

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA * CRIMINAL NO. 22-22
v. * SECTION: "H"
DAVID BROWN *

* * *

FACTUAL BASIS

Should this matter have gone to trial, the Government would have proved through the introduction of reliable testimony and admissible tangible exhibits, including documentary evidence, the following to support the allegations charged by the Government in Count 1 of the Indictment against the defendant, **DAVID BROWN**, charging him with a violation of Title 18, United States Code, Section 371, namely, conspiracy to commit mail fraud. The Defendant, along with his co-conspirators and others, beginning at a time unknown and continuing through the present, in the Eastern District of Louisiana, and elsewhere, conspired to commit mail fraud in connection with a staged automobile accident that occurred on or about May 11, 2017.

Prior to May 11, 2017, Joseph Brewton ("Brewton") convinced **BROWN** to participate in a staged automobile accident to make money. **BROWN** agreed. At trial, the Government would present phone records showing that, between on or about May 9, 2017 and May 11, 2017, **BROWN** had repeated phone contact with Brewton, and Brewton had phone contact with co-conspirators including Damien Labeaud ("Labeaud"). If this case proceeded to trial, the Government would present testimonial evidence that Labeaud was known as a "slammer," or an individual who drove vehicles and intentionally collided with 18-wheeler tractor-trailers in order to stage car accidents. According to phone records, Labeaud also spoke with Attorneys B and C

AUSA *ML*
Defendant *DIB*
Defense Counsel *DR*

and with Mario Solomon during this time period. At trial, the Government would present testimony that Solomon was known as a “spotter,” or an individual who would follow Labeaud in a separate vehicle and would pick up Labeaud after the staged accidents in order to flee the scene and evade detection.

Brewton told **BROWN** that Larry Picou (“Picou”) had also agreed to serve as a passenger in a staged collision. Brewton told **BROWN** that he should bring Picou and Gilda Henderson (“Henderson”) to New Orleans. **BROWN** picked up Picou first, and they discussed that they were going to stage a collision. On or about May 11, 2017, **BROWN** drove a Ford Expedition (“the Expedition”) to pick up Henderson from Morgan City, Louisiana and to pick up Picou from Gibson, Louisiana. **BROWN** then drove to a parking lot in New Orleans, Louisiana. In the parking lot, **BROWN**, Henderson, and Picou met Labeaud, Solomon, and Latrell Johnson (“Johnson”), who were in Solomon’s Chevy Silverado.

In the parking lot, Labeaud got into the driver’s seat of the Expedition, and **BROWN** moved to the back of the vehicle. In front of the other passengers, **BROWN** initially objected to Labeaud driving his vehicle, but Labeaud insisted that **BROWN** would not know how to stage a collision. Henderson rode in the front passenger seat. **BROWN**, Johnson, and Picou rode in the back of the vehicle. The occupants of the Expedition discussed that Labeaud would intentionally cause a collision with a tractor-trailer and then leave while the passengers contacted the police. The passengers agreed to say that they had come to New Orleans to go shopping. Labeaud instructed the passengers to claim to be injured but not to go to the hospital.

Labeaud drove around for a bit and told the passengers that he was looking for the right vehicle to hit. At around 10 a.m., while driving the Expedition at the intersection of Chef Menteur Highway and Downman Road in New Orleans, Labeaud warned the passengers to hold on, and

then intentionally sped up and collided with a 2013 International tractor-trailer owned by B.A.H. Express and driven by Truck Driver B. **BROWN** did not observe anyone sleeping at the time of the collision. Labeaud instructed **BROWN** to get into the driver's seat after the collision.

The Government would present testimonial evidence that Truck Driver B was unaware that a collision had occurred, so Solomon flagged down Truck Driver B, posing as a bystander, and falsely alleged that the tractor-trailer had struck a vehicle. If this case had proceeded to trial, the Government would present evidence that Truck Driver B later identified photos of Solomon as the individual who flagged him down and identified photos of Solomon's Silverado as the vehicle used.

Labeaud fled the scene in Solomon's Silverado. New Orleans Police Department ("NOPD") officers responded to the accident. The Government would introduce NOPD body camera footage showing that **BROWN** falsely informed officers that he had been driving the Expedition and that the tractor-trailer had caused the collision.

If this case had proceeded to trial, the Government would introduce phone records showing that, at approximately 10:25 a.m., Labeaud texted Attorney C, [REDACTED]. [REDACTED] The Government would present testimonial evidence that Brewton directed the passengers to go to the law firm of Attorneys A, B, C, and D after the false police report was made. **BROWN** drove the Expedition, following Labeaud in the Silverado, to the law firm of Attorneys A, B, C, and D. Labeaud went into the back and spoke privately with someone at the firm, and then Attorney B met with **BROWN**, Henderson, Picou, and Johnson. **BROWN**, Henderson, Picou, and Johnson initially hired the law firm of Attorneys A, B, C, and D.

