

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

|                          |   |                                                |
|--------------------------|---|------------------------------------------------|
| _____                    | ) |                                                |
| UNITED STATES OF AMERICA | ) | Criminal No. 17-cr-10305-ADB                   |
|                          | ) |                                                |
| v.                       | ) | Violations:                                    |
|                          | ) |                                                |
| (1) JOSEPH BAPTISTE      | ) | <u>Count One:</u> Conspiracy to                |
|                          | ) | Violate the Travel Act and the                 |
| and                      | ) | Foreign Corrupt Practices Act                  |
|                          | ) | (18 U.S.C. § 371)                              |
| (2) ROGER RICHARD BONCY, | ) |                                                |
|                          | ) | <u>Count Two:</u> Travel Act;                  |
| Defendants               | ) | Aiding and Abetting                            |
|                          | ) | (18 U.S.C. §§ 1952(a)(3)(A) and 2)             |
|                          | ) |                                                |
|                          | ) | <u>Count Three:</u> Conspiracy to Commit       |
|                          | ) | Money Laundering                               |
|                          | ) | (18 U.S.C. § 1956(h))                          |
|                          | ) |                                                |
|                          | ) | <u>Travel Act Forfeiture Allegation:</u>       |
|                          | ) | (18 U.S.C. § 981(a)(1)(C) &                    |
|                          | ) | 28 U.S.C. § 2461(c))                           |
|                          | ) |                                                |
|                          | ) | <u>Money Laundering Forfeiture Allegation:</u> |
|                          | ) | (18 U.S.C. § 982(a)(1))                        |
| _____                    | ) |                                                |

SUPERSEDING INDICTMENT

At all times relevant to this Superseding Indictment:

General Allegations

Key Individuals and Entities

1. Defendant JOSEPH BAPTISTE was a United States citizen and was therefore a domestic concern under the Foreign Corrupt Practices Act (“FCPA”), 15 U.S.C. § 78dd-2(h)(1)(A). BAPTISTE was the president of “Non-Profit” and a member of the board of directors of “Company,” both of which are described in greater detail below.

2. Defendant ROGER RICHARD BONCY was a United States citizen and was therefore a domestic concern under the FCPA, 15 U.S.C. § 78dd-2(h)(1)(A). BONCY was the Chairman and Chief Executive Officer of Company.

3. “Non-Profit,” a purported non-profit organization with the stated mission of helping the impoverished in the Republic of Haiti, was headquartered in Maryland and was therefore a domestic concern under the FCPA, 15 U.S.C. § 78dd-2(h)(1)(B). Non-Profit had tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

4. “Company,” a limited liability company established to promote projects for the reconstruction of Haiti, was organized under the laws of Delaware and was therefore a domestic concern under the FCPA, 15 U.S.C. § 78dd-2(h)(1)(B). One of Company’s objectives was to promote a port development project (the “Port Project”) involving the commercial development of an area in Haiti known as Môle Saint Nicolas.

5. Co-Conspirator #1 (“CC-1”) was a lawyer in Haiti and was a member of the board of directors of Company.

6. Co-Conspirator #2 (“CC-2”) was a relative of BAPTISTE who resided in Haiti.

7. “Foreign Official-1” was a high-level elected official in the government of the Republic of Haiti. Foreign Official-1 was a “foreign official” as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(2)(A).

8. “Aide-1” was an aide to Foreign Official-1 and a trained engineer. Aide-1 was a foreign official as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(2)(A).

9. “Aide-2” was an aide to Foreign Official-1. Aide-2 was a foreign official as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(2)(A).

10. “Lawyer-1” was a lawyer who worked within Foreign Official-1’s office. Lawyer-1 was a foreign official as defined in the FCPA, 15 U.S.C. § 78dd-2(h)(2)(A).

The Conspiracy to Violate the Travel Act and the FCPA

11. In or about and between November 2014 and December 2015, both dates being approximate and inclusive, BAPTISTE and BONCY conspired with one another, and with others known and unknown to the Grand Jury, to bribe foreign officials to obtain and to retain business in connection with the Port Project.

12. As part of the conspiracy, BAPTISTE, BONCY, and others known and unknown to the Grand Jury solicited bribe money from two undercover agents of the Federal Bureau Investigation (“FBI”) posing as prospective investors in the Port Project (“UC-1” and “UC-2”; jointly the “UCs”), which was expected to cost approximately \$84 million and was to involve the construction of a cement factory in its first phase. BAPTISTE told the UCs that, in order to secure government approval of the project, he would bribe Haitian officials. In order to conceal the bribe payments, BAPTISTE told the UCs that he would funnel the payments through Non-Profit.

