

UNITED STATES DISTRICT COURT

for the
District of New Jersey

United States of America

v.

Joseph P. Martinelli and
Billy A. Donnerstag

Case No. 17-3097

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of _____ in the county of Middlesex in the _____ District of
New Jersey, the defendant violated 18 U. S. C. § 1951(a), an offense described as follows:

SEE ATTACMENT A

This criminal complaint is based on these facts:

SEE ATTACHMENT B

☒ Continued on the attached sheet.



Complainant's signature

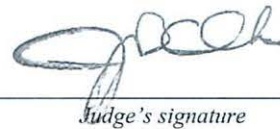
S.A. Bradley Buracker, Federal Bureau of Investigation

Printed name and title

Sworn to before me and signed in my presence.

Date: 6/14/2017

City and state: Newark, New Jersey



Judge's signature

Hon. James B. Clark, III, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

From in or about December 2016 to in or about June 2017, in Middlesex County, in the District of New Jersey, and elsewhere, defendants

**JOSEPH P. MARTINELLI and
BILLY A. DONNERSTAG**

did knowingly and intentionally conspire and agree with one another and others to obstruct, delay, and affect commerce and the movement of any article and commodity in commerce by extortion induced by the wrongful use of actual and threatened force, violence, and fear.

In violation of Title 18, United States Code, Section 1951(a).

ATTACHMENT B

I, Bradley Buracker, am a Special Agent with the Federal Bureau of Investigation ("FBI"). I am fully familiar with the facts set forth herein based on my own investigation, my conversations with other law enforcement officers, and my review of reports, documents, recordings, and other items of evidence. Because this complaint is being submitted for a limited purpose, I have not set forth each and every fact that I know concerning this investigation. Where I refer to statements of others, those statements have been related in substance and in part, unless otherwise indicated. Dates, dollar amounts, and other figures cited within this affidavit are approximations.

During the time period relevant to the Complaint:

THE DEFENDANTS

1. Defendant Joseph P. Martinelli ("Martinelli") was a resident of Kenil, New Jersey, who controlled Physique, LLC ("Physique"), an entity based in Mendham, New Jersey.

2. Defendant Billy A. Donnerstag ("Donnerstag") was a resident of Belleville, New Jersey and a fire inspector for several local municipalities in New Jersey, including the Borough of Middlesex. Donnerstag also operated Safety Associates Training Network, an entity based in Hackettstown, New Jersey that installed and serviced fire protection systems.

OTHER INDIVIDUALS

3. There was an individual who owned and operated a real estate development and construction company that was based in the Borough of Middlesex, New Jersey and elsewhere ("Individual 1"). Individual 1's company was involved in the redevelopment of a property in Borough of Middlesex and the construction of a series of buildings on that property (the "Construction Project"). Individual 1's company operated in and affected interstate commerce.

4. There was an individual who was the superintendent of the Construction Project ("Individual 2").

THE CONSTRUCTION PROJECT

5. Pursuant to a sale agreement from in or about May 2007, Individual 1 (through an entity that Individual 1 controlled) agreed to purchase a property (the "Property") for the Construction Project from Martinelli (through Physique) for approximately \$2 million, subject to certain adjustments.

6. Subsequent to the sale agreement and at Martinelli's request, Individual 1 agreed to make a series of payments to Martinelli before Individual 1 was required to under the terms of the sale agreement. In exchange for receiving these payments sooner than he otherwise would have, pursuant to a series of agreements, Martinelli agreed to reduce the ultimate sale price of the Property. Consequently, Individual 1's company paid Martinelli several hundred thousand dollars less than what Martinelli would have received several years later pursuant to the sale agreement. In total, Martinelli received approximately \$1.6 million from Individual 1's company for the Property and Individual 1's company completely paid Martinelli pursuant to these agreements.

