

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

-v- :

PETER GOTTI, :

LOUIS VALLARIO, :

a/k/a "Big Louie," :

a/k/a "Big Lou," :

INDICTMENT

S4 02 Cr. 743 (RCC)

FRANK FAPPIANO, :

a/k/a "Frankie Fap," :

EDWARD GARAFOLA, :

a/k/a "Cousin Eddie," :

THOMAS CARBONARO, :

a/k/a "Huck," :

a/k/a "Henry Payne," and :

JOHN MATERA, :

Defendants.

:

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RACKETEERING CHARGES

COUNT ONE

Racketeering Violation

The Grand Jury charges:

The Enterprise

. At all times relevant to this Indictment, PETER GOTTI, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," EDWARD GARAFOLA, a/k/a "Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, together with John Matera and others known and

unknown, were members and associates of the Gambino Organized Crime Family of La Cosa Nostra (the "Gambino Organized Crime Family"). The Gambino Organized Crime Family is a criminal organization whose members and associates have engaged in numerous acts of violence, including murder, attempted murder, robbery, extortion, labor racketeering, the financing and making of extortionate extensions of credit, the collection of extensions of credit through extortionate means (commonly known as "loansharking"), wire fraud, and money laundering.

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

. The Gambino Organized Crime Family was part of a nationwide criminal organization known by various names, including the "Mafia" and "La Cosa Nostra" ("LCN"), which operated through entities known as "Families." In addition to

the Gambino Organized Crime Family, five other Families operated in the New York City and New Jersey area, namely, the Genovese Organized Crime Family of LCN, the Luchese Organized Crime Family of LCN, the Colombo Organized Crime Family of LCN, the Bonanno Organized Crime Family of LCN, and the Decavalcante Organized Crime Family of LCN.

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

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

. Above the Capos were the highest-ranking members of the Gambino Organized Crime Family. The head of the Gambino Organized Crime Family was known as the "Boss," who was normally

assisted by an "Underboss" and a "Consigliere," or counselor. The Boss, Underboss, and Consigliere were responsible for, among other things, setting policy, resolving disputes among members of the Gambino Organized Crime Family, and resolving disputes between members of the Gambino Organized Crime Family and members of other criminal organizations. At various times relevant to this Indictment, members of the Gambino Organized Crime Family were temporarily appointed to serve as Boss, Underboss, Consigliere, or Capo in place of an incarcerated member holding that position. Whenever this occurred, the member holding the temporary appointment would function in an "acting" capacity for the incarcerated member, who continued to hold the "official" position in the Family. In addition, at various times relevant to this Indictment, members of the Gambino Organized Crime Family served on a committee or ruling panel, a group of high-ranking members of the Family who assisted and, at times, made decisions with or on behalf of the Boss and the Acting Boss of the Family.

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

The Defendants

. At various times relevant to this Indictment, PETER GOTTI, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," EDWARD GARAFOLA, a/k/a "Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and John Matera were members and associates of the enterprise, the Gambino Organized Crime Family. GOTTI, VALLARIO, FAPPIANO, GARAFOLA, CARBONARO, and Matera participated in the operation and management of the enterprise as follows:

. PETER GOTTI was at various times relevant to this Indictment a Soldier, a Capo, Acting Boss and member of the ruling panel of the Gambino Organized Crime Family. As a Soldier and Capo, GOTTI was responsible for (among other things) supervising the illegal activities of Soldiers and Associates in his crew and resolving disputes with other Organized Crime Families. As an Acting Boss and member of the ruling panel, GOTTI was responsible for (among other things) supervising the illegal activities of all the members of the Gambino Organized Crime Family, representing the Family in meetings with the leaders of other Organized Crime Families, and resolving disputes with other Organized Crime Families. Among GOTTI's criminal activities were participation in the extortion of money from various businesses and a murder conspiracy.

b. LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," was at various times relevant to this Indictment a Soldier and a Capo in the Gambino Organized Crime Family, responsible for (among other things) supervising the illegal activities of

Soldiers and Associates in his crew and resolving disputes with other Organized Crime Families. Among VALLARIO's criminal activities were participation in a murder, the extortion of money from various businesses, the operation of an illegal bookmaking business, and the making and collection of extortionate extensions of credit ("loansharking").

c. FRANK FAPPIANO, a/k/a "Frankie Fap," was at various times relevant to this Indictment an Associate and a Soldier in the Gambino Organized Crime Family. Among FAPPIANO's criminal activities were participation in two murders, witness tampering in connection with one of those murders, the extortion of money from various businesses, loansharking, and securities and mail fraud.

d. EDWARD GARAFOLA, a/k/a "Cousin Eddie," was at various times relevant to this Indictment an Associate and a Soldier in the Gambino Organized Crime Family. Among GARAFOLA's criminal activities were participation in a murder, participation in a separate murder conspiracy, the extortion of money from various businesses, and loansharking.

e. THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," was at various times relevant to this Indictment an Associate and a Soldier in the Gambino Organized Crime Family. Among CARBONARO's criminal activities were participation in a murder, participation in a separate murder conspiracy, the extortion of money from various businesses, and loansharking.

f. John Matera was an Associate in the Gambino Organized Crime Family. Among Matera's criminal activities was participation in a murder.

Purposes of the Enterprise

. The purposes of the enterprise included the following:

. Enriching the leaders, members, and associates of the enterprise through, among other things: (i) the extortionate control of businesses, labor unions, persons, and property through threats of physical and economic harm; (ii) the financing, extension, and collection of extortionate extensions of credit, commonly known as "loansharking"; (iii) the control of businesses through the collection of loansharking debts; (iv) the operation of an illegal bookmaking business; (v) the purchase and sale of stolen property and counterfeit goods; (vi) theft and robbery; (vii) wire fraud; and (viii) money laundering;

. Preserving and augmenting the power, territory, and financial profits of the enterprise through murder, intimidation, violence, and threats of physical and economic harm; and

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

Means and Methods of the Enterprise

. Among the means and methods by which the defendants and other enterprise members and associates conducted and participated in the conduct of the affairs of the enterprise were the following:

. To protect and expand the enterprise's business and criminal operations, members and associates of the enterprise murdered and threatened to murder persons who engaged in activity that threatened (i) the power and criminal activities of the enterprise and the power and criminal activities of fellow LCN Families, (ii) the power of leaders of the enterprise, and (iii) the flow of criminal proceeds to the leaders of the enterprise.

. Members and associates of the enterprise promoted a climate of fear in the community through threats of economic harm and violence.

. Members and associates of the enterprise generated income for the enterprise through, among other things, (i) extortion; (ii) loansharking; (iii) the operation of an illegal bookmaking business; (iv) labor racketeering; (v) the purchase and sale of stolen property; (vi) theft and robbery; (vii) wire fraud; and (viii) money laundering.

. Members and associates of the enterprise at times engaged in criminal conduct or coordinated their criminal activities with leaders, members, and associates of other LCN Families.

. So as to avoid law enforcement scrutiny of the enterprise's criminal activities, members, and associates of the enterprise conducted meetings surreptitiously, typically using coded language to make arrangements for meetings, meeting at rest stops along highways and at diners, and engaging in "walk and talks."

. Members and associates of the enterprise attempted to identify and did identify individuals suspected of providing, or deemed likely to provide, information to law enforcement about the enterprise, its members and activities, and about other LCN Families.

. To conceal their receipt of money generated from their criminal activities, members and associates of the enterprise concealed their ownership of various assets that were purchased with proceeds of their criminal activities.

