, in violation of 18 U.S.C. § 1349 (Count Twelve) • Theft from Employee Benefit Plan – Rappa No Show Job, in violation of 18 U.S.C. § 664 (Count Thirteen)
Angelo Gradilone	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One) • Theft from Employee Benefit Plan – Gradilone No Show Job, in violation of 18 U.S.C. § 664 (Count Six)
Kyle Johnson	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One) • Hobbs Act Extortion and Conspiracy – John Doe 1, in violation of 18 U.S.C. § 1951(a) (Counts Two and Three) • Hobbs Act Extortion and Conspiracy – Demolition Company 1 and John Does 2 through 4 from January 2019 through February 2021, in violation of 18 U.S.C. § 1951(a) (Counts Four and Five) • Conspiracy to Commit Theft from Employee Benefit Plan – Johnson No Show Job, in violation of 18 U.S.C. § 371 (Count Fourteen)

Defendant	Charges
James LaForte	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One) • Hobbs Act Extortion and Conspiracy – John Doe 5, in violation of 18 U.S.C. § 1951(a) (Counts Ten and Eleven) • Witness Retaliation, in violation of 18 U.S.C. § 1513 (Count Fifteen) • Felon in Possession of a Firearm, in violation of 18 U.S.C. § 922(g) (Count Sixteen)
Vincent Minsquero	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One) • Witness Retaliation, in violation of 18 U.S.C. § 1513 (Count Fifteen)
Vito Rappa	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One) • Hobbs Act Extortion and Conspiracy – John Doe 1, in violation of 18 U.S.C. § 1951(a) (Counts Two and Three) • Theft from Employee Benefit Plan – Rappa No Show Job, in violation of 18 U.S.C. § 664 (Count Thirteen)
Frank Vicari	• Racketeering Conspiracy, in violation of 18 U.S.C. § 1962(d) (Count One) • Hobbs Act Extortion and Conspiracy – John Doe 1, in violation of 18 U.S.C. § 1951(a) (Counts Two and Three)

IV. Legal Standard

In deciding whether to release or detain a defendant, a court "must undertake a two-step inquiry." United States v. Friedman, 837 F.2d 48, 49 (2d Cir. 1988). "It must first determine by a preponderance of the evidence that the defendant either has been charged with one of the crimes enumerated in Section 3142(f)(1)," which includes a "crime of violence," or that the defendant presents a risk of flight or obstruction of justice" under Section 3142(f)(2). Id. "Once this determination has been made, the court turns to whether any condition or combinations of

conditions of release will protect the safety of the community and reasonably assure the defendant's appearance at trial." Id.

If the court finds that "no condition or combination of conditions will reasonably assure the appearance of the person as required and the safety of any other person and the community," the court "shall order" a defendant detained. 18 U.S.C. § 3142(e)(1). The government bears the burden of persuading the court by a preponderance of the evidence that the defendant is a flight risk or by clear and convincing evidence that the defendant is a danger to the community. United States v. Mercedes, 254 F.3d 433, 436 (2d Cir. 2001).

Whether detention is sought on the basis of flight or dangerousness, the Bail Reform Act lists four factors to be considered in the detention analysis: (1) the nature and circumstances of the crimes charged, "including whether the offense is a crime of violence . . . or involves a . . . firearm"; (2) the weight of the evidence against the defendant; (3) the history and characteristics of the defendant, including "whether, at the time of the current offense or arrest, the person was on probation [or] on parole"; and (4) the seriousness of the danger posed by the defendant's release. See 18 U.S.C. § 3142(g). Specifically, in evaluating dangerousness, courts consider not only the effect of a defendant's release on the safety of identifiable individuals, such as victims and witnesses, but also "'the danger that the defendant might engage in criminal activity to the detriment of the community.'" United States v. Millan, 4 F.3d 1038, 1048 (2d Cir. 1993) (quoting legislative history).

V. Detention is Warranted as to Defendants Lanni, Tantillo, Brooke, Gradilone, Johnson, Minsquero, Rappa and Vicari

As an initial matter, defendants Lanni, Tantillo, Brooke, Gradilone, Johnson, Minsquero, Rappa and Vicari are each eligible for detention under both Section 3142(f)(1) and 3142(f)(2). As to the former, the defendants have all been charged with either extortion or a racketeering conspiracy, one object of which was to commit extortion, or both. As the Second Circuit explained in affirming the detention of a leader in the Gambino crime family:

> [Defendant] has been charged with engaging in a RICO conspiracy, the substantive basis for which was the RICO enterprise termed the Gambino Crime Family, which is alleged in the indictment to be an organization whose purposes include committing extortion. Certainly, it cannot be gainsaid that extortion is a "crime of violence" as that term is defined by the BRA.

United States v. Ciccone, 312 F.3d 535, 542 (2d Cir. 2002); see also United States v. Santora, 225 F. App'x 21, 22 (2d Cir. 2007) (upholding district court's finding for pretrial detention purposes that defendant "had committed a crime of violence, specifically conspiracy to commit extortion" (citing 18 U.S.C. § 3142(e); Ciccone, 312 F.3d at 541)).[6] As to Section 3142(f)(2), as explained further below, each of these defendants poses a risk of flight and obstruction of justice.

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[6] The Second Circuit has made clear that United States v. Davis, 139 S. Ct. 2319 (2019) and its progeny have no impact on the definition of "crime of violence" under the Bail

A. The Nature and Circumstances of the Charged Offenses

The seriousness of the danger posed by the defendants' release should not be underestimated given the nature and circumstances of the charged offenses and their membership in, and association with, the Gambino crime family.

1. The Seriousness of the Danger Posed by the Defendants

As detailed extensively above, the nature and circumstances of the charged offenses—which include racketeering conspiracy, multiple extortions, violent assaults, witness retaliation and arson—are indisputably serious. Over the course of years, these defendants have instilled fear throughout the demolition industry and in other circumstances to benefit themselves financially. Given their demonstrated willingness to use actual and threatened violence against extortion victims and others, there is a substantial risk that, if allowed to remain at liberty, the defendants would attempt to intimidate or harm those believed to be witnesses in the government's case. See 18 U.S.C. § 3142(f)(2); United States v. Madoff, 586 F. Supp. 2d 240, 247 (S.D.N.Y. 2009) (preponderance of the evidence standard applies to determination of both risk of flight and risk of obstruction of justice).

Indeed, with respect to organized crime defendants, courts have observed that such defendants pose a particular threat to the community due to the continuing nature of these criminal organizations. At bottom, because organized crime defendants are often career criminals who belong to an illegal enterprise, they pose a distinct threat to commit additional crimes if released on bail. See United States v. Salerno, 631 F. Supp. 1364, 1375 (S.D.N.Y. 1986) (finding that the illegal businesses of organized crime require constant attention and protection, and recognizing a strong incentive on the part of its leadership to continue business as usual).

Pretrial detention is particularly warranted when defendants, charged with violent crimes, are leaders or high-ranking members of a criminal organization whose activities routinely include violence and threats of violence. See Ciccone, 312 F.3d at 543; United States v. Colombo, 777 F.2d 96, 99-100 (2d Cir. 1985); United States v. Bellomo, 944 F. Supp. 1160, 1166 (S.D.N.Y. 1996). Courts in this Circuit have recognized that when organized crime depends on a pattern of violent conduct of the sort charged in this case, the risk to the community is substantial and justifies detention. For example, in Defede, Lucchese crime family member Joseph Defede was charged with extortion and extortion conspiracy. The district court ordered Defede's pretrial detention, finding that the government had shown by clear and convincing evidence that Defede was the acting boss of the Lucchese family, thus rendering him a danger to public safety: "The acting boss of the Luchese family supervises all of its far-flung criminal activities, including acts of violence.