7. On multiple occasions from at least as early as in or about December 2016 through in or about May 2016, Donnerstag was present at the Construction Project purportedly to conduct fire inspections in his capacity as a fire inspector for the Borough of Middlesex.

OVERVIEW OF THE CONSPIRACY

8. From in or about December 2016 through in or about June 2017, Martinelli and Donnerstag have endeavored to obtain and have obtained money from Individual 1 using the suggestion of physical harm to Individual 1 should Individual 1 refuse to hand over a significant amount of money to Martinelli and Donnerstag.

9. Specifically, in a series of telephone and in-person conversations with Individual 1, Martinelli and Donnerstag conveyed to Individual 1 that Donnerstag collected debts and that Martinelli and Donnerstag wanted Individual 1 to pay Martinelli for the stated reason that Martinelli had not been paid enough for the sale of the Property, notwithstanding Martinelli's almost decade-old prior agreements to reduce the sale price in exchange for earlier payments from Individual 1. During these conversations, Martinelli and Donnerstag conveyed that Individual 1 would face serious consequences—including “meet[ing]” Donnerstag and that “once he [Donnerstag] starts, he don't stop”—if Individual 1 refused to pay them. Martinelli and Donnerstag further conveyed to Individual 1 that they were disinterested in using the legal system to resolve the matter.

10. Martinelli and Donnerstag have accepted \$15,000 in cash payments from Individual 1. Both Martinelli and Donnerstag conveyed to Individual 1 that Donnerstag would receive a percentage of the cash from Martinelli.

DETAILS OF THE CONSPIRACY

11. On or about Thursday, December 8, 2016, while present at Construction Project purportedly in his role as a fire inspector, Donnerstag told Individual 2 that he collected money and that Individual 1 owed Martinelli money from the sale of the Property in 2007.

12. On or about Tuesday, January 24, 2017, Martinelli spoke with Individual 1 by telephone. This telephone conversation was lawfully recorded. During the conversation, Martinelli raised their 2007 property transaction and told Individual 1 that “[i]t was \$410,000 that you took away from me” and that Martinelli believed that “maybe you deserve \$210,000, but I think something should have come back to me—anywhere—something—this is (unintelligible) ludicrous.”¹ When Individual 1 explained that their prior deal had been documented and attorneys had been involved, Martinelli responded that “this is a man-to-man thing now” and “I'm asking, I'm talking to you as a man-to-man, I don't care about the laws.” Connecting Donnerstag to his demand for money from Individual 1, Martinelli stated:

Martinelli: But all of that money, I'm wondering if there's some way if we can get, cause Billy always helped me, but Billy knows—this guy Billy—that's your fire guy...

Individual 1: Who?

¹ Further references to portions of the recorded conversations that are not intelligible on the equipment used to listen to the recordings up to this time will be referenced as “UI.”

Martinelli: The guy, Billy the guy who stopped down there.

Individual 1: Who (UI).

Martinelli: Did you meet Billy?

Individual 1: No I didn't meet, what's his name?

Martinelli: Billy ah, Donnerstag. You'll, you'll meet him he's gonna stop down and anyway and talk with you and go over this stuff with you.

By referencing Donnerstag as "the guy who stopped down there," Martinelli likely was referring to the interaction between Donnerstag and Individual 2 at the Construction Project on or about December 8, 2016. Later in the telephone conversation, Martinelli described Donnerstag as "a good friend of mine who's helped me out a few times and he's and I think he's your fire inspector down there," again referring to the Construction Project. Martinelli described Donnerstag as a collector of debts, in addition to being a fire inspector:

Martinelli: Yeah he collects, he does that too on the side. He does a lot of stuff. He does a lot of stuff this guy. You know I don't wanna go over the phone. But you'll know, you'll, I mean, you're Italian you're not, you're a smart guy. He goes and collects stuff once a—for other people and stuff, so, but we'll talk—

