

TM:EMN/SEF  
F.#2008R01634

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

JAN 07 2011

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UNITED STATES OF AMERICA

I N D I C T M E N T

- against -

Cr. No. \_\_\_\_\_  
(T. 18, U.S.C., §§  
924(c)(1)(A)(i),  
924(c)(1)(A)(ii),  
924(c)(1)(A)(iii), 924(d),  
1962(d), 1963, 2 and 3551  
et seq.; T. 21, U.S.C.,  
§ 853(p); T. 28, U.S.C.,  
§ 2461(c))

BARTOLOMEO VERNACE,  
also known as "Pepe," "Bobby,"  
"Bobby Glasses" and "Robert,"  
VITO CORTESIANO,  
also known as "Vito Love,"  
MICHAEL DOLPHIN,  
ANTHONY VAGLICA,  
also known as "Bosch," and  
ROBERT WEHNERT,  
also known as "Bobby Werner,"

Defendants.

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TOWNER

REYES, M.J.

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 the Gambino  
organized crime family 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  
(hereinafter the "Gambino crime family" and the "enterprise").  
The enterprise constituted an ongoing organization whose members  
functioned as a continuing unit for a common purpose of achieving

the objectives of the enterprise. The Gambino crime family engaged in, and its activities affected, interstate and foreign commerce. The Gambino crime family was an organized criminal group that operated in the Eastern District of New York and elsewhere.

2. La Cosa Nostra operated through organized crime families. Five of these crime families - the Bonanno, Colombo, Gambino, Genovese and 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 crime family, operated principally in New Jersey but from time to time also in New York City.

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

4. The Gambino crime family had a hierarchy and structure. The head of the Gambino crime family was known as the "boss." The Gambino crime family boss was assisted by an "underboss" and a counselor known as a "consigliere." Together, the boss, 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 Gambino crime family served in an "acting" rather than "official" capacity in the administration on occasion due to another administration member's incarceration or ill health, or for the purpose of seeking to insulate another administration member from law enforcement scrutiny. Further, on occasion, the Gambino crime family was overseen by a "panel" of crime family members that did not include the boss, underboss and/or consigliere.

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

6. Only members of the Gambino crime family could serve as a boss, underboss, consigliere, captain or soldier. Members of the Gambino crime family were referred to on occasion as "goodfellas" or "wiseguys," or as persons who had been "straightened out" or who had their "button." Associates were individuals who were not members of the Gambino crime family, but who nonetheless engaged in criminal activity for, and under the protection of, the Gambino crime family.

7. Many requirements existed before an associate could become a member of the Gambino crime family. The Commission of La Cosa Nostra from time to time limited the number of new members 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 the Gambino crime family was to generate money for its members and associates. This purpose was implemented by members and associates of the Gambino crime family through various criminal activities, including drug trafficking, robbery, extortion, illegal gambling and loansharking. The members and associates of the Gambino crime family also furthered the enterprise's criminal activities by threatening economic injury and using and threatening to use physical violence, including murder.

9. Although the primary purpose of the Gambino crime family was to generate money for its members and associates, the members and associates at times used the resources of the Gambino crime family to settle personal grievances and vendettas, sometimes with the approval of higher-ranking members of the family. For those purposes, members and associates of the enterprise were asked and expected to carry out, among other crimes, acts of violence, including murder and assault.

10. The members and associates of the Gambino crime family engaged in conduct designed to prevent government

detection of their identities, their illegal activities and the location of proceeds of those activities. That conduct included 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 the Gambino crime family often coordinated criminal activity with members and associates of other organized crime families.

#### The Defendants

12. At various times relevant to this Indictment, the defendant BARTOLOMEO VERNACE, also known as "Pepe," "Bobby," "Bobby Glasses" and "Robert," was an associate, soldier and captain in the Gambino crime family, as well as a member of the ruling panel formed to oversee the Gambino crime family in approximately 2008.

13. At various times relevant to this Indictment, the defendants VITO CORTESIANO, also known as "Vito Love," MICHAEL DOLPHIN, ANTHONY VAGLICA, also known as "Bosch," and ROBERT WEHNERT, also known as "Bobby Werner," were associates in the Gambino crime family.

COUNT ONE  
(Racketeering Conspiracy)

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

15. In or about and between April 1981 and December 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants BARTOLOMEO VERNACE, also known as "Pepe," "Bobby," "Bobby Glasses" and "Robert," VITO CORTESIANO, also known as "Vito Love," MICHAEL DOLPHIN, ANTHONY VAGLICA, also known as "Bosch," and ROBERT WEHNERT, also known as "Bobby Werner," together with others, being persons employed by and associated with the Gambino crime family, an enterprise that engaged in, and the activities of which affected, interstate and foreign commerce, did knowingly and intentionally conspire to violate Title 18, United States Code, Section 1962(c), that is, to conduct and participate, directly and indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity, as defined in Title 18, United States Code, Sections 1961(1) and (5).

