

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**UNITED STATES OF AMERICA** \* **CRIMINAL NO. 2:13-CR-107**  
v. \* **SECTION: I(3)**  
**BENJAMIN M. GELLER** \*

\* \* \*

**FACTUAL BASIS**

Should this matter have gone to trial, the government would have proved through the introduction of competent testimony and admissible tangible exhibits, including documentary evidence, the following to support the allegations charged by the government in the one count bill of information now pending against the defendant, BENJAMIN M. GELLER (hereinafter “GELLER”).

**Background**

Beginning in at least 1994 through in or around 2002, the defendant, GELLER, was a professional sports agent for Frank W. Warren, III (“Warren”), a former National Football League player who played for the New Orleans Saints organization. In or around 1994, Warren, with help from his agent, GELLER, established the Frank Warren Irrevocable Trust (the “Trust”). The Trust was specifically established for the benefit of Warren’s family. In or around 1995, Terrell Warren a/k/a Terrell LeBeaux (“Terrell”), married Warren and she thus became a beneficiary of the Trust. The defendant, GELLER, was appointed trustee of the Trust. In or around 1994, during the time Warren set up the Trust, he also applied for and obtained a life insurance policy through a life insurance company worth approximately \$1,000,000. Upon Warren’s death, the Trust was to be funded from the proceeds of the life insurance policy.

In or around December 2002, Warren died of a heart attack. In early 2003, the Trust was funded by the proceeds from the life insurance policy Warren had purchased in 1994 and a check worth approximately \$1,000,300 was disbursed to an account at a financial institution in the name of the Trust. According to the Trust, GELLER, the trustee, was to provide funds to Warren's family, as necessary for their care, support, maintenance, and education; GELLER was not permitted to use funds from the Trust for his own personal expenses. At the time of Warren's death and throughout the life of the Trust, the Trust funds were held at a financial investment firm.

### **Theft of Trust Funds**

Beginning in or around 2003 and continuing in or around 2007, GELLER, as the trustee of the Trust, managed the assets of the Trust. During this time, GELLER devised and executed a scheme to defraud the Trust's beneficiaries, including Terrell (Warren's widowed spouse) and Warren's family, by unlawfully taking and utilizing funds from the Trust to be spent for personal uses and to enrich himself. Thus, for example, from in or around 2003 through in or around 2007, GELLER improperly utilized Trust funds for personal travel, airfare, and lodging at various destinations, such as New York City, New York; Las Vegas, Nevada; Dallas, Texas; Sante Fe, New Mexico; Lahaina, Hawaii; and St. John, U.S. Virgin Islands. During this same period of time, GELLER improperly used Trust funds, which were intended for Warren's family, to fund other bank accounts in GELLER's personal name which he then utilized for personal uses. GELLER also improperly used Trust funds, during this same period of time, for personal and entertainment purposes, such as home furnishings. Finally, during this period of time, GELLER improperly utilized Trust funds to make payments to other financial institutions that held debt for GELLER, as well as make GELLER's income tax payments to the Internal

Revenue Service. By December 31, 2007, the Trust, which was originally funded with approximately \$1,000,000, was entirely depleted. In total, from in or around 2003 through in or around 2007, GELLER unlawfully took and utilized over \$500,000 in Trust funds that should have been paid to the beneficiary of the Trust, Terrell.

### **Wire Fraud**

Beginning in or around 2008 until in or around 2011, upon being questioned regarding the Trust and its assets, GELLER made material misrepresentations to Terrell and/or her representatives regarding the status of Trust and its funds. Instead of admitting he unlawfully took over \$500,000 in Trust funds and admitting that the Trust was depleted of its assets, GELLER began making monthly payments to Terrell, in an effort to mislead Terrell into believing that the Trust funds were largely intact when, in fact, there were no more Trust funds. These payments were materially misleading and false, and were used to deceive Terrell and hide GELLER's scheme, as set forth above. These payments were generally sent on a monthly basis, from a bank account in the name of the Trust, which was located in Texas, to Terrell's bank, located in New Orleans, Louisiana, in the Eastern District of Louisiana. These misleading payments, which took place from in or about 2008 through in or about 2010, were sent by GELLER via interstate wire, which caused certain writings, signs, signals, and sounds by means of wire communications to be transmitted in interstate commerce from Texas to New Orleans, located in the Eastern District of Louisiana. One example of these misleading payments took place on or about September 4, 2009, when GELLER knowingly transmitted by wire, in interstate commerce, approximately \$4,000 from an account in the name of the Trust, located in Texas, to Terrell's bank account, located in New Orleans, in the Eastern District of Louisiana.

Records from various financial institutions would have been introduced at trial to reflect the theft of Trust funds undertaken by GELLER, as set forth above. Additionally, records from various vendors, including travel agencies, airline companies, hotels, and other businesses, would be introduced to corroborate GELLER's unlawful expenditures. Additional bank records, including GELLER's bank account records and Terrell's bank account records, would be introduced to reflect payments made by GELLER to Terrell, including the misleading payments made in interstate commerce set forth above. Finally, testimony from these various institutions, from the victim, Terrell, and from Special Agents of the Federal Bureau of Investigation, would be introduced to corroborate the scheme executed by GELLER set forth above.

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BENJAMIN M. GELLER  
Defendant

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