Reform Act. See, e.g., United States v. Watkins, 940 F.3d 152, 167 (2d Cir. 2019) (explaining that the Bail Reform Act "does not define criminal offenses, fix penalties, or implicate the dual concerns [of fair notice and preventing arbitrary enforcement] underlying the void-for-vagueness doctrine, it is not amenable to a due process challenge and is therefore not unconstitutionally vague"); see also United States v. Bush, No. 18-CR-00907-PAC, 2021 WL 371782, at *2 (S.D.N.Y. Feb. 3, 2021), appeal dismissed sub nom. United States v. Johnson, No. 21-199, 2021 WL 1811527 (2d Cir. May 4, 2021).

Defede's continued liberty therefore presents a substantial danger to the public . . . ." Defede, 7 F. Supp. 2d at 395.

Moreover, a court in this District denied bail to the acting boss of the Genovese family who "participated at the highest levels in directing an organization alleged in the indictment to be committed to acts of violence to perpetuate its activities and insulate itself from detection by law enforcement," United States v. Cirillo, Cr. No. 05-212 (SLT), slip op. at 7 (E.D.N.Y. 2005), as well as a former acting boss who "is at the highest levels of the Genovese family, participating in highly secret induction ceremonies and sit-downs, and representing the family in important meetings," id. at 11. The Second Circuit affirmed those findings by summary order. See 149 F. App'x at 43 (2d Cir. 2005) ("This court has affirmed the detention of the leaders of organized crime enterprises on the ground that their continued liberty presents a risk to the public not only from their own violent activities but from those of subordinates whom they supervise." (citing Ciccone, 312 F.3d at 543)).

To be sure, decisions to deny bail to organized crime leaders have not been based solely on the defendants' mere "association" with organized crime, but rather on the evidence that members of organized crime, and in particular, high-ranking members of organized crime, routinely engage in acts of violence as a result of their position in a criminal enterprise. Nor is the above caselaw narrowly limited to organized crime "bosses" or "acting bosses." In Salerno, 631 F. Supp. at 1374-75, the court held that a defendant would be a danger to the community if released on bail based on evidence that he was a captain in an organized crime family who managed the enforcement operations of the enterprise. Likewise, in Colombo, 777 F.2d at 99-100, a captain of a crew in the Colombo family was ordered detained because the operation of that organization posed a risk to the public and a danger to the community by its "consistent pattern of orchestrating a series of violent criminal operations."

Accordingly, courts in this Circuit have routinely detained organized crime defendants charged with racketeering-related offenses. See, e.g., United States v. Giallanzo, et al., No. 17-CR-155 (DLI) (E.D.N.Y. 2007) (Bonanno family acting captain Ronald Giallanzo, soldiers Michael Palmaccio, Michael Padavona and Nicholas Festa and associates Christopher Boothby, Evan Greenberg, Michael Hintze and Robert Tanico all detained as dangers to the community); Cirillo, slip op. (E.D.N.Y. 2005) (Genovese family acting bosses Dominick Cirillo and Lawrence Dentico, as well as Genovese family captain Anthony Antico, detained as dangers to the community), aff'd, 149 Fed. Appx. 40 (2d Cir. 2005); United States v. Gotti, 219 F. Supp. 2d 296, 299-300 (E.D.N.Y. 2002) (Gambino family acting boss Peter Gotti detained as danger to the community), aff'd, United States v. Ciccone, 312 F.3d 535, 543 (2d Cir. 2002); United States v. Agnello, 101 F. Supp. 2d 108, 116 (E.D.N.Y. 2000) (Gambino family captain Carmine Agnello detained as danger to the community); United States v. Defede, 7 F. Supp. 2d 390, 395-96 (S.D.N.Y. 1998) (Lucchese family acting boss Joseph Defede detained as danger to the community); United States v. Salerno , 631 F. Supp. 1364, 1375 (S.D.N.Y. 1986) (Genovese acting boss and captain detained as danger to the community), order vacated, 794 F.2d 64 (2d Cir.), order reinstated, 829 F.2d 345 (2d Cir. 1987).