16. The pattern of racketeering activity through which the defendants, together with others, agreed to conduct the affairs of the enterprise consisted of Racketeering Acts One through Seven, set forth below. The defendants agreed that a

conspirator would commit at least two acts of racketeering in the conduct of the affairs of the enterprise.

RACKETEERING ACT ONE  
(Conspiracy to Murder and Murder - John D'Agnese)

17. The defendant BARTOLOMEO VERNACE agreed to the commission of the following acts, either one of which alone constitutes Racketeering Act One:

A. Conspiracy to Murder John D'Agnese

18. On or about April 11, 1981, within the Eastern District of New York, the defendant BARTOLOMEO VERNACE, together with others, did knowingly and intentionally conspire to cause the death of John D'Agnese, contrary to New York Penal Law Sections 125.25(1) and 105.15.

B. Murder of John D'Agnese

19. On or about April 11, 1981, within the Eastern District of New York, the defendant BARTOLOMEO VERNACE, together with others, with intent to cause the death of John D'Agnese, did knowingly and intentionally cause his death, contrary to New York Penal Law Sections 125.25(1) and 20.00.

RACKETEERING ACT TWO  
(Conspiracy to Murder and Murder - Richard Godkin)

20. The defendant BARTOLOMEO VERNACE agreed to the commission of the following acts, either one of which alone constitutes Racketeering Act Two:



A. Conspiracy to Murder Richard Godkin

21. On or about April 11, 1981, within the Eastern District of New York, the defendant BARTOLOMEO VERNACE, together with others, did knowingly and intentionally conspire to cause the death of Richard Godkin, contrary to New York Penal Law Sections 125.25(1) and 105.15.

B. Murder of Richard Godkin

22. On or about April 11, 1981, within the Eastern District of New York, the defendant BARTOLOMEO VERNACE, together with others, with intent to cause the death of Richard Godkin, did knowingly and intentionally cause his death, contrary to New York Penal Law Sections 125.25(1) and 20.00.

RACKETEERING ACT THREE  
(Illegal Gambling - Baccarat)

23. In or about and between October 1990 and January 2003, both dates being approximate and inclusive; within the Eastern District of New York, the defendants BARTOLOMEO VERNACE, VITO CORTESIANO, ANTHONY VAGLICA and ROBERT WEHNERT, together with others, did knowingly and intentionally conduct, finance, manage, supervise, direct and own all or part of an illegal gambling business, to wit: a seasonal baccarat game, which operated in violation of the laws of the State of New York, to wit: New York Penal Law Sections 225.05 and 20.00, which involved five or more persons who conducted, financed, managed, supervised, directed and owned all or part of such business and

which remained in substantially continuous operation for a period in excess of thirty days and had a gross revenue of at least \$2,000 in any single day, contrary to Title 18, United States Code, Sections 1955 and 2.

RACKETEERING ACT FOUR  
(Extortionate Extension of Credit Conspiracy)

24. In or about and between October 1990 and January 2003, both dates being approximate and inclusive, within the Eastern District of New York, the defendants BARTOLOMEO VERNACE, ANTHONY VAGLICA and ROBERT WEHNERT, together with others, did knowingly and intentionally conspire to make extortionate extensions of credit to participants in the seasonal baccarat game identified in Racketeering Act Three, contrary to Title 18, United States Code, Section 892(a).

RACKETEERING ACT FIVE  
(Illegal Gambling - Joker Poker)

25. In or about and between January 1993 and December 2002, both dates being approximate and inclusive, within the Eastern District of New York, the defendants BARTOLOMEO VERNACE, VITO CORTESIANO and MICHAEL DOLPHIN, together with others, did knowingly and intentionally conduct, finance, manage, supervise, direct and own all or part of an illegal gambling business, to wit: a gambling business in a café located at Cooper and Myrtle Avenues in Queens, New York, involving the use of joker poker-type gambling machines, which operated in violation of the

laws of the State of New York, to wit: New York Penal Law Sections 225.30(a)(2) and 20.00, which involved five or more persons who conducted, financed, managed, supervised, directed and owned all or part of such business and which remained in substantially continuous operation for a period in excess of thirty days and had a gross revenue of at least \$2,000 in any single day, contrary to Title 18, United States Code, Sections 1955 and 2.

