

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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RICHARD A. BROWN  
DISTRICT ATTORNEY OF QUEENS COUNTY  
Plaintiff/Claiming Authority

-against-

JAMES GIORDANO, DANIEL CLARIN, ERIC L. WEINER,  
MONTE WEINER, LOUIS ANDREW MOED, MELISSA  
CLARIN, PRISCILLA GIORDANO, MAURICE FREEDMAN,  
FRANK LOBASCIO, FRANK LAMONICA, DONALD  
CLARKE, RALPH PICCIRILLI, PETER MASTRANDREA,  
FRANK FALZARANO, DANIEL CORRAR, ROCCO  
RENELLE, STUART KEMPNER, PRIMARY DEVELOPMENT,  
INC., PROLEXIC TECHNOLOGIES, INC.,  
DIGITAL SOLUTIONS, S.A. dba D.S. NETWORKS, S.A., INC.

Defendants.

**AFFIRMATION**

Index No.

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DAVID S. ZADNOFF, an attorney at law, duly admitted to practice in the  
Courts of the State of New York, affirms the following under the penalties of perjury:

1. That I am an Assistant District Attorney, of counsel to Richard A. Brown, the  
District Attorney of Queens County.

2. That pursuant to CPLR Article 13A, the office of the Queens County District  
Attorney serves as a claiming authority authorized to commence civil law suits in the  
Supreme Court seeking the forfeiture of the proceeds, substituted proceeds, and  
instrumentalities of felony crimes, and/or money judgments in their equivalent value.

3. That in furtherance of its duties as a claiming authority under Article 13A, the  
office of the District Attorney may apply to this Court for orders granting the provisional

remedies of attachment, preliminary injunction, temporary receivership and notice of pendency.

4. This affirmation is made in support of the within application for an order of attachment in the amount of five hundred million dollars (**\$500 million**) against the leviable assets of the defendants above named, who, by virtue of their criminal activities in connection with felony violations of the Penal Law (Article 460 Enterprise Corruption), and (Article 225 Gambling Offenses), as well as the commission of other criminal offenses, are jointly and severally liable for the forfeiture thereof under Article 13A. This civil liability is predicated upon the fact that the \$500 million represents a conservative estimate of the equivalent value of the "proceeds of crime" as that term is defined by Article 13A of the CPLR, with respect to a related criminal proceeding that has just been commenced in the Criminal Term of this Court under **Indictment No. 2699/06**, and upon which these defendants and others not named in this civil proceeding await arraignment. The defendants are each charged under the indictment with acting in concert to commit inter alia, one count of Enterprise Corruption a class "B" felony, and numerous other instances of Promoting Gambling 1<sup>o</sup> and/or Possession of Gambling Records 1<sup>o</sup>, each of which are class "E" felonies. Additionally, the defendants have been charged with felony and misdemeanor counts of Conspiracy in the fourth and fifth degrees in the commission of these crimes, and several have been charged with Grand Larceny in the second degree, a class "C" felony, and Money Laundering 1<sup>o</sup> and 2<sup>o</sup>, which are class "D" and "E" felonies respectively. A copy of the cover sheet for this indictment is annexed as Exhibit "A". As such, the sum sought herein is forfeitable by the Queens District Attorney in order to satisfy the requested money

judgment in the amount of \$500 million which it seeks in the verified complaint to be filed in connection with this matter - which judgment, upon satisfaction in whole or part, - will be distributed pursuant to the provisions of CPLR 1349. A copy of the summons and verified complaint is annexed hereto as Exhibit "B". The defendants to be pursued in the civil proceeding have been determined by the District Attorney and Police Department investigators assigned to the Organized Crime Investigation Division, hereinafter "**OCID**" to be the major players in this highly sophisticated, hierarchical, and technologically savvy enterprise, whose financial reach extends beyond not just Queens County, but America's shores as well. The criminal proceeds generated by this enterprise of which a total of 28 individuals and three corporations have been indicted, are by far and away the largest ever encountered and pursued by the Queens District Attorney's Office under New York's asset forfeiture law. The reach of this enterprise is such that the assistance and cooperation of agents of the Federal Bureau of Investigation, as well as police authorities in sister states, and of other nations has been sought and received in order to bring it to justice.