13. Following this January 24, 2017 telephone conversation, on or about Thursday, February 16, 2017, Martinelli met with Individual 1 at a location in the Borough of Middlesex. This meeting was lawfully recorded. Martinelli described the meeting as "man to man between me and you, just to talk" and told Individual 1 that too much had been deducted from the sale price of the Property and that Martinelli wanted approximately \$200,000 from Individual 1. Martinelli told Individual 1 that he had been "dwelling on it for month and years" and—referring to Donnerstag—stated that "[n]ow I got somebody who's backing me all the way that wants—he's just hell bent for election, you know? And I told him, 'hold back,' let me go see [Individual 1] and talk to him." Martinelli and Individual 1 then had the following exchange:

Individual 1: What do you mean, you, somebody—

Martinelli: The guy who came to see, see you that day.

Individual 1: What's the story with that guy, Joe?

Martinelli: He's a collector. And when he sees those kind of dollars, he gets a percentage of 'em. He comes hell bent for election. He don't fucking care.

Individual 1: What do you mean he comes "hell bent for election"? Explain to me what that means.

Martinelli: He comes—he'll collect the money one way or the other that's the way he is. I don't want to get involved in that.

Individual 1: What do you mean? Why would he collect? What, for you, you mean?

Martinelli: Yes

14. Later in the meeting, Martinelli suggested that Donnerstag would visit Individual 1 personally if Individual 1 did not pay him and that Donnerstag would receive a portion of the money:

Individual 1: And, Joe, if I can't pay you?

Martinelli: I don't know. If—you know—I can only go so far with this guy cause I don't know when he'll stop down to see you.

Individual 1: What is he going to do?

Martinelli: I have no idea.

. . . .

Martinelli: Listen, all I'm saying to you is it's better if you cut me some kind of deal because I'm going to end up having to give him some. You know that. That's how it works in this game.

Individual 1: So, if you don't collect—

Martinelli: He'll collect.

. . . .

Individual 1: But this guy is, is, if okay, let's assume we agree that I'm not paying you anything.

Martinelli: Then he's away. Oh, you're not—agree? Then you may get a visit. And he's going to probably want something because he already came out once and that's his problem, and once he starts, he don't stop. He's hopin' I settle it, that's what he's hopin'. And I'm hopin' I can settle it with something, with some kind of figures, I don't care how. . . .

Subsequently, Martinelli reiterated that Donnerstag would visit Individual 1 personally if Individual 1 did not pay Martinelli and that Donnerstag also would have to be paid:

Individual 1: Yeah, but if I tell you I don't agree with you and I don't think you should be entitled to \$200,000, you tell me, you tell me this, this—

Martinelli: All, I'm saying—

Individual 1: This fucking guy's going to come after my ass.

Martinelli: No, he's going to come up and discuss with you what we just discussed and, and he's going to say what he says.

Individual 1: So, if I have the same this conversation with him, you think he, he will find them unreasonable?

Martinelli: I don't know, because he's going to have to get paid somewheres and he's going to want some mon—

Individual 1: But why should he get paid?

Martinelli: Listen, I don't want to get into that.

15. Following this exchange, Martinelli reiterated that he wanted \$200,000 from Individual 1, complained that Individual 1 had not “even made a, an attempt” to pay him, and stated that, with respect to the court system, Martinelli did not “even wanna hear about that shit” because “I don't ever go to court with that shit.” Martinelli also explained why he enlisted Donnerstag, telling Individual 1: “I'm not look—I'm not doing it legal. I'm telling you what I feel and how I feel and I came as a man just to discuss it with you.” After Individual 1 declined to pay Martinelli, Martinelli conveyed to Individual 1 that Martinelli would tell this to Donnerstag and that Donnerstag would be a problem for Individual 1: “once I got out of here with nothing, I, I can't stop nothing cause it's already started and I just can't. You can deal with it. I mean, you'll figure a way to deal with it.” Martinelli reiterated that Individual 1 should “feed me [Martinelli] something.”

16. Following this exchange, Individual 1 questioned Martinelli about whether he believed that sending “a guy to talk to [Individual 2]” was causing trouble. Martinelli responded that sending Donnerstag to speak to Individual 2 was “always trouble—it's trouble, but it's stupid trouble.” Martinelli then told Individual 1 that he did not “want to get into this talk.” Individual 1 asked Martinelli what was the minimum amount of money that Martinelli would accept. Martinelli responded that he would not make that decision, but again referenced Donnerstag by stating that Donnerstag had looked at the Construction Project and concluded that Individual 1 has “got money.” Individual 1 asked Martinelli to sit down with Donnerstag. Martinelli responded that he had no problem with Individual 1 meeting Donnerstag. Before Martinelli left the meeting, Individual 1 told him “you're fucking me, Joe.”

17. On or about Saturday, February 25, 2017, Martinelli spoke with Individual 1 by telephone. This telephone conversation was lawfully recorded. At the outset of the conversation, Martinelli told Individual 1 that Martinelli was with Donnerstag. Donnerstag then came onto the line, acknowledged to Individual 1 that it was “Billy” on the phone, and described himself as “the guy that you don't want to see,” “a problem for you right now,” and “someone that you need to deal with about this issue.”

18. During this telephone conversation with Donnerstag, Individual 1 explained, in substance, that the 2007 agreement regarding the sale of the Property was a negotiated business transaction in which Martinelli wanted his money sooner, that Individual 1 had offered to pay Martinelli sooner, but at a discount, and that Martinelli had agreed. Donnerstag retorted that Individual 1 had expressed himself in a “rude manner” and then told Individual 1 that: “if you were in front of me right now, you'd be on the floor. Okay? Cause I don't talk—I don't get talked to like that. You don't know who I am.” To explain who he was, Donnerstag told Individual 1 that he was

“not somebody who’s in the yellow pages” and that he did not “do \$20, \$30 you owe me shit.” Donnerstag claimed that he did not “do shakedowns,” but rather that he took “from people who rob.” Donnerstag further told Individual 1 that “[t]he bottom line here is, once I get involved, you need to be able to prove to me that there is no debt there” Donnerstag explained that individuals who did not want to deal with the legal system came to him because “attorneys are gonna suck every bit of money that’s owed to them into the attorney’s pocket” would “rather deal with somebody like me, who’s just very cut and dry” because “I get the job done . . . and I get it done fast. Don’t ask me . . . how I get it done fast, cause you already know how I get it done fast.”

19. To further emphasize the seriousness of his involvement, Donnerstag told Individual 1 that he was connected to others regarding the collection of debts outside of the legal system:

Donnerstag: What I’m saying to you is to find me, first of all, you have to be able to prove that someone owes you a lot of money. A lot of money. And then there’s like three, three different levels of people before you get to me. Because I just don’t stick my neck out for anybody. But my neck is out now. You’re, you’re don’t un—this is what I keep, I keep saying to Joe. My neck is out now. I’m exposed. I am in somebody’s face now.

Also in the telephone conversation, Donnerstag stated that it took “three different levels of people to finally get this to me. So apparently three other people below me felt that there was a legitimate claim here.” Donnerstag also noted Martinelli’s connections, claiming that: “Joe’s, con-, I don’t wanna say connected, but Joe’s associated with people, okay?”

20. To further explain who he was and what he did, Donnerstag told that Individual 1 to ask others about Donnerstag’s father, whom Donnerstag called “Jerry the Jew,” because, according to Donnerstag, “that’s what I do.” According to publicly available information, in the 1970s, Gerald Donnerstag of Belleville, New Jersey, was known as “Jerry the Jew,” reportedly was connected to organized crime, and was convicted of murder in Scranton, Pennsylvania and theft in Essex County, New Jersey.

