

SPN:ANW/TH
F. #2020R00711

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

COMPLAINT

- against -

(18 U.S.C. § 1952(a)(3))

FRANCESCO GINESTRI,

Defendant.

----- X

EASTERN DISTRICT OF NEW YORK, SS:

LAUREN M. CALVELLO, being duly sworn, deposes and states that she is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

In or about and between July 2020 and August 2020, within the Eastern District of New York and elsewhere, the defendant FRANCESCO GINESTRI, together with others, did knowingly and intentionally use a facility in interstate commerce with intent to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of one or more unlawful activities, to wit: Bribe Receiving in the Third Degree, in violation of New York Penal Law Section 200.10, and Bribery in the Third Degree, in violation of New York Penal Law Section 200.00, and thereafter performed acts to promote, manage, establish, carry on and facilitate the promotion, management, establishment and carrying on of such unlawful activity.

(Title 18, United States Code, Section 1952(a)(3))

The source of your deponent's information and the grounds for her belief are as follows:¹

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been involved in the investigation of numerous cases involving public corruption and fraud offenses. I am familiar with the facts and circumstances set forth below from my participation in the investigation; my review of the investigative file, including recorded telephone calls and surveillance; and from reports of other law enforcement officers involved in the investigation.

2. The defendant FRANCESCO GINESTRI is employed by the New York City Department of Buildings (the "DOB") as an Inspector.

3. On or about July 6, 2020, the DOB issued a stop work order at a construction job site located in Flushing, Queens (the "Flushing Site"). A confidential witness ("CW") is the site supervisor at the Flushing Site.² On or about July 28, 2020, the defendant GINESTRI arrived at the Flushing Site in order to re-inspect the Flushing Site after the issuance of the July 6, 2020 stop work order. On that date, GINESTRI partially rescinded the stop work order. GINESTRI met the CW, and engaged him in conversation.

¹ Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware. In addition, when I refer below to the statements of others, such references are in sum and substance and in part.

² In October 2013, the CW pleaded guilty, pursuant to a cooperation agreement, to mail fraud, conspiracy to commit money laundering, extortionate collection of credit and conspiracy to import marijuana. In pleading guilty, the CW admitted his participation in a number of criminal schemes. The CW is cooperating in the hope of receiving leniency at sentencing. The information provided by the CW, as described herein, has been corroborated by, among other things, audio and video recordings and documents.

4. On or about July 31, 2020, GINESTRI again came to the Flushing Site in order to conduct a re-inspection. On that date, GINESTRI fully rescinded the stop work order issued on July 6, 2020. During a conversation with the CW and another member of CW's construction team ("Individual-1"), GINESTRI presented the CW and Individual-1 with a piece of paper with a handwritten question. GINESTRI held the piece of paper in the palm of his hand so that the CW and Individual-1 could read the question written on it. The question asked whether construction work at the Flushing Site had continued during the pendency of the stop work order. Individual-1 told GINESTRI, untruthfully, that it had not. After GINESTRI told the CW and Individual-1 not to lie, the CW admitted that construction work had continued at the Flushing Site while the stop work order was in effect. GINESTRI told CW that he could face a fine of approximately \$25,000 for working during the pendency of the stop work order. GINESTRI further told the CW, in sum and substance, that they could reach an agreement to settle the issue. GINESTRI told the CW to bring \$1,200 to a bakery owned by GINESTRI's friend in Queens by noon that same day. GINESTRI told the CW that he would not issue a fine to the CW for violating the stop work order, but that if the CW didn't pay GINESTRI, the CW would be fined.

5. Later that day, the CW placed a consensually recorded call to GINESTRI at the direction of federal law enforcement agents. During the call, the CW asked GINESTRI to confirm that GINESTRI would not "bang" the CW and Individual-1 with the fine. GINESTRI responded that he had already submitted his report and that it was "all good." Referring to the amount of GINESTRI's solicited bribe, the CW asked GINESTRI, "what was it, 12 or 15?" GINESTRI, responded, "12." The CW asked if the CW could provide GINESTRI with the money at a later date.

6. On or about August 21, 2020, the CW placed another consensually recorded call to GINESTRI at the direction of federal law enforcement agents. The CW explained that he and the other workers at the Flushing Site had “finally got paid” and were “going back to work.” The CW told GINESTRI that he didn’t want any problems. GINESTRI responded, “Yeah, no definitely. So...you wanna meet?” The CW asked if he could meet GINESTRI on Monday because the CW was heading out of town for the weekend. GINESTRI agreed.

7. The following Monday, August 24, 2020, the CW placed another consensually recorded call to GINESTRI at the direction of federal law enforcement agents. The CW proposed meeting with GINESTRI at a bakery in Queens, New York. The CW again asked GINESTRI whether “it,” referring to the bribe solicited by GINESTRI, was “12,” to which GINESTRI responded, “Yeah.”

8. Later that day on August 24, 2020, the CW met with GINESTRI at the bakery in Queens, New York that the CW had specified. The meeting was audio- and video-recorded at the direction and under the supervision of federal law enforcement agents. During the meeting, the CW provided GINESTRI with \$1,200 in cash, the amount of the bribe solicited by GINESTRI.

WHEREFORE, your deponent respectfully requests that the defendant
FRANCESCO GINESTRI, be dealt with according to law.

LAUREN M. CALVELLO
Special Agent, Federal Bureau of Investigation

Sworn to before me this
__ day of February, 2021

THE HONORABLE LOIS BLOOM
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK