



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
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New York, New York 10007*

August 5, 2015

REQUESTED TO BE FILED UNDER SEAL

BY HAND

The Honorable Naomi Reice Buchwald
United States District Judge
United States Courthouse
500 Pearl Street, Suite 2270
New York, New York 10007

**Re: United States v. Charles J. Antonucci, Sr.,
10 Cr. 922 (NRB)**

Dear Judge Buchwald:

The Government respectfully submits this letter to advise the Court of pertinent facts concerning the assistance that Charles J. Antonucci, Sr. ("Antonucci" or the "defendant") has rendered in the investigation and prosecution of other targets of criminal activity involving tens of millions in losses and the defrauding of regulators and other institutional victims. In light of these facts, and assuming that the defendant continues to comply with the terms of his cooperation agreement and commits no additional crimes before sentencing, the Government intends to move at sentencing, pursuant to Section 5K1.1 of the Sentencing Guidelines and Section 3553(e) of Title 18, United States Code, that the Court sentence the defendant in light of the factors set forth in Section 5K1.1(a)(1)-(5) of the Guidelines. The defendant is scheduled to be sentenced on August 20, 2015, at 3 pm.

The Underlying Criminal Conduct

Antonucci, the former President of FDIC-insured Park Avenue Bank (the "Bank"), was arrested in March 2010. At the heart of his criminal conduct was a \$6.5 million round-trip transaction (the "Round-Trip Transaction"), the goal of which was to provide Antonucci with funds he then purported to invest in the Bank, which had attracted the attention of state and federal bank regulators because of low capital levels. After this fraud was uncovered, the Bank was taken over by regulators, and Antonucci was arrested.

Antonucci began cooperating shortly after his arrest, and provided the Government with information about additional frauds involving the Bank, about which the Government previously had little or no information, primarily including the conduct of lifelong fraudster Wilbur Anthony Huff, as well as conduct involving Bank Vice President Matthew Morris and

investment advisor Allen Reichman, who were ultimately charged in another case before Your Honor (United States v. Huff, et. al, 12 Cr. 750).

On October 8, 2010, Antonucci pleaded guilty to a six-count Information (the "Information"). Count One of the Information charged the defendant with participating in a scheme to defraud the Federal Deposit Insurance Corporation ("FDIC") and the former New York State Banking Department (now called the New York State Department of Financial Services), in violation of Title 18, United States Code, Section 1005, by falsely representing that he had invested \$6.5 million of his own funds in Park Avenue Bank in connection with the Round Trip Transaction. Count Two of the Information charged the defendant with participating in a scheme to defraud the Troubled Asset Relief Program ("TARP"), in violation of Title 15, United States Code, Section 77q(a) and 77x, by making false statements regarding the Round Trip Transaction in connection with applying for TARP funds. Count Three of the Information charged the defendant with accepting bribes from Bank clients, including Huff, in violation of Title 18, United States Code, Section 215. Count Four of the Information charged the defendant with embezzlement and misapplication of bank funds, in violation of Title 18, United States Code, Section 656, by approving loans whose proceeds he used to enrich or benefit himself, including in connection with the Round Trip Transaction. Count Five charged the defendant with conspiracy to commit mail and wire fraud, in violation of Title 18, United States Code, Section 1349, in connection with the repayment of a bank loan with funds from another company that had not authorized the use of their funds (also related to the Round Trip Transaction). Count Six charged the defendant with a separate conspiracy to commit mail and wire fraud, in violation of Title 18, United States Code, Section 1349, involving the fraudulent purchase of an Oklahoma insurance company.

Beginning in or around 2008, Antonucci and his Bank Vice President, Morris, developed a corrupt relationship with Bank client Huff. Most of Antonucci's admitted illegal conduct stems from this corrupt relationship. In addition to his illegal conduct with Huff, Antonucci had corrupt relationships with other Bank clients, and improperly used bank funds for his own purposes, separate and apart from the Round Trip Transaction.

During the relevant time period, Antonucci and Morris accepted cash and other bribes, including extravagant trips, from Huff, in exchange for approving loans to entities controlled by Huff and assisting Huff to obtain investors for his investor group. Antonucci, Morris and Huff also conspired with Huff to take \$6.5 million of the Bank's own money and mask its source through a series of loans and transfers through Huff's companies, so Antonucci could purport to make a "personal" investment in the Bank, in an effort to assuage regulators' concerns regarding the Bank's capital. Antonucci, Huff and Morris also engaged in later cover-ups of the Round Trip transaction, including creating back-dated legal documents in attempt to paper the transaction and steal more money, this time from GEE, a publicly-traded company Huff also controlled, to pay back one of the loans that was then being scrutinized. Also stemming from his corrupt relationship with Huff, Antonucci, Morris and Reichman conspired to illegally purchase an Oklahoma insurance company, deceiving regulators about the source of the purchase price funds and ultimately bankrupting the company.

Antonucci's crimes resulted in significant losses to a variety of victims. As such, he has agreed to a consent order of forfeiture reflecting an \$11.2 million money judgment and the revocation of his right and title to a number of properties, as set forth in his cooperation agreement. He has further agreed to the following restitution:

- FDIC as Receiver for Park Avenue Bank: \$4,857,266.62
- Valley National Bank: \$597,420.29

With respect to the Oklahoma Insurance Receiver, the Government expects to have an agreement on restitution as well, and will advise the Court further prior to sentencing. The Government will also provide proposed restitution and forfeiture orders at, or in advance of, sentencing. The Government has further agreed that it will seek approval from the Department of Justice for restoration of forfeiture funds so any forfeiture collected can be applied to restitution.