Indeed, the investigation to be discussed below has uncovered a criminal enterprise boasting of upwards of over *100 known agents and distributors*, responsible for taking and overseeing the gambling action of over **1000 bettors** on a wide variety of sporting events ranging from horseracing, football, baseball, basketball and hockey, to NASCAR, PGA golf, and professional tennis. The leader and **bookmaker** of the enterprise, **James Giordano, aka "Dexter"**, who, with the knowing assistance of his "**controller**" and **son-in-law Daniel Clarin**, their wives **Priscilla Giordano and Melissa Clarin, (Giordano's daughter)**, his "**financial advisor**" **Louis Andrew Moed**, his **web page designer and developer, Maurice**

**Freedman, CEO of corporate defendant Primary Development, Inc.**, and a network of distributors, agents, money collectors and money launderers, many of which are named defendants in this civil proceeding, runs a tightly knit and incredibly lucrative illegal operation, adept in the use of computer technology, and proficient in the art of secreting and laundering illegally garnered assets in a variety of locations in this country, as well as in Costa Rica, Panama, the Caribbean, Switzerland, Hong Kong, and elsewhere. Notably, defendants **Eric Weiner** and his father, **Monte Weiner**, along with another individual, Ronald Kaslow, who has not been named a defendant in this prosecution or civil suit, have been intercepted on several occasions while in the process of laundering literally millions of dollars both in this country and abroad. They are known to facilitate the obscuring of enterprise money through the utilization of safety deposit boxes opened in their names, as well as in the names of third parties. **Frank Lobascio**, Eric Weiner and **Ralph Piccirilli** are also involved in the collection of gambling proceeds from subordinates and its transferral to others within the enterprise. In this manner, illegal earnings are stored and made available to Giordano as needed. Eric Weiner, in particular has been responsible for conducting several financial transactions caught over an eavesdropping warrant obtained in this investigation, pursuant to which financial intermediaries such as casinos and bank accounts belonging to his father, Monte Weiner, have been used as repositories for unlawfully earned proceeds. Monte Weiner has knowingly and explicitly authorized Eric's activities, and has allowed his son to use his bank accounts to launder enterprise earnings. Monte Weiner has also accepted gambling proceeds in the form of "loan repayments" from his son, which are then deposited into his bank accounts. As will be explained below, the sum for which an order of

attachment is sought, **\$500 million**, is, by any reasonable analysis, a conservative, justifiable and sustainable estimate of the criminal proceeds taken in by the **Giordano Bookmaking Enterprise**, a criminal operation which is both ongoing throughout a given year, and, through its operatives, adept at diverting criminal proceeds to financial intermediaries both in the United States and abroad.

5. This affirmation is made upon information and belief, based upon my examination of the files, documents and records maintained by the District Attorney's Office and the New York City Police Department, as well as a review of the contents and moving papers submitted in support of an eavesdropping warrant (and its over 30 extensions and amendments) granted in connection with the underlying investigation of these defendants and their associates by the Hon. Robert McGann, Justice of the Supreme Court, Queens County, New York. Your affirmant is also familiar with the affidavits submitted in support of applications for a series of search warrants concerning a Federal Express shipment, a laptop computer, a hotel room and the website known as "**Playwithal Sportsbook**" - the computerized wire room through which the enterprise conducted its illegal gambling activity, as well as for additional search warrants for various locations to be executed commensurately with the arrests of these defendants.

6. The underlying facts and circumstances of the related criminal investigation and prosecution, as well as the roles played by the civil defendants named herein are hereinafter set forth.

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**THE INVESTIGATION**

7. What has come to be called "**Operation Playing Extreme**" had its genesis in July, 2004. At that time, officers assigned to the Queens Major Case Squad and the Queens Narcotics District were working on a narcotics distribution investigation, pursuant to which an eavesdropping warrant was later issued by Justice Robert Kohm of the New York State Supreme Court, Queens County. From conversations intercepted over that eavesdropping warrant, it was learned that an individual known as Frank Lobascio, a civil and criminal defendant in this matter and its related prosecution, was involved in a gambling operation run by one James Giordano, with the assistance of Daniel Clarin. As such, in the summer of that year, an investigation into the Giordano operation was commenced, which ultimately resulted, one year later, in detectives from the NYPD's Organized Crime Investigations Division ("**OCID**") approaching the Organized Crime and Rackets Bureau of the Queens District Attorney's Office to request an application for a new eavesdropping warrant regarding certain cellular telephones suspected of being used in the promoting of illegal sports betting in Queens County and elsewhere, which were believed to be involved with gambling wire rooms in both Miami, Florida, and St. Maarten.