13. At BAPTISTE’s direction, UC-2 wired \$50,000 to Non-Profit’s bank account as part of the bribery scheme. BAPTISTE used the initial \$50,000 for his personal expenses and planned to use future payments from UC-2 to make bribe payments to Haitian government officials in connection with the Port Project.

Objects of the Conspiracy to Violate the Travel Act and the FCPA

14. The principal purpose and object of the conspiracy charged in Count One was to enrich the co-conspirators by paying bribes to Haitian officials to obtain and retain business for BAPTISTE, BONCY, CC-1, CC-2, Company, and others in connection with the Port Project.

Manner and Means of the Conspiracy to Violate the Travel Act and the FCPA

15. Among the manner and means by which BAPTISTE and BONCY and co-conspirators known and unknown to the Grand Jury carried out the conspiracy charged in Count One were the following:

- a. Traveling to Boston to meet with and solicit potential investors for the Port Project and to discuss bribes to be paid in connection with the Port Project;
- b. Offering to use Non-Profit as a conduit to conceal the true nature of bribes to be paid in connection with the Port Project;
- c. Using telephones, text messages, and email to discuss bribes and other things of value to be provided to foreign officials, including Foreign Official-1 and Aide-1, in connection with the Port Project.
- d. Providing letters that falsely described payments to Non-Profit as charitable, tax deductible donations when, in fact, they were for intended bribes;
- e. Traveling to Haiti to meet with foreign officials, including Foreign Official-1, to promote, manage, and carry on the bribery scheme in connection with the Port Project; and
- f. Offering a job to Aide-1 in exchange for help in obtaining a letter from Foreign Official-1 indicating government support for the Port Project.

Overt Acts Committed in Furtherance of the Conspiracy Charged in Count One

16. In furtherance of the conspiracy charged in Count One, and to achieve the objects thereof, at least one of the co-conspirators committed or caused to be committed, in the District of Massachusetts and elsewhere, at least one of the following overt acts, among others:

17. On or about November 13, 2014, BAPTISTE flew from Baltimore-Washington International Airport in Maryland to Boston Logan International Airport in Massachusetts to attend a meeting with UC-1 at a Boston-area hotel.

18. On or about November 13, 2014, BAPTISTE held a meeting with UC-1, during which he: discussed a possible investment with UC-1 in the Port Project; confirmed to UC-1 that a “pay-to-play” system existed in Haiti; described bribe payments that would have to be made in connection with the Port Project, as well as how they could be made; and explained that he could use Non-Profit to conceal and facilitate bribe payments to the Haitian officials.

19. On or about August 13, 2015, BAPTISTE called UC-1 and discussed plans for an in-person meeting in Boston, Massachusetts to review details of the Port Project with BONCY.

20. On or about October 10, 2015, BONCY sent an email to UC-1, to which he attached letters from Haitian officials, including a letter signed by Foreign Official-1’s predecessor. The letters contained assurances that the Haitian government would support the Port Project.

21. On or about November 12, 2015, BAPTISTE flew from Baltimore-Washington International Airport in Maryland to Boston Logan International Airport to attend a meeting with BONCY, CC-1 and the UCs at a Boston-area hotel.

22. On or about November 12, 2015, BONCY traveled from Madrid, Spain, to New York, New York, and then to Boston Logan International Airport to attend the meeting with BAPTISTE, CC-1 and the UCs.

23. On or about November 12, 2015, BAPTISTE, BONCY and CC-1 met with UC-1 and UC-2, who was introduced at the meeting as UC-1’s boss.

24. At the meeting on or about November 12, 2015, BAPTISTE, BONCY, and CC-1 spoke to the UCs about the Port Project and solicited the UCs to invest in a factory that would constitute the first phase of the project, with an estimated cost of approximately \$84 million, with 5% of the funding allocated to bribery of Haitian government officials to ensure progress on the Port Project.

25. During the November 12, 2015 meeting, BAPTISTE went to a suite at the hotel and had a one-on-one conversation with UC-2. During that conversation, BAPTISTE confirmed that bribes totaling approximately 5% of the cost of the factory would be paid to Haitian officials, including Foreign Official-1 and other officials within the Haitian government. BAPTISTE told UC-2 that he would conceal and facilitate the bribe payments by using Non-Profit as a conduit for the bribe payments.