The Racketeering Violation

. From at least in or about the late 1970s, up through and including in or about April 2003, in the Southern District of New York and elsewhere, PETER GOTTI, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," EDWARD GARAFOLA, a/k/a "Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and others known and unknown, being persons employed by and associated with the racketeering enterprise described in Paragraphs 1 through 10 above, namely, the Gambino Organized Crime Family, which enterprise was engaged in, and the activities of which affected, interstate and foreign commerce,

unlawfully, intentionally, and knowingly conducted and participated, directly and indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1961(5), that is, through the commission of the following racketeering acts:

The Pattern of Racketeering

. The pattern of racketeering activity, as defined in Title 18, United States Code, Sections 1961(1) and 1961(5), consisted of the following acts:

Racketeering Act One - Murder of Frederick Weiss

. The defendants named below committed the following acts of racketeering, either one of which alone constitutes the commission of Racketeering Act One:

. From in or about August 1989, up through and including on or about September 11, 1989, in the Southern District of New York, the Eastern District of New York, and elsewhere, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," and EDWARD GARAFOLA, a/k/a "Cousin Eddie," the defendants, and others known and unknown, unlawfully, willfully, and knowingly conspired to murder Frederick Weiss in violation of New York State Penal Law, Sections 105.15 and 125.25.

. On or about September 11, 1989, in the Southern District of New York, the Eastern District of New York, and elsewhere, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," and EDWARD GARAFOLA,

a/k/a "Cousin Eddie," the defendants, and others known and unknown, unlawfully, intentionally, and knowingly did commit an act involving murder and aided and abetted murder, to wit, with intent to cause the death of another person, they did cause the death of Frederick Weiss, in violation of New York State Penal Law, Sections 125.25 and 20.00.

Racketeering Act Two - Murder of Frank Parasole

. In or about January 1997, in the Southern District of New York, the Eastern District of New York, and elsewhere, FRANK FAPPIANO, a/k/a "Frankie Fap," the defendant, and others known and unknown, unlawfully, recklessly, and knowingly murdered, and aided and abetted the murder of, Frank Parasole in violation of New York State Penal Law, Sections 125.25(2) and 20.00, by recklessly engaging in conduct creating a grave risk of death to Frank Parasole under circumstances evincing a depraved indifference to human life, to wit, FRANK FAPPIANO ordered and directed Associates of the Gambino Organized Crime Family to physically assault and seriously injure Frank Parasole, which assault resulted in Frank Parasole's death.

Racketeering Act Three - Witness Tampering

. FRANK FAPPIANO, a/k/a "Frankie Fap," the defendant, committed the following acts of racketeering, either one of which alone constitutes the commission of Racketeering Act Three:

a. From in or about January 1997, up through and including in or about May 2002, in the Southern District of New York, the Eastern District of New York, and elsewhere, FRANK

FAPPIANO, a/k/a "Frankie Fap," the defendant, unlawfully, willfully, and knowingly did corruptly persuade and attempt to corruptly persuade other persons, with the intent to influence, delay, and prevent the testimony of such persons in an official proceeding, to wit, FRANK FAPPIANO persuaded and attempted to persuade two individuals to withhold cooperation and truthful testimony in an official proceeding, namely, a Federal prosecution of FAPPIANO for the beating and murder of Frank Parasole, in violation of Title 18, United States Code, Section 1512(b)(1).

b. From in or about January 1997, up through and including in or about May 2002, in the Southern District of New York, the Eastern District of New York, and elsewhere, FRANK FAPPIANO, a/k/a "Frankie Fap," the defendant, unlawfully, willfully, and knowingly did corruptly persuade and attempt to corruptly persuade other persons, with the intent to hinder, delay, and prevent the communication to a law enforcement officer of the United States of information relating to the commission and possible commission of a Federal offense, to wit, FRANK FAPPIANO persuaded and attempted to persuade two individuals to withhold from Federal law enforcement officers cooperation and information relating to the commission and possible commission of a Federal offense, namely, information relating to the beating and murder of Frank Parasole, in violation of Title 18, United States Code, Section 1512(b)(3).