8. As a result, on August 19, 2005, Justice Robert McGann issued Eavesdropping Warrant #060504 granting authority for the monitoring of conversations over a cellular phone then being used by Lobascio, and for other such phones being utilized by others, together with authorization for the use of pen registers and trap and trace devices and the release of cell site records in connection with those cellular phones. It has been this eavesdropping warrant, (which has been extended and amended approximately 35 times during the past 14 months, and pursuant to which at least 28 different telephone numbers

were monitored over the period of time in which the warrant was in effect), in conjunction with traditional surveillance techniques, the use of confidential informants and undercover police officers, and the employment of search warrants where needed, which has served as the primary means through which this investigation has been conducted, and the Giordano operation taken down.

9. The investigation has uncovered that this enterprise features a network of over 100 agents and distributors who serve as partners with Giordano, as their bookmaker. Agents and Distributors are in fact partners, in that they share in the profits earned through the *losses* of gamblers who bet with and through them, and carry into the next gambling week the monies paid by Giordano to those of their bettors who have realized *winnings* during that time. These individuals work under the overall supervision of James Giordano, and his number two man, Daniel Clarin, the enterprise's controller, who manages the daily activity of the organization for Giordano. Clarin is responsible for dispute resolution and the handling of personnel decisions and problems. He is a resource manager, in charge of the stationing of agents and the cellular telephones and numbers they utilize. He ultimately is charged with controlling the channeling of the enterprise's criminal proceeds throughout the entirety of its network, up to the bookmaker. His authority is second only to Giordano's, and he has been overheard on several occasions issuing instructions to his underlings regarding the collection of gambling debts owed to the organization. Clarin, like his father in law, Giordano, is wary and suspicious of law enforcement. He, like his boss, has been known to frequently change his cellular telephone numbers to attempt to thwart and evade the police, and indeed, like Giordano again, employs the technique of obtaining cellular phones in the

names of third parties, with much the same goal of evasion in mind. In fact, on February 2, 2006, in a monitored conversation with **Money Collector** Frank Lobascio, James Giordano specifically informs Lobascio, who needs to reach Clarin, that the latter "changes his cell phone number like every month." Louis Andrew Moed, the organization's financial adviser, has been determined by the OCID investigators to utilize his financial savvy to knowingly advise Giordano, his wife, Priscilla Giordano, and Melissa Clarin, (their daughter and Daniel's wife) in methods to be used in secreting and laundering of criminal proceeds, primarily "offshore". Intercepted conversations have shown that this enterprise maintains offshore accounts and secretes its assets in Switzerland, Costa Rica, Panama, Hong Kong and St. Maarten. Investigators have termed Priscilla and Melissa the enterprise's "**Financial Officers**". They are known to have helped facilitate the formation of shell corporations used by the organization to launder money. Priscilla has signed incorporation documents falsely claiming to be corporate attorney. She is also signatory on domestic and foreign bank accounts, through which the organization funnels proceeds. Melissa Clarin has signed documents incorporating shell companies posing as a director. Investigators are aware of at least four such shell corporations: **Blue Crest Properties, ILA, DHIG, and Access Offshore.**

10. **Agents**, oftentimes referred to as "runners", recruit and deal directly with the individuals betting with the organization through them. **Distributors**, within the parlance of the Giordano organization, are simply Agents who have other Agents reporting to and working under, and through them. Agents do not ordinarily pay money to their winning bettors. This role is reserved for the bookmaker. The funds thereby expended are carried by

the Agent as his/her "Red" or "Stuck" figure. The Agent will not be paid his share of the enterprise's profits with Giordano until his "Red" figure is depleted. This enterprise maintains an ultra-sophisticated website developed by defendant Maurice Freedman, and his company, Primary Development, specifically tailored to meet the needs of Giordano and Clarin, who had input in its design and programming. Intercepted conversations in which Freedman was a participant make it clear that he was completely aware of the nature of operation that he was assisting. The website is known as "**Playwithal Sportsbook**", and is, by its own advertised terms, "An Innovative Sports Gaming Company." Playwithal is accessible both online and via an "800" toll free telephone number. The site's home page, which is the main entry page to the website, offers a single hypertext link, which is a button that transfers users to a different page. While the home page is publicly accessible, other pages are restricted, requiring both a login and a password.. These restricted links include a "Sports Login" and "Agent Login". The site is solely used for gambling. While Playwithal's web page is hosted in Tampa, Florida, due to cost considerations, legal, and security concerns of Giordano, its web servers and wire room terminals have been shifted to St. Maarten, and most recently, Costa Rica. **Corporate defendant Prolexic** provides the site with web server security from potential hackers. A bettor logging on to the site will initially be logging on to the web page in Tampa, at which time, Prolexic software screens the bettor's internet protocol address to search the same for "malware", a virus or tracking program, which could be used in the infiltration of the Playwithal servers. Prolexic software is Giordano's protective shield. **Corporate Defendant Digital Solutions, S.A. dba D.S. Networks, S.A., Inc.** a company incorporated under the laws of Costa Rica provides the enterprise's site with

