

AB:EAG/JDG/AL
F.#2011R00006

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

I N D I C T M E N T

- against -

Cr. No. 11-0031 (SLT) (RLM)
(T. 18, U.S.C., §§ 892(a),
894(a)(1), 981(a)(1)(C),
1084(a), 1952(a)(2)(A),
1962(d), 1963, 1963(a),
1963(m), 2 and 3551 et
seq.; T. 21, U.S.C.,
§ 853(p); T. 28, U.S.C.,
§ 2461(c))

NEIL MESSINA,
JOHN PORCELLO,
 also known as "Johnny Pizza,"
NICOLO VALENTI,
 also known as "Nick," and
BENITO VALENTI,
 also known as "Benny,"

Defendants.

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THE GRAND JURY CHARGES:

INTRODUCTION TO ALL COUNTS

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

The Enterprise

1. The members and associates of La Cosa Nostra
constituted an "enterprise," as defined in Title 18, United
States Code, Section 1961(4), that is, a group of individuals
associated in fact. The enterprise constituted an ongoing
organization whose members functioned as a continuing unit for a
common purpose of achieving the objectives of the enterprise. La
Cosa Nostra engaged in, and its activities affected, interstate
and foreign commerce. La Cosa Nostra 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 Luchese 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 Decalvacante organized crime family of La Cosa Nostra, 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. Each La Cosa Nostra crime family had a hierarchy and structure. The head of each crime family was known as the "boss." The crime family boss was assisted by an "underboss" and a counselor known as a "consigliere." Together, the boss, 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. Members of the 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. Further, on occasion, a La Cosa Nostra crime family would be overseen by a "panel" of crime family members that did not include the boss, underboss and/or consigliere.

5. Below the administration of each 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.

6. Only members of a La Cosa Nostra crime family could serve as a boss, underboss, consigliere, captain or soldier. Members of a La Cosa Nostra 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 a La Cosa Nostra crime family, but who nonetheless engaged in criminal activity for, and under the protection of, a crime family.

7. Many requirements existed before an associate could become a member of a La Cosa Nostra crime family. The Commission of La Cosa Nostra from time to time limited the number of new members that 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

8. The principal purpose of La Cosa Nostra and each of its crime families was to generate money for its members and associates. This purpose was implemented by members and associates of the crime families through various criminal activities, including drug trafficking, robbery, extortion, illegal gambling and loansharking. The members and associates of the crime families also furthered the enterprise's criminal activities by threatening economic injury and using and threatening to use physical violence, including murder.

9. Although the primary purpose of La Cosa Nostra was to generate money for its members and associates, the members and associates at times used the resources of the organized crime families to settle personal grievances and vendettas, sometimes with the approval of higher-ranking members of the families. 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.

10. The members and associates of La Cosa Nostra 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 a commitment to murdering persons, particularly members or associates of

organized crime families, who were perceived as potential witnesses against members and associates of the enterprise.

11. Members and associates of La Cosa Nostra often coordinated criminal activity with members and associates of other organized crime families.

The Defendants

12. At various times relevant to this Indictment, the defendants NEIL MESSINA, BENITO VALENTI, also known as "Benny," and NICOLO VALENTI, also known as "Nick," were associates within the Bonanno organized crime family of La Cosa Nostra.

13. At various times relevant to this Indictment, the defendant JOHN PORCELLO, also known as "Johnny Pizza," was an associate within the Genovese organized crime family of La Cosa Nostra.

COUNT ONE (Racketeering Conspiracy)

14. The allegations contained in paragraphs 1 through 13 are realleged and incorporated as if fully set forth in this paragraph.

15. In or about and between January 1992 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, also known as "Johnny Pizza," together with others, being persons employed by and associated with La Cosa Nostra, 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), consisting of the racketeering acts set forth below. Each defendant agreed that a conspirator would commit at least two acts of racketeering activity in the conduct of the affairs of the enterprise.

RACKETEERING ACT ONE
(Murder/Robbery Conspiracy - Joseph Pistone)

16. The defendant named below agreed to the commission of the following acts, either one of which alone constitutes Racketeering Act One:

A. Conspiracy to Rob Joseph Pistone

17. On or about August 17, 1992, within the Eastern District of New York, the defendant NEIL MESSINA, together with others, did knowingly and intentionally conspire to forcibly steal property, to wit: money from Joseph Pistone, while armed with a deadly weapon, contrary to New York Penal Law Sections 160.15(2) and 105.10.

B. Murder of Joseph Pistone

18. On or about August 17, 1992, within the Eastern District of New York, the defendant NEIL MESSINA, together with others, did knowingly and intentionally attempt to commit robbery, and, in the course of and in furtherance of such crime, the defendant and other participants did cause the death of Joseph Pistone, contrary to New York Penal Law Sections 125.25(3) and 20.00.

RACKETEERING ACT TWO

(Extortion Collection - John Doe #1)

19. The defendant named below agreed to the commission of the following acts, either one of which alone constitutes Racketeering Act Two:

A. Federal Extortionate Collection of Credit Conspiracy

20. In or about and between December 2009 and March 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant NEIL MESSINA, together with others, did knowingly and intentionally conspire to participate in the use of extortionate means to collect and attempt to collect an extension of credit from John Doe #1, an individual whose identity is known to the Grand Jury, contrary to Title 18, United States Code, Section 894(a)(1).

B. State Extortion Conspiracy

21. In or about and between December 2009 and March 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant NEIL MESSINA, together with others, did knowingly and intentionally conspire to steal property by extortion, in that the defendant and others agreed to obtain property, to wit: money, by compelling and inducing John Doe #1 to deliver such property by instilling in him a fear that, if the property were not so delivered, one or more persons would (1) cause physical injury to some person in the future and (2) cause damage to property, contrary to New York Penal Law Sections 155.40(2), 155.05(2)(e)(i), 155.05(2)(e)(ii) and 105.10.

RACKETEERING ACT THREE
(Illegal Gambling - Sports Betting)

22. The defendants named below agreed to the commission of the following acts, either one of which alone constitutes Racketeering Act Three:

A. Transmission of Wagering Information

23. In or about and between April 2010 and December 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, together with others, being engaged in the business of betting and wagering, did knowingly and intentionally use one or more wire communication facilities for

the transmission in interstate commerce of information assisting in the placing of bets and wagers on one or more sporting events and contests, contrary to Title 18, United States Code, Sections 1084(a) and 2.

B. Interstate Travel in-aid-of Racketeering

24. In or about and between April 2010 and December 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, together with others, did knowingly and intentionally travel in interstate commerce, and use the mail and one or more facilities in interstate commerce, with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity, to wit: an illegal gambling business, in violation of New York Penal Law Section 225.05, and thereafter did perform and attempt to perform such promotion, management, establishment, carrying on and facilitation of the promotion, management, establishment and carrying on of such unlawful activity, contrary to Title 18, United States Code, Sections 1952(a)(2)(A) and 2.

RACKETEERING ACT FOUR

(Extortionate Extension and Extortionate Collection - John Doe #2)

25. The defendants named below agreed to the commission of the following acts, any one of which alone constitutes Racketeering Act Four:

A. Extortionate Extension of Credit Conspiracy

26. In or about and between April 2010 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, together with others, did knowingly and intentionally conspire to make an extortionate extension of credit to John Doe #2, an individual whose identity is known to the Grand Jury, contrary to Title 18, United States Code, Section 892(a).

B. Extortionate Extension of Credit

27. In or about and between April 2010 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, together with others, did knowingly and intentionally make an extortionate extension of credit to John Doe #2, contrary to Title 18, United States Code, Sections 892(a) and 2.

C. Extortionate Collection of Credit Conspiracy

28. In or about and between April 2010 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, together with others, did knowingly and intentionally conspire to participate in the use of extortionate means to collect and attempt to collect an extension

of credit from John Doe #2, contrary to Title 18, United States Code, Section 894(a)(1).

D. Extortionate Collection of Credit

29. In or about and between April 2010 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, together with others, did knowingly and intentionally participate in the use of extortionate means to collect and attempt to collect an extension of credit from John Doe #2, contrary to Title 18, United States Code, Sections 894(a)(1) and 2.

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

COUNT TWO

(Extortionate Collection of Credit Conspiracy - John Doe #1)

30. The allegations contained in paragraphs 1 through 13 are realleged and incorporated as if fully set forth in this paragraph.

31. In or about and between December 2009 and March 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA, NICOLO VALENTI, also known as "Nick," and BENITO VALENTI, also known as "Benny," together with others, did knowingly and intentionally conspire to participate in the use of

extortionate means to collect and attempt to collect an extension of credit from John Doe #1.