Racketeering Act Four - Witness Tampering

. FRANK FAPPIANO, a/k/a "Frankie Fap," the defendant, committed the following acts of racketeering, either one of which alone constitutes the commission of Racketeering Act Four:

a. From in or about January 2000, up through and including in or about March 2000, in the Southern District of New York, the Eastern District of New York, and elsewhere, FRANK FAPPIANO, a/k/a "Frankie Fap," the defendant, unlawfully, willfully, and knowingly did use intimidation and did corruptly persuade, and attempt to intimidate and corruptly persuade, another person, with the intent to influence, delay, and prevent the testimony of such person in an official proceeding, to wit, FRANK FAPPIANO intimidated and persuaded, and attempted to intimidate and persuade, an individual not to provide truthful testimony in an official proceeding, namely, a pending Eastern District of New York Grand Jury investigation into the beating and murder of Frank Parasole, in connection with which that individual had been subpoenaed to testify, in violation of Title 18, United States Code, Section 1512(b)(1).

 b. From in or about January 2000, up through and including in or about March 2000, in the Southern District of New York, the Eastern District of New York, and elsewhere, FRANK FAPPIANO, a/k/a "Frankie Fap," the defendant, unlawfully, willfully, and knowingly did use intimidation and did corruptly persuade, and attempt to intimidate and corruptly persuade, another person, with the intent to hinder, delay, and prevent the communication to a law enforcement officer of the United

States of information relating to the commission and possible commission of a Federal offense, to wit, FRANK FAPPIANO intimidated and persuaded, and attempted to intimidate and persuade, an individual to withhold from Federal law enforcement officers cooperation and information relating to the commission or possible commission of a Federal offense, namely, information relating to the beating and murder of Frank Parasole, in violation of Title 18, United States Code, Section 1512(b)(3).

Racketeering Act Five - Construction Industry Extortion

. From in or about 1991, up through and including in or about April 2003, in the Southern District of New York, the Eastern District of New York, and elsewhere, PETER GOTTI, FRANK FAPPIANO, a/k/a "Frankie Fap," EDWARD GARAFOLA, a/k/a "Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit extortion, as that term is defined in Title 18, United States Code, Section 1951(b)(2), by obtaining money and property from and with the consent of other persons, to wit, various construction contractors doing business in interstate commerce, which consent would have been and was induced by the wrongful use of actual and threatened force, violence, and fear, and thereby would and did obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), to wit, the defendants used threats of violence,

work stoppages, threats of work stoppages, and the reputation of the Gambino Organized Crime Family and of La Cosa Nostra generally to force construction contractors to pay money to the defendants and persons associated with them, in order (among other things) to ensure labor peace, in violation of Title 18, United States Code, Section 1951.

Racketeering Act Six - Taft-Hartley Act Violation

. From in or about April 2000, up through and including on or about April 25, 2001, in the Southern District of New York, the Eastern District of New York, and elsewhere, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," the defendant, did unlawfully, willfully, and knowingly pay, lend, and deliver money and things of value in excess of \$1,000 to employees and representatives of Local 32B/J of the Building Services Workers Union, Service Employees International Union, A.F.L.-C.I.O. ("Local 32B/J") as, and on behalf of, a person acting in the interest of the Vanderveer Apartment Buildings in Brooklyn, New York, a corporation whose employees were employed in an industry affecting commerce and who were affiliated with Local 32B/J, a labor organization which represented, sought to represent, and would admit such employees to membership, in violation of Title 29, United States Code, Sections 186(a)(2) and (d)(2), and Title 18, United States Code, Section 2.