its servers, data and software. The Playwithal website is literally a computerized betting sheet. During the course of this investigation, specifically in December, 2005, OCID investigators, in conjunction with the NYPD's Computer Crimes Unit, obtained a separate eavesdropping warrant from Justice McGann for the purpose of obtaining access to, analysis of, and the downloading of records from the site. OCID conducted interceptions and monitoring pursuant to the Playwithal eavesdropping warrant for approximately 31/2 months. The officers were able to access passwords for Giordano, Clarin, and other upper echelon associates in the enterprise, as well as for agents and distributors. Through the use of additional search warrants for computerized records, information contained on the site pertaining to open wagers and weekly and monthly account balances for distributors, their agents and their bettors was downloaded and analyzed. It was in large measure as a result of this information that investigators were able to come to a fuller appreciation of the massive scope and volume of illegal wagering handled by this enterprise. It was also during this time period that investigators came to understand that the Giordano network of agents easily exceeds 100 in number. The Playwithal site is tailored in such a way that enterprise "higher-ups" have access to more information and records than do distributors. Similarly, distributors are granted greater access than are the agents who answer to them. Regardless, a given agent may, at any time, and with proper password, utilize site records to obtain a snapshot accounting of the gambling accounts and balances of his individual players, and his personal situation vis a vis monies owed to, or due from Giordano. Each of the enterprise's agents and distributors have passwords and user names. Via use of the eavesdropping warrant in conjunction with intercepted telephone conversations, OCID was able to associate specific

members of the enterprise with their Playwithal site user name. In almost every instance, an agent or distributor's user name begins with the letter "Z", such as, for instance, **ZEDUB**, for Eric Weiner and his father, Monte Weiner, and **ZLION** utilized by distributor **Stuart Kempner**.

11. Giordano's operation is massive. For purposes of this civil application, the individuals identified by the investigation as Giordano's Distributors in the enterprise are : **Donald Clarke-** Clarke can actually be considered somewhat of a "super- distributor." Computer records examined and downloaded by OCID reveal Clarke, who goes by the computer codename DAC, to be the enterprise's most successful and prosperous distributor. *Clarke has approximately 65 subordinate agents working for him, and 600 individuals betting through him on the Playwithal website.* **Through the use of the Playwithal eavesdropping warrant, investigators uncovered that solely during the week ending on January 16, 2006, agents and bettors making wagers under the auspices of Donald Clarke, and through the Giordano network, were responsible for the earning of of \$649,027 in criminal proceeds for the organization.** This staggering sum, again, representing only one WEEK's worth of activity by Clarke's bettors, is, I am informed by investigators, only a fraction his activity. Annexed hereto as Exhibit "C", is Donald Clarke's "Weekly Balance Report" for the week ending on January 16, 2006. It sets forth a listing of some of his agents and the bettor/players wagering under him. It is decidedly not a complete listing of his agents. It is merely a group of agents and bettors whose accounts Clarke personally decided to examine *at that time*, and which OCID intercepted *as he was doing so*. The Court will note that on some days, some agents record no activity at all. On other days,

there is quite a bit of volume. However, since some agents, (always represented by the coded prefix "Z", and listed in capital letters), had no betting action at all during this time frame for some of their numerically referenced bettor/ players listed beneath their coded names, it is clear that the ending balance of **\$649, 027** is only a *fraction* of what Clarke's action could be during other, and even busier weeks. This balance is presented on the last page of the accounting, underneath the activities of the agent coded as "ZYELLOW". If the \$649,000 recorded is a fair reflection of Clarke's average weekly activity over the course of a year, he would personally be responsible for over **\$33 million** in gambling proceeds during the year's time.

**Frank Falzarano-** Falzarano, code named **Z8300**, is a Distributor who maintains a network of some 15 agents and approximately 300 bettors. His downloaded "Weekly Balance Report" for the same week as Clarke's shows that many of his agents recorded no betting activity for many days during that given week. Nevertheless, Falzarano's contribution to the enterprise's action for the time frame amounted to **\$160,648**, or, if extrapolated over a 52 week period, the sum of **\$8.353 million**. The Falzarano Weekly Balance Report is annexed as Exhibit "D". Again, the individuals and their accounts set forth in the Exhibit represent only those players and agents accessed by Falzarano at the time, and that which OCID intercepted as he was doing it. This factor is significant in that it tends to reflect that these distributors had other agents working under them, whose accounts were not being reviewed when OCID made its intercepts.