21. During this telephone conversation, Donnerstag made a series of threatening statements to Individual 1 regarding the consequences of failing to pay Martinelli, such as:

- a. “You need to iron this out with Joe. Again, if, if I have to come meet you now—again, it, it, it, it’d become, it’s gonna be a problem.”
- b. “Listen, you want, what you want is you want me out of your hair.”
- c. “Now when I get involved, as I told [Individual 2], I don’t go away. I don’t go away, unless you can prove to me that, that it’s not owed.”
- d. “What I do, is I make sure that people don’t take advantage of other people. Do you understand that? Now I also do other things, but this is one of the things that I do. Now, again if you’re not figuring wh, what my business is by now, you’re either, and again I, I say this with as much respect as I can, either an idiot, or you’re just lying because you don’t want to, to, to understand that I come from somewhere that most people don’t wanna see.”

- e. "So, I'm trying to be a reasonable gentleman here and say to you if you, the smartest thing you could do is deal with this with Joe. You don't want to see me. As I told [Individual 2], I don't make myself known a second time. If I have to come to you a second time, it's not good. I'm being honest with you. I'm being honest with you. I'm not lying to you. I'm being straightforward with you. You don't want to see me. I'm telling you that. You don't want to see me. Not in this regard, you don't want to see me. The smartest move you could make is deal with Joe, make him see the light."
- f. "You want me away. You don't, I don't give a fuck about Joe You want me away."
- g. ". . . I am your problem, not Joe. Trust me, I am your problem."

22. Following this telephone conversation between Martinelli, Donnerstag, and Individual 1, later on or about February 25, 2017, Martinelli spoke with Individual 1 by telephone. This telephone conversation was lawfully recorded. Notwithstanding Individual 1's protests about Donnerstag's involvement, Martinelli repeated his demand that Individual 1 pay him \$200,000 or "come up with something else."

23. On or about Tuesday, February 28, 2017, Martinelli spoke with Individual 1 by telephone. This telephone conversation was lawfully recorded. During this telephone conversation, Martinelli proposed that Individual 1 pay him approximately \$160,000, instead of his initial demand of approximately \$200,000, and explained that if Individual 1 did not pay, Donnerstag would visit Individual 1: ". . . if you and I settle, if you and I settle, you don't have to see Billy again. You don't even have to hear from him again. But, if we don't settle, then you gotta meet, you could meet with him. You do what you gotta do. I'm trying to eliminate that." To explain what "meet[ing]" with Donnerstag meant, Martinelli told Individual 1 that: "this is old school Italian, old school. Not young school, old school." Martinelli further told Individual 1 that he would "worry" if he were in Individual 1's position and declined to pay Martinelli. Individual 1 proposed paying Martinelli approximately \$5,000 or \$10,000 until the Construction Project was completed.

24. Later that day, on or about February 28, 2017, Martinelli again spoke with Individual 1 by telephone. This telephone conversation was lawfully recorded. During this telephone conversation, Martinelli told Individual 1 that Donnerstag "won't come and bother anybody if me and you can handle it." Martinelli explained to Individual 1 that he enlisted Donnerstag to deal with Individual 1 "[b]ecause I didn't think that you wanted to give me anything." When asked if Martinelli could get Donnerstag out of the way, Martinelli told Individual 1 that "as long as you give me something saying this is what it's gonna, we'll, we'll have it in July, whatever, that's fine." Martinelli stated that Individual 1 did not have to pay Donnerstag, but that Martinelli would "have to pay him [Donnerstag] out of mine."

25. On or about Monday, March 13, 2017, Martinelli spoke with Individual 1 by telephone on two occasions. These telephone conversations were lawfully recorded. During these conversations, Martinelli told Individual 1 that Donnerstag wanted an initial payment of \$40,000 and was willing to wait until August 2017 for full payment. Individual 1 told Martinelli that he would not have \$40,000 to give to Martinelli by the end of March 2017. Martinelli responded by asking Individual 1 how much Individual 1 could pay to him by the end of March and asked Individual 1 to let him know "[b]ecause he, he [Donnerstag] visits me twice a week." Martinelli

reiterated that Donnerstag had to “get something out of this thing too” and that Donnerstag “want[ed] to get [his money] up front.” Martinelli told Individual 1 that Individual 1 needed to pay as possible by the end of March 2017.

26. On or about March 23, 2017, after a March 2017 telephone call between Martinelli and Individual 1, Martinelli met with Individual 1 at a location in the Borough of Middlesex. This meeting was lawfully recorded. During the meeting, Martinelli obtained \$5,000 in cash from Individual 1. The \$5,000 in cash had been provided to Individual 1 by law enforcement officials. After Martinelli obtained the cash from Individual 1, Individual 1 asked Martinelli to contact Donnerstag. Using his mobile telephone, Martinelli contacted Donnerstag and placed the phone on speaker so that both Martinelli and Individual 1 could communicate with Donnerstag.

27. After Donnerstag joined the conversation, Donnerstag again made a series of threatening statements to Individual 1 regarding the consequences of failing to pay Martinelli including:

- a. “if you guys can’t come to a reasonable, a reasonable number . . . if you think that’s reasonable [the reductions in the sale price], stick to your horses [Individual 1], and you’ll meet me, one day, you’ll meet me. It won’t be where you expect it, but you’ll meet me. And you could bring, you could, you could choose your, your, um, (UI) skills at that point with me.”
- b. “What I’m telling you is, you don’t want to see me.” (To which Martinelli added: “You don’t.”).

28. Donnerstag told Martinelli that “the five’s fine for now,” referring to the \$5,000 in cash that Martinelli had received from Individual 1, and suggested that Individual 1 pay \$60,000 total to Martinelli. Donnerstag stated that if Individual 1 paid Martinelli this amount, then “I’m out of your hair and Joe is happy, I’ll make Joe happy.” Martinelli agreed that he would accept \$60,000 from Individual 1. Individual 1 responded to Martinelli and Donnerstag that Individual 1 would pay, but that “from my side, this is extortion.”

29. After Martinelli ended the telephone call with Donnerstag, Martinelli told Individual 1 that “families in New York” that Martinelli was connected to had sent Donnerstag to Martinelli. Martinelli’s statement about his connection to “families in New York,” likely was an intimation that Martinelli had a connection to organized crime based on the context of this communication and based on other monitored communications.

30. On or about June 2, 2017, after several telephone communications between Martinelli and Individual 1, Martinelli again met with Individual 1 at a location in the Borough of Middlesex. This meeting was lawfully recorded. During the meeting, Martinelli obtained \$10,000 in cash from Individual 1. The \$10,000 in cash had been provided to Individual 1 by law enforcement officials. Martinelli told Individual 1 that Donnerstag wanted Individual 1 to commit to paying the remainder of the \$60,000 by a specific date in June and that Donnerstag considered the \$10,000 that Martinelli had obtained “just like interest payment to him.” Martinelli explained that he had to pay the majority of the money to Donnerstag and that: “I might get a grand. That’s the way this shit works with these guys. We’re in, sometimes we’re in the wrong business” Martinelli and Individual 1 then had the following exchange:

Individual 1: Why? Why do you deal with these guys?

Martinelli: Cause I, [Individual 1], you wouldn't have helped me to give me it to begin with.

Individual 1: That's not true. Why do you deal with this guy?

Martinelli: I had to at the point, cause I needed the money. I needed to get money together, cause I'm buying my house. I'm finishing up on this house. I bought it on a short sale, and I need money.

Individual 1: And what's the story with Billy?

Martinelli: Billy's a guy just does this kinda shit. He's got money, he does stuff like this. This is what he does. The guys in New York I know when they need something taken care of, they don't get involved, they call him. I mean does this side. He, you know, there's a lot things, but immaterial.