Racketeering Act Seven - Illegal Gambling

. LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," the defendant, committed the following acts of

racketeering, either one of which alone constitutes the
commission of Racketeering Act Seven:

. Operation of Illegal Gambling Business

From in or about 1990, up through and including in or
about May 2002, in the Southern District of New York, the
Eastern District of New York, and elsewhere, LOUIS VALLARIO,
a/k/a "Big Louie," a/k/a "Big Lou," the defendant, and others
known and unknown, unlawfully, willfully, and knowingly
conducted, financed, managed, supervised, directed, and owned
all and part of an illegal gambling business, namely, a
bookmaking network, in violation of New York State Penal Law
Sections 225.00 and 225.10, and which business involved five and
more persons who conducted, financed, managed, supervised,
directed, and owned all and part of it, and which business had
been and remained in substantially continuous operation for a
period in excess of thirty days and had gross revenues of \$2,000
in a single day, in violation of Title 18, United States Code,
Sections 1955 and 2.

. Illegal Bookmaking

From in or about 1990, up through and including in or
about May 2002, in the Southern District of New York, the
Eastern District of New York, and elsewhere, LOUIS VALLARIO,
a/k/a "Big Louie," a/k/a "Big Lou," the defendant, and others
known and unknown, unlawfully, willfully, and knowingly advanced
and profited from unlawful gambling activity by engaging in
bookmaking, to the extent that they received and accepted in one

day more than five bets totaling more than \$5,000, in violation of New York State Penal Law Sections 225.00 and 225.10.

Racketeering Act Eight - Loansharking Business

. The defendants named below committed the following acts of racketeering, any one of which alone constitutes the commission of Racketeering Act Eight:

- . Financing Extortionate
- » Extensions of Credit

From in or about 1990, up through and including in or about late 1999, in the Southern District of New York, the Eastern District of New York, and elsewhere, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, unlawfully, willfully, and knowingly did advance money to other persons with reasonable grounds to believe that it was the intention of such persons to use the money so advanced directly and indirectly for the purpose of making extortionate extensions of credit, as that term is defined in Title 18, United States Code, Section 891, in violation of Title 18, United States Code, Sections 893 and 2.

- . Conspiracy to Make
- Extortionate Extensions of Credit

From in or about 1990, up through and including in or about late 1999, in the Southern District of New York, the Eastern District of New York, and elsewhere, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry

Payne," the defendants, and others known and unknown, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together and with each other to make extortionate extensions of credit, as that term is defined in Title 18, United States Code, Section 891, in violation of Title 18, United States Code, Section 892.

. Conspiracy to Collect Extensions of Credit through Extortionate Means

From in or about 1990, up through and including in or about late 1999, in the Southern District of New York, the Eastern District of New York, and elsewhere, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and others known and unknown, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together and with each other to participate in the use of extortionate means to collect and attempt to collect extensions of credit, as that term is defined in Title 18, United States Code, Section 891, and to punish persons for the nonrepayment of said extensions of credit, in violation of Title 18, United States Code, Section 894.

Racketeering Act Nine - Loansharking Business

. In or about 1998, in the Southern District of New York, the Eastern District of New York, and elsewhere, EDWARD GARAFOLA, a/k/a "Cousin Eddie," the defendant, and others known and unknown, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together and with each other

to participate in the use of extortionate means to collect and attempt to collect extensions of credit, as that term is defined in Title 18, United States Code, Section 891, and to punish persons for the nonrepayment of said extensions of credit, in violation of Title 18, United States Code, Section 894.

Racketeering Act Ten - Loansharking Business

22. The defendants named below committed the following acts of racketeering, either one of which alone constitutes the commission of Racketeering Act Ten:

- . Conspiracy to Make
Extortionate Extensions of Credit

In or about 2002, in the Southern District of New York, the Eastern District of New York, and elsewhere, EDWARD GARAFOLA, a/k/a "Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and others known and unknown, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together and with each other to make extortionate extensions of credit, as that term is defined in Title 18, United States Code, Section 891, in violation of Title 18, United States Code, Section 892.