**Daniel Corrar**-("ZSHARP")- is a Distributor who maintains a network of at least 15 agents, under which approximately 200 bettor/players place wagers with the enterprise. His downloaded Weekly Balance Report is for the week ending January 29, 2006. It is annexed as Exhibit "E". As with Clarke and Falzarano, the individuals and their accounts set forth represent only those players and agents accessed by Corrar at that time, and that which OCID intercepted as he was doing so. Corrar's balance and financial contribution for that week alone, amounted to **\$24,442**. Extrapolated over a 52 week period, this distributor would be taking in over **\$1.2 million** for Giordano.

**Stuart Kempner**-Kempner (**ZLION**), (**Z66**), is a Distributor who maintains a network of 4 to 5 agents and approximately 200 bettors. Kempner is known to be closely tied in with Donald Clarke.

**Rocco Renelle**-Renelle (codenamed "**ZNEW**") is a Distributor who maintains a network of 3 agents and approximately 50 bettors. He, too, is associated closely with Donald Clarke.

**Peter Mastrandrea** (codenamed "**Z5400**") is also a known Distributor within the Giordano enterprise. Investigators monitoring the activities of the enterprise have determined that Giordano's operation employs Money Collectors, who are responsible for collecting the proceeds earned each week by the agents, and who, in turn, deliver what funds are due to the Distributors, and ultimately, to Giordano, and his upper echelon. Defendants **Frank LaMonica**, **Frank Lobascio**, and **Ralph Piccirilli** are known to be Money Collectors within the organization. It has been determined that Lobascio is charged with collecting directly on

behalf of Giordano. Frank LaMonica is known to be responsible for holding large sums of money for Giordano's personal use as needed, much of which has been paid over to him by Lobascio. He also is known to utilize safe deposit boxes for the retention of illegally garnered assets. Lobascio is responsible for collecting and distributing funds to Giordano's distributors and agents to cover their players' winnings. Clearly, LaMonica plays a major role in Giordano's operation. On April 5, 2006, investigators monitored a telephone conversation between Giordano and LaMonica, during which the former, while in Las Vegas, directs LaMonica to bring him **\$50,000 in cash**. After LaMonica agrees to make the trip, OCID investigators followed him to Nevada, and observed him hand a bag to Giordano while at the Bellagio Hotel. Annexed hereto as Exhibit "F" is a transcription of the phone conversation during which LaMonica receives his instructions from Giordano. Money Collector Ralph Piccirilli works in association with Donald Clarke and his agents. He reports both to him, and sometimes to Lobascio as well. Piccirilli is responsible for picking up all monies from Donald Clarke's network of agents.

12. As indicated earlier, the enterprise utilizes offshore shell corporations as repositories for the funneling of illegal gambling proceeds which it seeks to launder. Blue Crest Properties, ILA, DHIG and Access Offshore are four such shell companies used by Giordano and his associates. Melissa Clarin is ostensibly the Treasurer of ILA, an outfit located in Saint Maarten. Priscilla Giordano is named as the corporation's "attorney.", which she is not. DHIG is also headquartered in Saint Maarten, and Melissa and Daniel Clarin are corporate officers of this company. Louis Andrew Moed, the enterprise's financial advisor, has been instrumental in assisting the enterprise in the establishment of companies and

accounts for the laundering of money. He has been intercepted conversing with Priscilla Giordano regarding the opening of a corporate account, and instructing her in the paperwork she will need to set things up and complete the arrangement. Intercepted conversations involving Giordano, the Clarins, Falzarano and others reveal that one method of hiding assets used by the enterprise is that of directing agents to obtain payments representing their players' betting losses in the form of checks made payable either "in blank", or payable to one the shell companies mentioned above. In one such conversation, which took place on November 3, 2004, Melissa Clarin is called by her father, James Giordano, requesting her assistance in the proper method for making a check payable to DHIG. Giordano is unsure as to whether DHIG has an "Inc." in its corporate name, and Melissa advises him that it "definitely" does not. She wonders aloud whether the company is "a Ltd.", before declaring that a check payable to DHIG alone "is fine". Giordano is about to receive a check from someone named "Danny", who apparently does not want to make the check payable to another of Giordano's shell companies, "Access Offshore", and wishes to issue payment to the bookmaker through DHIG instead. A copy of the transcript for this conversation is annexed as Exhibit "G".