2. Risk of Flight

The defendants each also pose a serious risk of flight. The charged offenses carry significant penalties that give the defendants a strong incentive to flee. Racketeering conspiracy alone carries a statutory maximum sentence of twenty years' imprisonment. Each extortion count, and the charged witness retaliation count, also carry potential sentences of twenty years in prison. The defendants variously face maximum sentences between 20 and 180 years' imprisonment. These penalties give the defendants an overwhelming incentive to flee and to obstruct justice. See, e.g., United States v. Williams, No. 20-CR-293 (WFK), 2020 WL 4719982, at *2 (E.D.N.Y. Aug. 13, 2020) (holding that an estimated Guidelines range of "92 to 115 months' imprisonment" gave defendant "a strong incentive to flee"); United States v. Dodge, 846 F. Supp. 181, 184-85 (D. Conn. 1994) (holding that the possibility of a "severe sentence" heightens the risk of flight).

Moreover, as evidence by the financial transactions detailed above (which are only examples) the defendants have significant financial resources and thus the ability to flee.

3. With the Exception of DiLorenzo, Elaborate Bail Packages Would be Insufficient to Protect the Community

With the exception of DiLorenzo, elaborate bail packages would be insufficient to protect the community. The Second Circuit repeatedly has rejected "elaborate" bail packages for dangerous defendants, including members of organized crime families shown to be involved in violent criminal activities. See Ferranti, 66 F.3d at 543-44 (rejecting $1 million bail secured by real property); United States v. Orena, 986 F.2d 628, 630-33 (2d Cir. 1993) (rejecting $3 million bail secured with real property, in-home detention, restricted visitation and telephone calls, and electronic monitoring); Colombo, 777 F.2d at 97, 100 (rejecting, among other conditions of release, $500,000 bail secured by real property); see also United States v. Boustani, 932 F.3d 79 (2d Cir. 2019) (holding that Bail Reform Act does not permit two-tiered bail systems where wealthy defendants are effectively released to self-funded private jails).

The Second Circuit has also viewed home detention and electronic monitoring as insufficient to protect the community against dangerous individuals. In United States v. Millan, the Second Circuit held that:

> Home detention and electronic monitoring at best elaborately replicate a detention facility without the confidence of security such a facility instills. If the government does not provide staff to monitor compliance extensively, protection of the community would be left largely to the word of [the defendants] that [they] will obey the conditions.

4 F.3d 1039, 1049 (2d Cir. 1993) (internal citations and quotation marks omitted). See also Orena, 986 F.2d at 632 ("electronic surveillance systems can be circumvented by the wonders of science and of sophisticated electronic technology" (internal citation and quotation marks omitted)). Notably, in United States v. Dono, where the prior pretrial detention of defendant Michael Uvino was at issue for assaulting two individuals in September 2007 and using a firearm during the assault, the Second Circuit rejected conditions that included, among others, home detention and

electronic monitoring, and requirement that Uvino's father—a retired police officer—take "personal responsibility" for defendant. See 275 F. App'x 35, 2008 WL 1813237, at *2-3 (2d Cir. Apr. 23, 2008).

Similarly, courts in this District have denied dangerous defendants bail in recognition of the Second Circuit's dim view of the effectiveness of home detention and electronic monitoring. See, e.g., Dono, 2008 WL 1813237, at *2-3 (noting that the idea that "'specified conditions of bail protect the public more than detention is flawed'" (quoting Orena, 986 F.2d at 632)); United States v. Cantarella, No. 02-CR-307 (NGG), 2002 WL 31946862, at *3-4 (E.D.N.Y. Nov. 26, 2002) (adopting "principle" of "den[ying] bail to 'dangerous' defendants despite the availability of home detention and electronic surveillance and notwithstanding the value of a defendant's proposed bail package"); Agnello, 101 F. Supp. 2d at 116 (Gershon, J.) ("the protection of the community provided by the proposed home detention remains inferior to that provided by confinement in a detention facility"); United States v. Masotto, 811 F. Supp. 878, 884 (E.D.N.Y. 1993) (rejecting bail because "the Second Circuit appears to be saying to us that in the case of 'dangerous defendants' the Bail Reform Act does not contemplate the type of conditions suggested by this Court [including home confinement and electronic monitoring] and that, even if it did, the conditions would not protect the public or the community, given the ease with which many of them may be circumvented").