- . Conspiracy to Collect Extensions
of Credit through Extortionate Means

In or about 2002, in the Southern District of New York, the Eastern District of New York, and elsewhere, EDWARD GARAFOLA, a/k/a "Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and others known and unknown, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together and with each other to participate in the use of extortionate means to collect and attempt to collect extensions of credit, as that term is defined in Title 18, United States Code, Section 891, and to punish

persons for the nonrepayment of said extensions of credit, in violation of Title 18, United States Code, Section 894.

Racketeering Act Eleven - Extortion of Victim # 1

23. From in or about 1995, up through and including in or about 1996, in the Southern District of New York, the Eastern District of New York, and elsewhere, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," the defendant, and others known and unknown, unlawfully, willfully, and knowingly did commit extortion, as that term is defined in Title 18, United States Code, Section 1951(b)(2), by obtaining money and property from and with the consent of Victim # 1, which consent was induced by the wrongful use of actual and threatened force, violence, and fear, and thereby did obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), in violation of Title 18, United States Code, Sections 1951 and 2.

Racketeering Act Twelve - RJF Trucking Fraud

24. From in or about March 1998, up through and including in or about December 1999, in the Southern District of New York and elsewhere, FRANK FAPPIANO, a/k/a "Frankie Fap," the defendant, and others known and unknown, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, namely, a fraudulent scheme by which FAPPIANO and

others converted for their own use money from investors who participated in a private stock placement for RJF Trucking, for the purpose of executing such scheme and artifice and attempting so to do, did direct the investors to place in a post office and authorized depository for mail matter, items and things to be sent and delivered by the Postal Service, namely, checks to a post office box in Manhattan, New York, and caused to be delivered by mail according to the direction thereon, and at the place at which it was directed to be delivered by the person to whom it was addressed, such items and things, in violation of Title 18, United States Code, Sections 1341 and 2.

Racketeering Act Thirteen - Murder of Frank Hydell

25. The defendant named below committed the following acts of racketeering, either one of which alone constitutes the commission of Racketeering Act Thirteen:

a. From in or about January 1998, up through and including on or about April 28, 1998, in the Southern District of New York, the Eastern District of New York, and elsewhere, THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendant, together with John Matera and others known and unknown, unlawfully, willfully, and knowingly conspired to murder Frank Hydell, in violation of New York State Penal Law, Sections 105.15 and 125.25.

b. On or about April 28, 1998, in the Southern District of New York, the Eastern District of New York, and elsewhere, THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendant, together with John Matera and others known and

unknown, unlawfully, intentionally, and knowingly did commit an act involving murder and aided and abetted murder, to wit, with intent to cause the death of another person, they did cause the death of Frank Hydell, in violation of New York State Penal Law, Sections 125.25 and 20.00.

Racketeering Act Fourteen -

Conspiracy to Murder Salvatore "Sammy the Bull" Gravano

26. From in or about October 1999, up through and including in or about May 2000, in the Southern District of New York, the Eastern District of New York, and elsewhere, PETER GOTTI, EDWARD GARAFOLA, a/k/a "Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and others known and unknown, unlawfully, willfully, and knowingly conspired to murder Salvatore Gravano, a/k/a "Sammy the Bull," in violation of New York State Penal Law, Sections 105.15 and 125.25.

**Racketeering Act Fifteen –
Attempted Murder of Anthony Capo**

27. In or about 1994, in the Southern District of New York, the Eastern District of New York, and elsewhere, FRANK FAPPIANO, a/k/a "Frankie Fap," the defendant, and others known and unknown, unlawfully, intentionally, and knowingly attempted to murder and aided and abetted the attempted murder of Anthony Capo in violation of New York State Law, Sections 110.00 and 125.25.

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

COUNT TWO

Racketeering Conspiracy

The Grand Jury further charges:

28. Paragraphs 1 through 10 and 13 through 27 of this Indictment are repeated and realleged and incorporated by reference as though fully set forth herein.

