

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

SUPERSEDING INDICTMENT

-v.- :

S1 12 Cr. 826 (JGK)

BRIAN RAMNARINE, :

Defendant. :

- - - - - x

The Grand Jury charges:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/17/13

BACKGROUND

1. At all times relevant to this Indictment, BRIAN RAMNARINE, the defendant, was the owner of Empire Bronze Art Foundry ("Empire Bronze"), a foundry that provided, among other services, casting of metal sculptures for artists. RAMNARINE was and had a reputation for being highly skilled in casting bronze sculptures. At all times relevant to this Indictment, Empire Bronze was located in Long Island City, New York.

2. From at least in or about 1989 up to and including in or about 1992, several artists, including Jasper Johns ("Johns"), Robert Indiana ("Indiana") and Saint Clair Cemin ("Cemin"), provided BRIAN RAMNARINE, the defendant, with casts and/or molds of sculptures, and paid RAMNARINE to create original metal sculptures from those casts and/or molds.

3. At no time did Johns, Indiana or Cemin, or any of their agents, authorize BRIAN RAMNARINE, the defendant, or Empire Bronze to manufacture any sculptures from the casts and/or molds that Johns, Indiana and Cemin provided to RAMNARINE, other than those sculptures that were expressly directed, authorized and ordered by Johns, Indiana, Cemin and/or their respective agents.

4. Despite lacking authorization to create additional sculptures from the casts and/or molds provided by Johns, Indiana and Cemin, BRIAN RAMNARINE, the defendant, created unauthorized metal sculptures from these casts and/or molds. From at least in or about 2010 through 2013, RAMNARINE attempted to, and in most cases did, sell, through false and fraudulent means, at least 13 such unauthorized sculptures (the "Unauthorized Sculptures") to, among others, an art collector located in the western United States and an art gallery located in Long Island City, New York (the "Gallery") that sold artwork on websites that were viewed in, among other places, New York, New York. The Unauthorized Sculptures included:

- a. "Flag" (Johns);
- b. "Two" (Indiana);
- c. "Orb" (Indiana);
- d. "Bulls Eye" (Cemin);

- e. "Wave and Wave Hill Jr." (a/k/a "Wave and Wave Junior") (Cemin);
- f. "Woman with Child" (Cemin);
- g. "Monkey with Ball" (Cemin);
- h. "Horse and Rider" (Cemin);
- i. "3 Bronze Dogs with Paint Pallets" (a/k/a "Acquarella") (Cemin);
- j. "And Then I Close My Eyes" (a/k/a "Seated Figure") (Cemin);
- k. "Eloquent" (a/k/a "Eloquence") (Cemin);
- l. "Fish Lamp" (a/k/a "Lamp for Bill Katz") (Cemin); and
- m. "Man with Beast" (a/k/a "Man and Beast") (Cemin).

5. BRIAN RAMNARINE, the defendant, falsely and fraudulently represented, among other things, that the Unauthorized Sculptures he sought to sell were genuine and authorized works of art created by Johns, Indiana and Cemin, and that RAMNARINE had rightful ownership of this artwork. In truth and in fact, and as RAMNARINE well knew, Johns, Indiana, Cemin and their agents did not authorize RAMNARINE to manufacture or sell any of these works of art.

STATUTORY ALLEGATIONS

COUNT ONE

(Wire Fraud Relating to Jasper Johns Sculpture)

6. From at least in or about March 2010 up to and including in or about May 2010, in the Southern District of New York and elsewhere, BRIAN RAMNARINE, the defendant, 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, did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, RAMNARINE engaged in a scheme to defraud potential purchasers into buying an unauthorized sculpture that was purportedly created and authorized by Jasper Johns, titled "Flag," by, among other things, falsely representing the authenticity and provenance of the artwork.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT TWO

(Wire Fraud Relating to Robert Indiana Sculptures)

The Grand Jury further charges:

7. The allegations contained in paragraphs 1 through 5 above are hereby repeated, realleged, and incorporated by reference as if fully set forth herein.