The Defendant's Cooperation

During numerous proffer sessions, Antonucci actively cooperated to help the Government expand its case to additional schemes and targets. Antonucci candidly admitted his involvement in the various fraud schemes. He provided extensive information about the origins and operation of the schemes, as well as information about other conspirators. Specifically, he provided information that ultimately led to the arrest and prosecution of Huff, Morris and Reichman. As set forth in more detail below, throughout his proffer sessions and trial preparation sessions, Antonucci gave information that was later heavily relied upon in preparation for the scheduled trial of Huff and Reichman, which ultimately pled ten and two weeks before trial, respectively. It is without a doubt that his co-conspirators pleaded guilty in large part due to his expected testimony against them.

I. The Defendant's Initial Cooperation

Antonucci began actively cooperating with law enforcement approximately one month after his arrest in March 2010, and provided extensive information crucial to expanding the Government's case beyond the Round Trip Transaction and to additional targets.

Throughout his proffer sessions, Antonucci described to the Government his corrupt relationship with Huff, and the three interrelated fraud schemes they committed, along with Morris and Reichman. Antonucci also served as a guide through the voluminous documents seized from Park Avenue Bank at the time of Antonucci's arrest, when the FDIC took control of the Bank. Given the complexity of the schemes, and the nature of the conspiracies, an "insider" witness was crucial to developing sufficient evidence to prosecute additional co-conspirators.

II. The Defendant's Guilty Plea and Further Cooperation

Antonucci pleaded guilty pursuant to a cooperation agreement on October 8, 2010, and continued to meet and consult regularly with the Government until it charged three of his co-conspirators nearly two years later.

Antonucci remained in contact with the Government for the next two years as it proceeded with its prosecution against Huff, Morris and Reichman, answering questions as needed, in particular as the case was heavily litigated.

In preparation for trial, Antonucci and his counsel began reviewing several binders of emails and other documents written or received by Antonucci during the relevant time period. Antonucci also met with the Government to begin preparing for his expected extensive testimony. Although Huff pleaded guilty at the end of December 2014, it was not clear until very shortly before trial that Reichman would also plead guilty. Antonucci stood ready to testify.

III. The Defendant Assisted [REDACTED]

[REDACTED]

To the extent these or other agencies require additional information from Antonucci, the Government respectfully requests that continuing cooperation be made a part of any supervised release term, and the defendant of course consents to this request as well.

Assessment of the Defendant's Cooperation

Antonucci's assistance was critical to the Government's prosecution of three co-conspirators, including Huff, an incorrigible fraudster who had operated virtually unscathed for two decades. Antonucci continued to assist the Government for more than five years since his first proffer in April 2010. All of his charged co-conspirators pleaded guilty, allowing the Government to avoid what would have been a lengthy and complex trial. They did so in large part because they were aware that the Government possessed critical evidence obtained through Antonucci and other cooperators, and because they knew that Antonucci and other cooperators were prepared to testify against them directly, and about the schemes in which they were involved.

Analysis of Section 5K1.1 Factors

1. "[S]ignificance and usefulness" of assistance (5K1.1(a)(1))

The defendant's proffered information was instrumental in obtaining three convictions against serious criminals in significant fraud schemes. Antonucci's vast amount of proffered information as well as his potential testimony was crucial in building the Government's case and securing the guilty pleas of each of his charged co-conspirators.

2. "[T]ruthfulness, completeness, and reliability" of information and testimony (5K1.1(a)(2))

The Government believes the defendant provided truthful, complete, and reliable information, which allowed the Government to further build its investigation without delay. While the defendant minimized his conduct to some extent in initial proffers, he ultimately provided fulsome information which was corroborated by other witnesses and documents, giving the Government the confidence to rely on him to bring additional charges and be prepared to have him testify at trial.

3. “[N]ature and extent” of assistance (5K1.1(a)(3))

Prior to pleading guilty pursuant to a cooperation agreement, the defendant met with the Government during numerous proffer sessions and also actively assisted with the ongoing investigation and trial preparation. The defendant’s information was crucial in helping the Government better understand the Round Trip Transaction, learn about the other fraud schemes, including the illegal purchase of the Oklahoma Insurance Company, and identify and charge additional co-conspirators, all of whom ultimately pleaded guilty.

4. “[A]ny injury suffered, or any danger or risk of injury to the defendant or his family” resulting from assistance (5K1.1(a)(4))

While the Government is not aware of any specific threats or harm, as Your Honor is aware, it is inherently risky for a criminal defendant to cooperate with the Government.

5. “[T]imeliness” of assistance (5K1.1(a)(5))

The defendant began cooperating with the Government approximately one month after his arrest. As described above, the defendant has cooperated with the Government for over five years, and his cooperation was also critical to the continuing investigation after his arrest, which led to charges and convictions of three co-conspirators.

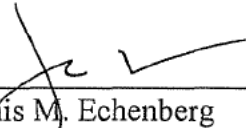
Conclusion

In light of the foregoing, the Government respectfully submits that the defendant's assistance was "significan[t] and useful[]" to the Government in its investigation and prosecution of three major fraud schemes – bank bribery, the Round Trip Transaction and the Oklahoma insurance transaction. See Sentencing Guidelines §5K1.1(a)(1). The Government also believes that the information provided by the defendant was "truthful[], complete[], and reliab[le]." See Sentencing Guidelines § 5K1.1(a)(2). Accordingly, assuming that the defendant continues to comply with the terms of his cooperation, and commits no additional crimes before sentencing, the Government intends to move at sentencing, pursuant to Section 5K1.1 of the Sentencing Guidelines and Section 3553(e) of Title 18, United States Code, that the Court sentence the defendant in light of the factors set forth in Section 5K1.1(a)(1)-(5) of the Guidelines. Due to the nature of this letter, the Government respectfully requests that the letter be filed and maintained under seal.

Respectfully submitted,

PREET BHARARA
United States Attorney

By: _____


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