29. From in or about the late 1970s, up through and including in or about April 2003, in the Southern District of New York and elsewhere, PETER GOTTI, LOUIS VALLARIO, a/k/a "Big Louie," a/k/a "Big Lou," FRANK FAPPIANO, a/k/a "Frankie Fap," EDWARD GARAFOLA, a/k/a "Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and others known and unknown, being persons employed by and associated with the racketeering enterprise described in Paragraphs 1 through 10 above, namely, the Gambino Organized Crime Family, which

enterprise was engaged in, and the activities of which affected, interstate and foreign commerce, unlawfully, intentionally, and knowingly combined, conspired, confederated, and agreed together and with each other to conduct and participate, directly and indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity, as that term is defined in Title 18, United States Code, Sections 1961(1) and 1961(5), which pattern is set forth more fully in paragraphs 13 through 27, above, as Racketeering Acts One through Fifteen. 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, Section 1962(d).)

VIOLENT CRIMES IN AID OF RACKETEERING

COUNT THREE

Conspiracy To Murder Frank Hydell

The Grand Jury further charges:

30. At all times relevant to this Indictment, the Gambino Organized Crime Family, as more fully described in Paragraphs 1 through 10 of this Indictment, which are repeated, realleged, and incorporated by reference as though set forth fully herein, constituted an enterprise, as that term is defined in Title 18, United States Code, Section 1959(b)(2), that is, a group of individuals associated in fact, although not a legal entity, which was engaged in, and the activities of which affected, interstate and foreign commerce.

31. At all times relevant to this Indictment, the above-described enterprise, through its members and associates, engaged in racketeering activity, as that term is defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), namely, acts involving murder and illegal gambling, in violation of New York State Penal Law, acts indictable under Title 18, United States Code, Sections 892, 893 and 894 (involving the making, financing, and collecting of extortionate extensions of credit), acts indictable under Title 18, United States Code, Section 1955 (involving an illegal gambling business), acts indictable under Title 18, United States Code, Section 1951 (involving extortion), acts indictable under Title 18, United States Code, Section 1341 (involving mail fraud), acts indictable under Title 18, United States Code, Section 1343 (involving wire fraud), and acts indictable under Title 18, United States Code, Section 1956 (involving money laundering).

32. From in or about January 1998, up to and including on or about April 28, 1998, in the Southern District of New York, the Eastern District of New York, and elsewhere, as consideration for the receipt of, and as consideration for a promise and an agreement to pay, anything of pecuniary value from the Gambino Organized Crime Family, an enterprise engaged in racketeering activity, and for the purpose of gaining entrance to and maintaining and increasing their positions in the Gambino Organized Crime Family, THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," and JOHN MATERA, the defendants, and others known and unknown, unlawfully, willfully, and

knowingly conspired to murder Frank Hydell, in violation of New York State Penal Law, Sections 105.15 and 125.25.

(Title 18, United States Code, Section 1959(a)(5).)

COUNT FOUR

Murder of Frank Hydell

The Grand Jury further charges:

_____ 33. Paragraphs 30 and 31 of this Indictment are repeated, realleged, and incorporated by reference as though fully set forth herein.

_____ 34. On or about April 28, 1998, in the Southern District of New York, the Eastern District of New York, and elsewhere, as consideration for the receipt of, and as consideration for a promise and an agreement to pay, anything of pecuniary value from the Gambino Organized Crime Family, an enterprise engaged in racketeering activity, and for the purpose of gaining entrance to and maintaining and increasing their positions in the Gambino Organized Crime Family, THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," and JOHN MATERA, the defendants, and others known and unknown, unlawfully, intentionally, and knowingly did commit an act involving murder and aided and abetted murder, to wit, with intent to cause the death of another person, they did cause the death of Frank Hydell, in violation of New York State Penal Law, Sections 125.25 and 20.00.

(Title 18, United States Code, Sections 1959(a)(1) and 2.)