(Title 18, United States Code, Sections 894(a)(1) and 3551 et seq.)

COUNT THREE

(Transmission of Wagering Information)

32. The allegations contained in paragraphs 1 through 13 are realleged and incorporated as if fully set forth in this paragraph.

33. In or about and between April 2010 and December 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, also known as "Johnny Pizza," together with others, being engaged in the business of betting and wagering, did knowingly and intentionally use one or more wire communication facilities for the transmission in interstate commerce of information assisting in the placing of bets and wagers on one or more sporting events and contests.

(Title 18, United States Code, Sections 1084(a), 2 and 3551 et seq.)

COUNT FOUR

(Interstate Travel in-aid-of Racketeering)

34. The allegations contained in paragraphs 1 through 13 are realleged and incorporated as if fully set forth in this paragraph.

35. In or about and between April 2010 and December 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, also known as "Johnny Pizza," together with others, did knowingly and intentionally travel in interstate commerce, and use the mail and one or more facilities in interstate commerce, with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of an unlawful activity, to wit: an illegal gambling business, in violation of New York Penal Law Section 225.05, and thereafter did perform and attempt to perform such promotion, management, establishment, carrying on and facilitation of the promotion, management, establishment and carrying on of such unlawful activity.

(Title 18, United States Code, Sections 1952(a)(2)(A), 2 and 3551 et seq.)

COUNT FIVE

(Extortionate Extension of Credit Conspiracy - John Doe #2)

36. The allegations contained in paragraphs 1 through 13 are realleged and incorporated as if fully set forth in this paragraph.

37. In or about and between April 2010 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, also known as "Johnny Pizza," together

with others, did knowingly and intentionally conspire to make an extortionate extension of credit to John Doe #2.

(Title 18, United States Code, Sections 892(a) and 3551 et seq.) .

COUNT SIX

(Extortionate Extension of Credit - John Doe #2)

38. The allegations contained in paragraphs 1 through 13 are realleged and incorporated as if fully set forth in this paragraph.

39. In or about and between April 2010 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, also known as "Johnny Pizza," together with others, did knowingly and intentionally make an extortionate extension of credit to John Doe #2.

(Title 18, United States Code, Sections 892(a), 2 and 3551 et seq.)

COUNT SEVEN

(Extortionate Collection of Credit Conspiracy - John Doe #2)

40. The allegations contained in paragraphs 1 through 13 are realleged and incorporated as if fully set forth in this paragraph.

41. In or about and between April 2010 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL

MESSINA and JOHN PORCELLO, also known as "Johnny Pizza," together with others, did knowingly and intentionally conspire to participate in the use of extortionate means to collect and attempt to collect an extension of credit from John Doe #2.

(Title 18, United States Code, Sections 894(a)(1) and 3551 et seq.)

COUNT EIGHT

(Extortionate Collection of Credit - John Doe #2)

42. The allegations contained in paragraphs 1 through 13 are realleged and incorporated as if fully set forth in this paragraph.

43. In or about and between April 2010 and January 2011, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants NEIL MESSINA and JOHN PORCELLO, also known as "Johnny Pizza," together with others, did knowingly and intentionally participate in the use of extortionate means to collect and attempt to collect an extension of credit from John Doe #2.

(Title 18, United States Code, Sections 894(a)(1), 2 and 3551 et seq.)

FORFEITURE ALLEGATION AS TO COUNT ONE

44. The United States hereby gives notice to the defendants charged in Count One that, upon conviction of that offense, the government will seek forfeiture, in accordance with Title 18, United States Code, Section 1963, which requires any

person convicted of such offenses 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, claims 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.

45. 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 such 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))

FORFEITURE ALLEGATION AS TO COUNTS TWO THROUGH EIGHT

46. The United States hereby gives notice to the defendants charged in Counts Two through Eight that, upon 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 constituting or derived from proceeds obtained directly or indirectly as a result of such offenses.

47. 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;

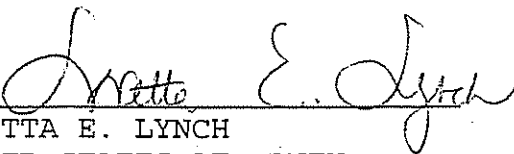
(d) has been substantially diminished in value; or

(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), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of such 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))

A TRUE BILL

FOREPERSON



LORETTA E. LYNCH
UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