26. Shortly after leaving the November 12, 2015 meeting, BAPTISTE called CC-2 and said that he had explained to UC-2 that it would be necessary to pay bribes to Haitian officials to move forward on the Port Project. BAPTISTE asked CC-2 to begin drafting a budget for the project.

27. On or about November 16, 2015, BAPTISTE told UC-2 that he was traveling to Haiti in connection with the Port Project, and that he was going to meet with Foreign Official-1 to obtain an updated letter of support for the Port Project. When UC-2 asked BAPTISTE if BAPTISTE needed anything from UC-2, BAPTISTE responded that UC-2 needed to wire him money as soon as possible.

28. Thereafter, on or about November 16, 2015, BAPTISTE sent UC-2 an email containing the account and routing numbers for Non-Profit's bank account in the United States,

so that UC-2 could wire money to BAPTISTE that BAPTISTE could use to pay bribes to obtain an updated letter of support from Foreign Official-1.

29. On or about November 20, 2015, BAPTISTE called UC-2, asked him to wire \$25,000 to Non-Profit's bank account so that BAPTISTE could give it to Foreign Official-1. BAPTISTE told UC-2 that BAPTISTE would be able to access money sent to Non-Profit's bank account in the United States when BAPTISTE would be in Haiti.

30. In that same conversation, BAPTISTE also told UC-2 that CC-2 would also have access to Non-Profit's bank account in Haiti and would be BAPTISTE's agent in Haiti when BAPTISTE was in the United States.

31. On or about November 20, 2015, after UC-2 wired \$25,000 to Non-Profit's bank account per BAPTISTE's instructions, BAPTISTE sent UC-2, via text message and email, photographs of himself meeting with Foreign Official-1 in Haiti.

32. On or about November 24, 2015, BAPTISTE called CC-2 to discuss opening a bank account in Haiti for Non-Profit, and CC-2 asked BAPTISTE if he had received the money from UC-2.

33. On or about November 25, 2015, BAPTISTE called BONCY and told him that he had spoken to Aide-1. BAPTISTE inquired whether it was prudent to suggest to Aide-1 that Aide-1 would also be compensated if Foreign Official-1 authorized the Port Project. BONCY agreed that this was a good idea.

34. On or about November 25, 2015, BAPTISTE called Aide-1 and said that BAPTISTE and BONCY had talked about giving Aide-1 a job as an engineer on the Port Project in exchange for Aide-1's help in obtaining Foreign Official-1's authorization for the project.

35. On or about November 27, 2015, BAPTISTE and BONCY discussed by telephone their plan to bribe Foreign Official-1 and Aide-1 in relation to the Port Project.

36. On or about the evening of December 3, 2015, during a phone call with UC-2, BAPTISTE said that he had used the \$25,000 wired by UC-2 to Non-Profit's bank account to pay, in cash, Aide-1, Aide-2, and Lawyer-1, that these payments amounted to only part of what BAPTISTE had promised the staffers for their efforts, and that UC-2 should send him another \$25,000 to complete the payments. BAPTISTE also told UC-2 that he had told Foreign Official-1 that he was going to put Foreign Official-1 on the "payroll" and hire him as an advisor for the Port Project after Foreign Official-1 left office.

37. On or about December 4, 2015, BAPTISTE sent an email to UC-2 attaching a letter that falsely described the \$25,000 payment previously provided by UC-2 as a charitable, tax-deductible donation to Non-Profit.

38. On or about December 8, 2015, BAPTISTE told UC-2 during a phone call that he had obtained an updated letter of support from Foreign Official-1 in exchange for bribes that BAPTISTE had paid, and that BONCY would send the letter to UC-2.

39. On or about December 9, 2015, BONCY emailed UC-2 the updated letter of support, which was dated December 4, 2015, and signed by Foreign Official-1.

40. On or about December 10, 2015, after UC-2 had wired an additional \$25,000 to Non-Profit's bank account, BAPTISTE sent UC-2 by email another letter from Non-Profit falsely describing the second \$25,000 payment as a charitable, tax-deductible donation.

41. On or about December 10, 2015, CC-2 called BAPTISTE about moving forward on the Port Project, and BAPTISTE told CC-2 that to move the Port Project forward quickly, BAPTISTE and others would pay bribes to government officials in Haiti. CC-2 told BAPTISTE



that they should form a new company in addition to Non-Profit so that Non-Profit would not be too involved in the Port Project.