COUNT FIVE

Conspiracy To Murder Salvatore "Sammy the Bull" Gravano

The Grand Jury further charges:

35. Paragraphs 30 and 31 of this Indictment are repeated, realleged, and incorporated by reference as though fully set forth herein.

36. From in or about October 1999, up through and including in or about May 2000, in the Southern District of New York, the Eastern District of New York, and elsewhere, as consideration for the receipt of, and as consideration for a promise and an agreement to pay, anything of pecuniary value from the Gambino Organized Crime Family, an enterprise engaged in racketeering activity, and for the purpose of gaining entrance to and maintaining and increasing their positions in the Gambino Organized Crime Family, PETER GOTTI and EDWARD GARAFOLA, a/k/a "Cousin Eddie," the defendants, and others known and unknown, unlawfully, willfully, and knowingly conspired to murder Salvatore Gravano, a/k/a "Sammy the Bull," in violation of New York State Penal Law, Sections 105.15 and 125.25.

(Title 18, United States Code, Section 1959(a)(5).)

WITNESS TAMPERING, FIREARMS OFFENSE, AND EXTORTION

COUNT SIX

Witness Tampering

The Grand Jury further charges:

37. On or about April 28, 1998, in the Southern District of New York, the Eastern District of New York, and elsewhere, THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," and JOHN MATERA, the defendants, unlawfully, willfully and knowingly killed and aided and abetted the killing of another person, with intent to prevent the attendance and testimony of such person in an official proceeding and to prevent the communication by such person to a law enforcement officer of information relating to the commission and possible commission of a Federal offense, to wit, CARBONARO and MATERA murdered and aided and abetted the murder of Frank Hydell, as murder is defined in Title 18, United States Code, Section 1111, with the intent to prevent Hydell from testifying at an official proceeding or communicating to a law enforcement officer information relating to the commission and possible commission of

Federal offenses, including the beating and murder of Frank Parasole.

(Title 18, United States Code,
Sections 1512(a)(1), (a)(3)(A), and 2.)

COUNT SEVEN

Use of a Firearm in Connection with a Crime of Violence

The Grand Jury further charges:

38. On or about April 28, 1998, in the Southern District of New York, the Eastern District of New York, and elsewhere, THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," and JOHN MATERA, the defendants, unlawfully, willfully and knowingly used and carried, and caused another to use and carry, a firearm during and in relation to a crime of violence, to wit, the murder of Frank Hydell, as charged in Racketeering Act Thirteen of Count One and in Counts Three, Four, and Five of this Indictment, for which they may be prosecuted in a court of the United States.

(Title 18, United States Code, Sections 924(c) and 2.)

COUNT EIGHT

Construction Industry Extortion

The Grand Jury further charges:

39. From in or about 1991, up through and including in or about April 2003, in the Southern District of New York, the Eastern District of New York, and elsewhere, PETER GOTTI, FRANK FAPPIANO, a/k/a "Frankie Fap," EDWARD GARAFOLA, a/k/a

"Cousin Eddie," and THOMAS CARBONARO, a/k/a "Huck," a/k/a "Henry Payne," the defendants, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit extortion, as that term is defined in Title 18, United States Code, Section 1951(b)(2), by obtaining money and property from and with the consent of other persons, to wit, various construction contractors doing business in interstate commerce, which consent would have been and was induced by the wrongful use of actual and threatened force, violence, and fear, and thereby would and did obstruct, delay, and affect commerce and the movement of articles and commodities in commerce, as that term is defined in Title 18, United States Code, Section 1951(b)(3), to wit, the defendants used threats of violence, work stoppages, threats of work stoppages, and the reputation of the Gambino Organized Crime Family and of La Cosa Nostra generally to force construction contractors to pay money to the defendants and persons associated

with them, in order (among other things) to ensure labor peace.

(Title 18, United States Code, Section 1951.)

FOREPERSON

JAMES B. COMEY
United States Attorney