Annexed hereto as Exhibits "H" and "I" are two monitored telephone conversations which took place on February 6, 2006. In the first such conversation, an annoyed and angry James Giordano is calling Daniel Clarin to discuss the possible use of a Swiss bank account to be set up for money laundering purposes by Louis Andrew Moed, through the auspices of someone we learn in the second conversation is named "Mason". During the first call, Giordano remarks that the use of the Swiss account under the format envisioned by Moed's

contact Mason was "too good to be true". Clarin agrees, and comments that "Thank God we didn't make the transfer". It appears that any monetary transfer into the account which Moed and Mason were creating would have exposed Giordano to United States tax consequences, which he of course is looking to avoid. The men are critical of Moed, and reiterate that the account should be opened through an offshore company, in another person's name, (an individual called "Fred") listing Giordano and Clarin as Directors and banking signatories, in order to evade U.S. taxes. Giordano wants Clarin to complain to Moed, (from whose agent, Mason, he wants a refund for whatever fees, if any, he may have expended for payment in the creation of the account) and ask him: **"What the fuck are we opening a Swiss account for to have the United States see our transactions."** James Giordano reiterates that the way to go is for them to open the account with an offshore company. No tax forms would be required as the company opening the account would not be an American company. From the second conversation, which was held between Giordano and Moed, Giordano complains to Moed that Mason is "throwing a curve ball at us". He reads Moed an e-mail Clarin has received from Mason informing Clarin that he has set up the account, which is now ready to receive funds. Mason tells Clarin that since Giordano signed a U. S. Taxpayer Form W9, and the account is in his name, that he is bound by IRS regulations and reporting requirements. Mason's message explains that the only way in which Giordano's stated goal of avoiding taxes incurred by the "transit" of funds through the United States would be to have had the account opened for an offshore company, regardless of whether a signatory on the account is an American. The men discuss Moed's thought that the problem had its genesis with the Patriot Act's provisions concerning the transfers of funds to be used

in assisting terrorist activities, and Moed admits that perhaps he needs to research the issue a bit more through Mason. Giordano insists that "*Hav(ing) transactions in my name is a no no.*" He wants Moed to let Mason know that he already does have offshore companies which apparently could be used to effectuate the desired secrecy, laundering and tax avoidance. Giordano implies that through using one of his other offshore shell companies, he could send him (Mason) "the papers tomorrow". The conversation ends with Moed agreeing to follow up with Mason tomorrow, and Giordano admonishing Moed not to allow Mason to "send anything from that account". I am informed by OCID experts that these conversations indicate a clear intent to hide the nature and sources of funds to be placed in the account to be set up, and Giordano's, Clarin's and Moed's acknowledgment of the use of offshore companies to avoid and evade police and federal inquiry into their illicit activities.

13. On June 15, 2006, James Giordano arrived at JFK Airport in Queens County, and traveled to the Wingate Inn Hotel on Stewart Avenue, in Nassau County. On June 17, police officers executed a search warrant inside Giordano's hotel room, during which the officers observed and copied several papers containing gambling records, and made a digital copy of the hard drive of Giordano's laptop computer. Perhaps most notably, the officers secured a copy of an e-mail sent to Daniel Clarin from an unidentified individual, (whom officers believe may be Mason, as referenced above). The e-mail, a copy of which is annexed as Exhibit "J", reads: "*Dear Daniel-Bluecrest has received today **USD 1,745,843.29** from DHIG Ltd., St. Maarten. Kindly explain the origin of the funds. Is that the amount sent from Mr. G's personal account? In this case, please explain the relationship between Mr. G. And the above company.*" OCID investigators believe that the

communication represents acknowledgment of the receipt of **\$1,745 million** in gambling proceeds as sent from Giordano's (Mr. G.) shell corporation-DHIG, Ltd. to another of such shells, Bluecrest. The writer requests that Clarin explain Giordano's relationship with DHIG..

14. Annexed hereto as Exhibit "K" is an intercepted conversation dated September 15, 2006 between Giordano and Daniel Clarin in which the two men vent their outrage and disgust with a bank which, according to OCID investigators is located in Switzerland, which has apparently contacted payees of the enterprise with respect to problems the bank is having in processing checks drawn on behalf of Giordano's associates. The two men are enraged over the fact that issues pertaining to problems with Giordano checks were not addressed to him, but rather to whom he calls, his "clients". Giordano goes on to state that this particular bank has over **\$2 million** on deposit through him, and that "if they want **two million to six million** they have to accept United States checks without question. If that's an issue, then we'll tell them we'll open an account with someone else."