The Government would introduce bank records showing that, on or about July 21, 2017, the insurance provider for Truck Driver B, Westfield Insurance Company ("Westfield"), paid

approximately \$3,242.77 for **BROWN**'s property loss.

BROWN became dissatisfied with the law firm of Attorneys A, B, C, and D, and Brewton recommended that he switch to representation by Patrick Keating ("Keating"). Keating referred **BROWN** to medical providers. To increase his potential recovery, **BROWN** underwent neck and back surgery.

Picou and Johnson also switched their legal representation to Keating. At trial, the Government would introduce civil records showing that Keating filed a petition on their behalf in Orleans Parish Civil District Court ("CDC") on or about May 9, 2018 ("the Brown/Picou/Johnson Lawsuit"). The Government would present evidence that the Brown/Picou/Johnson Lawsuit was a personal injury lawsuit that sought damages from Truck Driver B and Westfield, arising out of the May 11, 2017 collision.

The Government would also introduce civil records showing that, on or about May 11, 2018, the Law Firm of Attorneys A, B, C, and D filed a petition on behalf of Henderson in the CDC ("the Henderson Lawsuit"). The Henderson Lawsuit was a personal injury lawsuit that sought damages from Truck Driver B, B.A.H. Express Inc., and Westfield, arising out of the May 11, 2017 collision. The Government would introduce court filings showing that the Brown/Picou/Johnson Lawsuit and the Henderson Lawsuit were consolidated and removed to federal court in the Eastern District of Louisiana ("the Federal Lawsuit").

The allegations in the Brown/Picou/Johnson Lawsuit, the Henderson Lawsuit, and the Federal Lawsuit were false in that they did not contain information about how Labeaud intentionally caused the May 11, 2017 collision between the Expedition and the 2013 International tractor-trailer. Furthermore, these lawsuits falsely alleged that **BROWN** had been the driver of the Expedition during the collision and omitted material information about how the passengers had

agreed to stage the accident with Labeaud.

The Government would present bank records showing that the passengers received advances on their settlements. **BROWN** received advances on his settlement, including checks from the Law Firm of Attorneys A, B, C, and D in the amounts of \$375.00 on or about May 26, 2017, \$350.00 on or about July 7, 2017, \$350.00 on or about October 13, 2017, \$500.00 on or about December 15, 2017, and \$500.00 on or about February 8, 2018.

At trial, the Government would introduce evidence that, on or about December 3, 2018, a Westfield employee mailed a settlement check for Johnson in the amount of approximately \$7,000.00 via United States Postal Service (“USPS”) from Ohio to Westfield’s counsel in New Orleans, Louisiana. Westfield’s counsel then provided this check to Keating to settle Johnson’s false claims. The Government would also introduce records that, on or about January 17, 2019, a Westfield employee sent a settlement check for Picou in the amount of approximately \$130,000.00 via FedEx from Ohio to Westfield’s counsel in New Orleans, Louisiana. Westfield’s counsel provided this check to Keating to settle Picou’s false claims.

The Government would introduce deposition transcripts showing that Henderson, **BROWN**, Picou, and Johnson gave false deposition testimony about the May 11, 2017 collision. For his part, on or about July 2, 2019, **BROWN** gave false deposition testimony in which he claimed that he had been driving the Expedition at the time of the collision.

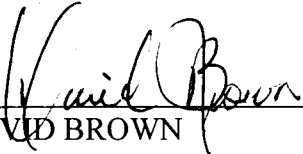
In sum, the Government’s evidence would prove that **BROWN** conspired to commit mail fraud by causing the mailing of two settlement payments for the Federal Lawsuit, which sought monetary damages premised on falsehoods in connection with the May 11, 2017 staged automobile collision. At trial, the Government would provide evidence that, through the aforementioned crime, **BROWN** and his co-conspirators caused a loss of approximately \$140,242.77.

Limited Nature of Factual Basis

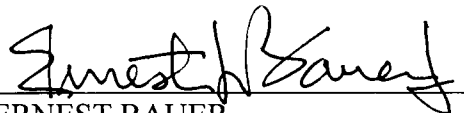
This proffer of evidence is not intended to constitute a complete statement of all facts known by **BROWN**, and/or the Government. Rather, it is a minimum statement of facts intended to prove the necessary factual predicate for his guilty plea. The limited purpose of this proffer is to demonstrate that there exists a sufficient legal basis for the plea of guilty to the charged offense by **BROWN**.

The above facts come from an investigation conducted by, and would be proven at trial by, credible testimony from, *inter alia*, Special Agents and forensic examiners from the Federal Bureau of Investigation and other witnesses and from admissible tangible exhibits in the custody of the FBI, including phone records, text messages, police reports, medical records, body camera footage, bank records, deposition transcripts, and civil filings.


READ AND APPROVED:



DAVID BROWN
Defendant



ERNEST BAUER
Counsel for Defendant



MARIA M. CARBONI
BRIAN KLEBBA
Assistant United States Attorneys