B. The Defendants' History and Characteristics

The defendants' history and characteristics also weigh in favor of detention.

As a captain in the Gambino crime family, Joseph Lanni poses a particular threat if he were released because he has the ability to direct those who report to him to commit crimes on his behalf. See Salerno, 631 F. Supp. at 1374-75 (holding that defendant would be a danger to the community if released on bail based on evidence that he was a captain in an organized crime family who managed the enforcement operations of the enterprise). Moreover, as detailed above, he has demonstrated a willingness to commit violent acts himself. Additionally, as demonstrated by the financial transactions detailed above (which are provided only as examples), Lanni has significant means and accordingly poses a flight risk.

Diego Tantillo is a longstanding soldier in the Gambino crime family. His dangerousness is demonstrated by the charged and uncharged conduct in this case, including his years' long extortion of John Doe 1 and his multiple extortions of Demolition Company 1 and John Does 2-4, which, as detailed above, all included violent assaults carried out on Tantillo's behalf. Additionally, as demonstrated by the financial transactions detailed above (which are provided only as examples), Tantillo has significant means and accordingly poses a flight risk.

Angelo Gradilone is a solider in the Gambino crime family. In 2003, he was convicted in this District of conspiracy to distribute and possess with intent to distribute cocaine and was sentenced principally to 41 months' imprisonment and three years' supervised release. In 2008, Gradilone pleaded guilty to violating the conditions of supervised release in that case, and his supervised release term was extended by one year. See Docket No. 00-CR-1289 (NGG). Gradilone also has a felony conviction for criminal possession of a loaded firearm in the third degree (1996) and a misdemeanor conviction for criminal possession of a weapon in the fourth

degree (1993), both in Kings County Supreme Court. In light of his membership in the Gambino crime family, his history of weapons possession, and his prior unwillingness to conform his behavior to the requirements of supervised release while at liberty, Gradilone is both a danger to the community and a flight risk.

Kyle Johnson is a longstanding associate of the Gambino crime family who repeatedly assisted Tantillo in extorting John Doe 1, Demolition Company 1 and John Does 2-4, including by finding individuals to damage John Doe 1's trucks and to assault the Employee with a hammer. Moreover, on or about February 23, 2021, Johnson was arrested and charged in the Southern District of New York with being a felon in possession of a firearm. Johnson pleaded guilty and was sentenced to 30 months' imprisonment. Johnson is currently on supervised release, which includes a special condition that he not "communicate or interact with" anyone he knows to be engaged in criminal activity. Nevertheless, toll records reflect that Johnson was in contact with Tantillo after his release in violation of that condition. Johnson also indicated to his probation officer that he was working at "JNR Construction," located at 2880 Jerome Avenue, Bronx, New York. 2880 Jerome Avenue, Bronx, New York is not linked to JNR Construction, but it does appear to be a job site, i.e, a construction site in the Bronx. JNR is operated by an associate of the Gambino crime family. Joseph Lanni has also purported to work for JNR-affiliated entities. In public records, there is an address for JNR, which is the same address as one listed on a business card for Lanni.

Vincent Minsquero is an associate of the Gambino crime family. While Minsquero has no known criminal convictions, toll records and video footage show that he has been in contact with Lanni, among other individuals affiliated with organized crime, as recently as September 2023. Minsquero is charged with witness retaliation for his role in the assault at Sei Less on February 17, 2021, in which he and LaForte attacked a person who they believed had provided law enforcement with information about organized crime members. Given Minsquero's willingness to violently retaliate against a former witness, there is reason to believe that if released under any conditions, he will attempt to influence potential witnesses against him in the current case, including by using force.