14. Eric Weiner, working closely with and through his father, Monte, is a very important member of Giordano's operation. Eric's role is primarily that of a distributor, but he also plays an active role in the laundering of criminal proceeds, utilizing his father's bank accounts towards that end. Investigators have learned that Monte Weiner is not only well aware of his son's involvement in illegal gaming, but that he is himself part of the Giordano network in that he provides financing to his son in the form of loans to cover his gambling debts. Several intercepts involving Eric Weiner and his activities are set forth below.

On May 16, 2006, Eric is in conversation with enterprise clerk "Cal", actually Robert McGrath, who, although not named as a defendant in this civil proceeding, plays a

supervisory role in the manning of telephones and in the acceptance and accounting of wagers, and in managing point spreads for various sporting events. In this discussion, Cal informs Eric Weiner that Dex (Giordano) wants him to see Donald Clarke (referred to as "D"), and pick up **\$350,000**, of which Eric is himself to keep **\$250,000**. Eric is then to pick up an additional **\$10,000** from a bettor known as "Skinny". Finally, the **\$110,000** not retained from these pick ups by Eric, is to be brought by him to Giordano. This conversation is annexed as Exhibit "L". Exhibit "M" is a transcript of a discussion between Eric and Ronald Kaslow, an individual who has not been named as a defendant in this proceeding which also took place on May 16. The two men discuss the delivery sometime during that week of somewhere between **\$15,000 and \$25,000** from Kaslow to Eric's account with HSBC. The balance of whatever funds are due is promised to Eric by the end of the month. Eric asks for quicker delivery of the "green", because he "needs to bring it to people. In yet another conversation with Kaslow, this one occurring on June 23, 2006, Eric receives confirmation from Kaslow that he will be getting "a full \$50", (**\$50,000**). Eric needed the exact amount he will be receiving so he could inform other unnamed individuals to whom funds are due. This discussion is annexed as Exhibit "N". Exhibit "O" is an untranscribed summary of a conversation Eric Weiner held on June 20, 2006 with a Robert Howard, a bettor in Texas who owes money to the organization through Weiner. The two men discuss what actually became a Federal Express delivery of \$15,000 in the form of three checks in the amount of \$5,000 each, *with the payee to whom the checks are intended intentionally left blank*. During this conversation, Eric instructs Howard to send the checks to a **"Michael Israeli", whose residence is 300 East 40<sup>th</sup> Street, New York City**. *In actuality, this residence is that of*

*Eric and his father, defendant Monte Weiner, who owns a condominium at that location. There is no known Michael Israeli residing at 300 East 40<sup>th</sup> Street. Apparently, Robert Howard is disdainful of issuing checks which will find their way into offshore accounts. As such, Eric is explaining that they will be deposited into his "uncle's" account, who is both "clean and very, very wealthy". In actuality, Eric is speaking of his father. Ultimately, OCID obtained a search warrant for the Federal Express envelope sent by Howard to the Weiner apartment. The three checks were photographed by the police, and given over to the F.B.I. and the NYPD's Asset Forfeiture Unit for follow-up. It has been determined that each of the three checks were deposited into **Monte Weiner's** bank account. Throughout the course of this investigation, it has been ascertained that Eric has used his father's accounts for purposes of laundering enterprise funds. In a conversation intercepted on August 28, 2006, Monte states to his son : "Now the number is forty, right?" When Eric responds in the affirmative, his father suggests that he "got to start tacking on a vig, since you 're late." OCID investigators inform me that this conversation reflects the fact that Eric owes his father \$40,000, and that Monte jokingly suggests that he might now require his son to pay a vig, or an extra sum of money to cover his costs of extending the loan. A copy of this conversation is annexed as Exhibit "P". Eric also has his father physically transport and pay money he owes his associates. This is illustrated in two conversations between father and son monitored on September 19, 2006. They are annexed as Exhibits "Q" and "R" respectively. In the first conversation, Monte is asked by Eric to meet up with Billy Baxter, a major local Las Vegas bookie to whom he owes money. Monte, who now has a residence in Las Vegas, and has traveled there on Eric's behalf, is in that city at the time, and Eric suggests that*