42. On or about December 18, 2015, as part of an e-mail discussion between BAPTISTE and BONCY about how they should obtain the funds from the UCs for BAPTISTE to use with “the local authorities,” BAPTISTE told BONCY that they could not delay payment of the bribe money because the “people who have help [sic] make this contract possible will not wait.”

43. On or about December 20, 2015, BONCY emailed the UCs a proposed budget for the Port Project that included a line item for the funds that BAPTISTE, BONCY, and CC-1 had discussed using for bribes to Haitian government officials.

#### The Money Laundering Conspiracy

44. In or about and between November 2014 and December 2015, both dates being approximate and inclusive, BAPTISTE and BONCY conspired with one another and with others known and unknown to the Grand Jury to transmit money from the United States to Haiti in order to promote the bribery scheme described above.

45. Among the manner and means by which BAPTISTE and BONCY and co-conspirators known and unknown to the Grand Jury carried out the money laundering conspiracy were the following:

- a. Falsely characterizing bribes to be paid to Haitian officials in relation to the Port Project as charitable donations to Non-Profit;
- b. Directing CC-2 to open a bank account for Non-Profit in Haiti to facilitate wire transfers from the United States;

- c. Preparing and sending to the UCs a proposed budget that reserved 5% of the Port Project's funds for bribes to Haitian officials, which the budget falsely described as charitable contributions.

COUNT ONE

Conspiracy to Violate the Travel Act and the Foreign Corrupt Practices Act  
(18 U.S.C. § 371)

46. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 45 of this Superseding Indictment as if fully set forth herein and further charges:

47. In or about and between November 2014 and December 2015, both dates being approximate and inclusive, in the District of Massachusetts and elsewhere, the defendants,

(1) JOSEPH BAPTISTE and  
(2) ROGER RICHARD BONCY,

conspired with one another and with others known and unknown to the Grand Jury to commit offenses against the United States, specifically:

- a. to violate the Travel Act, that is, to travel in interstate and foreign commerce, and to use the mail and any facility in interstate and foreign commerce, with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of unlawful activity, namely, violations of the anti-bribery provisions of the Foreign Corrupt Practices Act, Title 15, United States Code, Section 78dd-2, and thereafter to perform acts to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of the above described unlawful activity, contrary to Title 18, United States Code, Section 1952(a)(3); and
- b. to violate the Foreign Corrupt Practices Act, that is, as a domestic concern and an officer, director, employee, and agent of a domestic concern, to make use of the mails and means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of any money, offer, gift, promise to give, and authorization of the

giving of anything of value to a foreign official and to any person, while knowing that all and a portion of such money and thing of value would be offered, given, and promised, directly and indirectly, to a foreign official, for purposes of: (A)(i) influencing any act and decision of such foreign official in his or her official capacity; (ii) inducing such foreign official to do and omit to do any act in violation of the lawful duties of such official; and (iii) securing any improper advantage; and (B) inducing such foreign official to use his or her influence with a foreign government and instrumentality thereof to affect and influence acts and decisions of such government and instrumentality, in order to assist BAPTISTE, BONCY, and others known and unknown in obtaining and retaining business for and with, and directing business to, BAPTISTE, BONCY, and others known and unknown, in violation of Title 15, United States Code, Section 78dd-2.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO

Travel Act; Aiding and Abetting  
(18 U.S.C. §§ 1952(a)(3)(A) and 2))

48. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 45 of this Superseding Indictment as if fully set forth herein and further charges:

49. In or about and between November 2014 and December 2015, both dates being approximate and inclusive, in the District of Massachusetts and elsewhere, the defendants,

(1) JOSEPH BAPTISTE and  
(2) ROGER RICHARD BONCY,

did travel in interstate and foreign commerce, and use the mail and any facility in interstate and foreign commerce, with the intent to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of unlawful activity, namely, violations of the anti-bribery provisions of the Foreign Corrupt Practices Act, Title 15, United States Code, Section 78dd-2, and thereafter performed and attempted to perform acts to promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of the above described unlawful activity, to wit: BAPTISTE and BONCY traveled from Maryland to Massachusetts and from Madrid, Spain to Massachusetts, respectively, to meet with UC-1 and UC-2 in order to discuss how to obtain approval for the Port Project through bribes to foreign officials; thereafter, BAPTISTE traveled to Haiti to meet with foreign officials, including Foreign Official-1 regarding the Port Project, provided bank account information for Non-Profit to UC-2 so that UC-2 could wire funds that BAPTISTE could use to bribe Foreign Official-1, and sent UC-2 letters from Non-Profit falsely stating that the funds provided by UC-2 were tax-deductible, charitable contributions in order to conceal the true nature of the funds.