8. From at least on or about December 21, 2012 up to and including on or about February 4, 2013, in the Southern District of New York and elsewhere, while BRIAN RAMNARINE, the defendant, was on release pursuant to an order of the United States District Court for the Southern District of New York, dated on or about November 15, 2012, issued pursuant to Title 18, United States Code, Section 3142(c), RAMNARINE 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, did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, RAMNARINE engaged in a scheme to defraud purchasers, including the Gallery, into buying unauthorized sculptures that were purportedly created and authorized by Robert Indiana, including sculptures titled "Two"

and "Orb," by, among other things, falsely representing the authenticity and provenance of the artwork.

(Title 18, United States Code, Sections 1343, 3147(1), and 2.)

COUNT THREE

(Wire Fraud Relating to Saint Clair Cemin Sculptures)

The Grand Jury further charges:

9. The allegations contained in paragraphs 1 through 5 above are hereby repeated, realleged, and incorporated by reference as if fully set forth herein.

10. From at least on or about June 27, 2012 up to and including in or about February 15, 2013, in the Southern District of New York and elsewhere, while BRIAN RAMNARINE, the defendant, was on release pursuant to an order of the United States District Court for the Southern District of New York, dated on or about November 15, 2012, issued pursuant to Title 18, United States Code, Section 3142(c), RAMNARINE 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, did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, RAMNARINE engaged in

a scheme to defraud purchasers, including the Gallery, into buying unauthorized sculptures that were purportedly created and authorized by Saint Clair Cemin, including sculptures referenced as or titled "Bulls Eye," "Wave and Wave Hill Jr." (a/k/a "Wave and Wave Junior"), "Woman with Child," "Monkey with Ball," "Horse and Rider," "3 Bronze Dogs with Paint Pallets" (a/k/a "Acquarella"), "And Then I Close My Eyes" (a/k/a "Seated Figure"), "Eloquent" (a/k/a "Eloquence"), "Fish Lamp" (a/k/a "Lamp for Bill Katz") and "Man with Beast" (a/k/a "Man and Beast"), by, among other things, falsely representing the authenticity and provenance of the artwork.

(Title 18, United States Code, Sections 1343, 3147(1), and 2.)

FORFEITURE ALLEGATIONS

11. As the result of committing the wire fraud offenses alleged in Counts One through Three of this Indictment, BRIAN RAMNARINE, the defendant, 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, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offenses, including but not limited to the following:

- a. A sculpture, purported to be (a) titled "Flag" and (b) created by Jasper Johns in or

about 1989, and which is made of bronze with silver plate and gold plate, marked "1/1," stamped "Empire Bronze," and measures 19.5 x 12.75 x 1.5 inches;

- b. Any and all casts, molds and/or facsimiles of Johns's "Flag";
- c. Any and all casts, molds and/or facsimiles of any artwork created by Robert Indiana; and
- d. Any and all casts, molds and/or facsimiles of any artwork created by Saint Clair Cemin.

Substitute Asset Provision

12. If any of the above-described forfeitable property, as a result of any act or omission of BRIAN RAMNARINE, the defendant:

- a. cannot be located upon the exercise of due diligence;
 - b. has been transferred or sold to, or deposited with, a third person;
 - 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 subdivided without
difficulty;

it is the intent of the United States, pursuant to 21 U.S.C.
§ 853(p), to seek forfeiture of any other property of said
defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Sections 981(a)(1)(C) and 1343;
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461.)



FOREPERSON

Preet Bharara
PREET BHARARA
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

BRIAN RAMNARINE,

Defendant.

SPERSEDING INDICTMENT


S1 12 Cr. 826 (JGK)

(18 U.S.C. §§ 1343, 3147(1), and 2.)

PREET BHARARA

United States Attorney.

A TRUE BILL


Foreperson.

6/17/13
de - Filed Superseding Indictment.
Judge Fox
U.S.M.J.