Vito Rappa is a member of the Sicilian Mafia and an associate of the Gambino crime family. Toll records show that Rappa has been in contact with Lanni as recently as July 2023. Rappa participated in the extortion of John Doe 1 by sending John Doe 1 a photograph of John Doe 1's place of business late at night and by threatening John Doe 1's associate, among other steps Rappa took to further that extortion. As described above, in 2019 Rappa exchanged celebratory text messages with Tantillo upon Tantillo's induction as a member of the Gambino crime family, and after John Doe 1 made an extortionate payment to Vicari, Rappa sent another celebratory message to Tantillo. In 2007, Rappa was convicted in this District of bribery of a federal official, in violation of 18 U.S.C. § 201, and was sentenced to three years of probation and a $10,000 fine. See Docket No. 07-CR-56 (RJD), ECF No. 285. In that case, Rappa participated in a scheme to effect the release from custody of his co-defendant. Rappa and three other individuals affiliated with organized crime conspired and attempted to bribe an individual they believed to be a corrupt law enforcement contact in United States Immigration and Customs Enforcement. The purpose of the scheme was to unlawfully effect his co-defendant's release from immigration detention. In light of Rappa's offense conduct in this case, and his prior attempt to

corruptly influence a government official to illegally secure a person's release, no combination of conditions and no bond can reasonably assure his compliance with this Court's instructions.

Francesco Vicari is an associate of the Gambino crime family and an associate of the Sicilian Mafia, and he has extensive ties to other people affiliated with organized crime, including some of his co-defendants. While Vicari has no known criminal convictions, his conduct in this case—threatening a person with a knife to get that person's associate to make extortion payments—demonstrates the significant danger he poses to the community if released.

Robert Brooke is an associate of the Gambino crime family who, as detailed above, violently assaulted John Doe 2 in furtherance of an extortion. In 1994, following a jury trial, Brooke was convicted in the Southern District of New York of Hobbs Act robbery, transportation of stolen property, and possessing a firearm during and in relation to a crime of violence. He was sentenced principally to 14 years' imprisonment. See S.D.N.Y. Docket No. 93-CR-595 (LAP). Brooke committed an act of severe violence in furtherance of an extortionate scheme—the beating an owner of Demolition Company 1. In light of his prior robbery conviction and the more recent act of violence with which he is now charged, he poses too great a threat to the safety of the community to be released.

Salvatore DiLorenzo is an associate of the Gambino crime family. While he has no known criminal convictions, the investigation has revealed that he had communications with Tantillo and Rappa, among other organized crime figures, and that he participated in the no-show jobs scheme described above, including by obtaining a no-show job for Rappa. Additionally, as demonstrated by the financial transactions detailed above (which are provided only as examples), DiLorenzo has significant means and accordingly poses a flight risk. DiLorenzo should not be released unless and until he posts a substantial secured bond, signed by financially responsible sureties with adequate moral suasion over him.

C. Evidence of the Defendants' Guilt

As discussed above, the evidence of the defendants' guilt is exceedingly strong. The government intends to prove the defendants' guilt at trial through, among other things, consensual recordings; intercepts of telephone calls obtained pursuant to court-authorized wiretaps; testimony of multiple witnesses; and physical and documentary evidence.

VI. Conclusion

For the foregoing reasons, the government respectfully requests that the Court enter permanent orders of detention as to defendants Joseph Lanni, Diego Tantillo, Robert Brooke, Kyle Johnson, Angelo Gradilone, Vincent Minsquero, Vito Rappa and Francesco Vicari. The government further submits that the defendant Salvatore DiLorenzo should not be released unless and until he posts a substantial secured bond, signed by financially responsible sureties with

adequate moral suasion over him. Further, any such release should be under strict conditions of supervision.

Respectfully submitted,

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cc: Defense Counsel (by email and ECF)
Clerk of Court (by ECF)

EXHIBIT 1

(Filed Under Seal)

<u>EXHIBIT 2</u>

(Filed Under Seal)