RACKETEERING ACT SIX

(Extortionate Extension of Credit Conspiracy/  
Extortionate Collection of Credit Conspiracy)

26. The defendant MICHAEL DOLPHIN agreed to the commission of the following acts, either one of which alone constitutes Racketeering Act Six:

A. Extortionate Extension of Credit Conspiracy

27. In or about and between January 1994 and March 2001, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant MICHAEL DOLPHIN, together with others, did knowingly and intentionally conspire to make extortionate extensions of credit, contrary to Title 18, United States Code, Section 892(a).

B. Extortionate Collection of Credit Conspiracy

28. In or about and between January 1994 and March 2001, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant MICHAEL

DOLPHIN, together with others, did knowingly and intentionally conspire to participate in the use of extortionate means to collect and attempt to collect extensions of credit, contrary to Title 18, United States Code, Section 894(a)(1).

RACKETEERING ACT SEVEN  
(Extortionate Extension of Credit/  
Extortionate Collection of Credit)

29. The defendants BARTOLOMEO VERNACE and MICHAEL DOLPHIN agreed to the commission of the following acts, either one of which alone constitutes Racketeering Act Seven:

A. Extortionate Extension of Credit

30. In or about and between April 1999 and March 2001, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants BARTOLOMEO VERNACE and MICHAEL DOLPHIN, together with others, did knowingly and intentionally make an extortionate extension of credit to John Doe, an individual whose identity is known to the Grand Jury, contrary to Title 18, United States Code, Sections 892(a) and 2.

B. Extortionate Collection of Credit

31. In or about and between April 1999 and March 2001, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendants BARTOLOMEO VERNACE and MICHAEL DOLPHIN, 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, contrary to Title 18, United States Code, Sections 892(a)(1) and 2.

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

COUNT TWO

(Using, Carrying and Possessing a Firearm)

32. In or about and between April 1981 and December 2010, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant BARTOLOMEO VERNACE, also known as "Pepe," "Bobby," "Bobby Glasses" and "Robert," together with others, did knowingly and intentionally use and carry a firearm during and in relation to a crime of violence, to wit: the crime charged in Count One, and did knowingly and intentionally possess said firearm in furtherance of that crime of violence, which firearm was brandished and discharged.

(Title 18, United States Code, Sections 924(c)(1)(A)(i), 924(c)(1)(A)(ii), 924(c)(1)(A)(iii), 2 and 3551 et seq.)

CRIMINAL FORFEITURE ALLEGATION AS TO COUNT ONE

33. The allegations contained in Count One of this Indictment are hereby repeated, realleged and incorporated by reference herein as though fully set forth at length for the purpose of alleging forfeiture pursuant to the provisions of Title 18, United States Code, Section 1963 and Title 28, United

States Code, Section 2461(c). Pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure, notice is hereby given to the defendants that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Section 1963, for which each defendant is jointly and severally liable, in the event of any defendant's conviction under Count One of this Indictment.

34. The defendants, BARTOLOMEO VERNACE, VITO CORTESIANO, MICHAEL DOLPHIN, ANTHONY VAGLICA and ROBERT WEHNERT,

a. have acquired and maintained interests in violation of Title 18, United States Code, Section 1962, which interests are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1);

b. have an interest in, security of, claims against, and property and contractual rights which afford a source of influence over, the enterprise named and described herein which the defendants established, operated, controlled, conducted and participated in the conduct of, in violation of Title 18, United States Code, Section 1962, which interests, securities, claims and rights are subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(2); and

c. have property constituting and derived from proceeds obtained, directly and indirectly, from racketeering

activity, in violation of Title 18, United States Code, Section 1962, which property is subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(3).

35. The interests of the defendants subject to forfeiture to the United States pursuant to Title 18, United States Code, Section 1963(a)(1), (a)(2), and (a)(3), include but are not limited to, at least \$3,177,600.

36. If any of the property described in paragraphs 34 and 35 above, as a result of any act or omission of a defendant:

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

the court shall order the forfeiture of any other property of the defendants up to the value of any property set forth in paragraphs 34 and 35 above.

(Title 18, United States Code, Section 1963; Title 28, United States Code, Section 2461(c))

CRIMINAL FORFEITURE ALLEGATION AS TO COUNT TWO

37. The United States hereby gives notice to the defendant charged in Count Two, BARTOLOMEO VERNACE, that, upon his conviction, the government will seek forfeiture in accordance with Title 18, United States Code, Section 924(d) and Title 28, United States Code, Section 2461(c), which require the forfeiture of any firearm or ammunition involved in or used in any knowing violation of Title 18, United States Code, Section 924.

38. If any of the property described in paragraph 37 above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value;

or




e. has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of defendant VERNACE up to the value of the forfeitable property described in this forfeiture allegation.

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

A TRUE BILL

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FOREPERSON

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