All in violation of Title 18, United States Code, Sections 1952(a)(3)(A) and 2.

COUNT THREE  
Money Laundering Conspiracy  
(18 U.S.C. § 1956(h))

50. The Grand Jury re-alleges and incorporates by reference paragraphs 1 through 45 of this Superseding Indictment as if fully set forth herein and further charges:

51. In or about and between November 2014 and December 2015, both dates being approximate and inclusive, in the District of Massachusetts and elsewhere, the defendants,

(1) JOSEPH BAPTISTE and  
(2) ROGER RICHARD BONCY,

conspired with one another and with others known and unknown to the Grand Jury to transport, transmit, and transfer, and attempt to transport, transmit, and transfer a monetary instrument and funds from a place in the United States to and through a place outside the United States, with the intent to promote the carrying on of specified unlawful activity, that is, bribery of a foreign official, a felony violation of the Foreign Corrupt Practices Act, Title 15, United States Code, Section 78dd-2, in violation of Title 18, United States Code, Section 1956(a)(2)(A).

All in violation of Title 18, United States Code, Section 1956(h).

TRAVEL ACT FORFEITURE ALLEGATION  
(18 U.S.C. § 981(a)(1)(C) & 28 U.S.C. § 2461(c))

52. Upon conviction of one or more of the offenses in violation of Title 18, United States Code, Section 1952, set forth in Counts One and Two of this Superseding Indictment, the defendants,

(1) JOSEPH BAPTISTE and  
(2) ROGER RICHARD BONCY,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), any property, real or personal, which constitutes or is derived from proceeds traceable to such offense.

53. If any of the property described in Paragraph 52 above, as being forfeitable under Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c), 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 intention of the United States, under Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the property described in Paragraph 52 above.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461(c).

MONEY LAUNDERING FORFEITURE ALLEGATION  
(18 U.S.C. § 982(a)(1))

54. Upon conviction of the offense in violation of Title 18, United States Code, Section 1956(h), set forth in Count Three of this Superseding Indictment, the defendants,

(1) JOSEPH BAPTISTE and  
(2) ROGER RICHARD BONCY,

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(1), any property, real or personal, involved in such offense, and any property traceable to such property.

55. If any of the property described in Paragraph 54, above, as being forfeitable pursuant to Title 18, United States Code, Section 982(a)(1), as a result of any act or omission of the defendants --

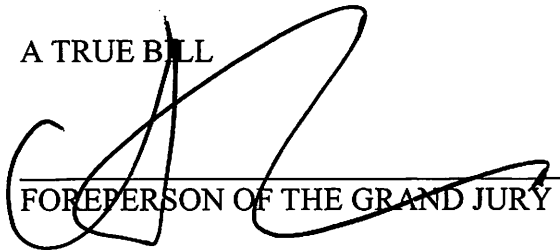
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the property described in Paragraph 54 above.

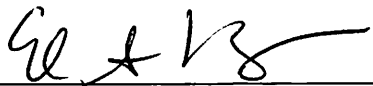
All pursuant to Title 18, United States Code, Section 982(a)(1).



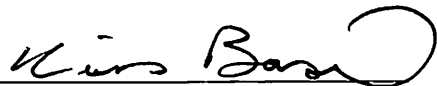
A TRUE BILL



FOREPERSON OF THE GRAND JURY

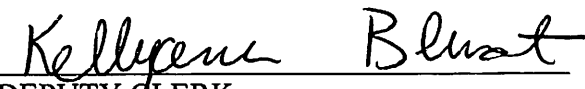


ELINA A. RUBIN-SMITH  
TRIAL ATTORNEY  
CRIMINAL DIVISION, FRAUD SECTION  
U.S. DEPARTMENT OF JUSTICE



KRISS BASIL  
ASSISTANT U.S. ATTORNEY  
DISTRICT OF MASSACHUSETTS

District of Massachusetts: October 30, 2018  
Returned into the District Court by the Grand Jurors and filed.



DEPUTY CLERK  
10/30/18 @ 3:58pm