Monte meet Billy and give him between **\$25,000 and \$35,000** on Eric's behalf. Eric tells his father that he can repay him upon his return to New York at the end of the week, even though Eric will be in Florida at the time. This will not present a problem because Eric has "like five people up there that can give you money". Monte balks to an extent, complaining that he would have too little money left for himself while remaining in Las Vegas, and states that he "doesn't feel like carrying " 20, 35" (\$20,000-\$35,000) back with him when he next returns to Nevada. Alternatively, Monte suggests that he could partially attend to Eric's debt in the form of Bellagio Hotel and Casino gaming chips, of which he has \$9,000 worth, and could transfer over to Billy. Eric agrees that partial payment could be made in this manner, to be coupled with a cash payment to Billy of \$20,000, but goes on to tell his father that the next time he returns to Las Vegas, he will probably have "to give you something anyway to take back, so either way you are going to have to probably travel with something." OCID investigators inform me that this statement refers to gambling proceeds Monte transports for Eric and the Giordano operation. The two men go on to discuss Monte's opening of a new safety deposit box at Citicorp, which he was given in exchange for his opening of a large account with the bank in Las Vegas. He explains to Eric that he has moved a substantial percentage of his money out of Florida and into the Citicorp account. **I am informed by OCID investigators that Monte Weiner did, in fact, transfer \$1 million into a Citicorp affiliate (City Bank West) account in Las Vegas.** The discussion continues in the second monitored conversation, wherein Monte again refers to the "biggest" safety deposit box he will be getting at Citicorp. Eric goes on to tell his father that Billy won about "6 figures this week", from which Eric will receive a percentage cut. Ultimately, Eric returns to the subject

of Monte carrying back money to Las Vegas after he returns to New York, and tells his father that "when you get back we'll talk about if you want to fly something back and if you don't, then I got to find other ways, you know." Monte seems to feel that he will need to carry some of the money for his own behalf, for a tournament he is entering, rather than all of it for Eric's payments. Eric suggests that his father could sign a marker for the entry fee at the hotel. The final transcription involving Eric Weiner pertains to a conversation he had on May 5, 2006 with an individual named "Lenny". The two men are discussing Eric's need to "move" a large sum of money, apparently held in a bank. Lenny, to whom a portion of the money is owed, asks Eric how much he needs to move. *To this, Eric responds, "Oh, we we're talking about over five million dollars."* Lenny offers to help Eric in disbursing the funds, but Eric declines, explaining that there are other people involved, who "want their money offshore". Eric also discusses the possibility of coming up with \$50 (**\$50,000**) from someone, and being able to hand it over to Lenny tomorrow. He also speaks of an upcoming trip to Costa Rica, where Lenny is apparently located, and suggests that he could deliver funds to him there, in New York, or in Miami. The transcription of Eric's conversation with Lenny is annexed as Exhibit "S".

15. In August, 2006, Giordano has a discussion with a very agitated Donald Clarke who has learned that one of his money collectors, Ralph Piccirilli has been the subject of law enforcement surveillance after Ralph visited Clarke at the latter's home in Hillsdale, New Jersey to settle up weekly accounts. This conversation contains admissions of illegal activity by both men, as well as their level of sophistication, their obvious concerns about possible discovery, and above all, their overriding need to protect their ill-gotten gains

from the authorities. On the day in question, Ralph was in the possession of sheets of yellow paper and a small black bag, which Clarke tells Giordano was "*filled with cash*". After the meeting ended, Clarke noticed a black van with New York license plates leaving his cul-de-sac when Piccirilli left, and became suspicious. Clarke called Ralph, who lives some 40 minutes from him, who confirms that apparently the very same van had followed him to his home, and had now departed. (In point of fact, this was a police vehicle conducting surveillance.) Giordano and Clarke discuss removing Piccirilli from the operation, as Clarke does not want Ralph "leading them to any of my runners" as well as the need to employ the use of "7-11" throw away cell phones, rather than ever conversing about business on a home telephone. Giordano tells Clarke that if you "stay off your home phone...they, (the police) can't come in your house." He also warns Clarke not to allow his associates to carry bags or briefcases into his home, in fear that this will provide the authorities with a pretext for entering the premises to seize any money or records inside the bags. Anything that is to be carried should be put "inside of their shirt". **Giordano goes on to say that "there's one real important thing you need to protect and that's your money." He tells Clarke that proceeds should be kept at your grandmother's sister's uncle's friend's and cousin's house.** It should not ever be associated with Clarke or his people. Giordano urges the taking of precautions which include the usage of throw away phones, and not carrying *merchandise* in and out to meet anybody. The men discuss the coding of all phone numbers so that runner's numbers will not be uncovered by the police. Clarke tells Giordano that "Ralph Piccirilli has "the phone number to every runner and customer that I got." Finally, Clarke states that he keeps a loaded, albeit, a registered gun in his safe, and about "ten thousand" in

his house. Giordano replies: "That's all you need, you always keep that there, let them have that." A copy of this conversation is annexed as Exhibit "T".

## **PROCEEDS OF CRIME**

16. For purposes of this civil proceeding under CPLR Article 13A, we have singled out the major players within the organization for civil liability under the forfeiture law over and above their criminal accountability. From each of these individuals, the District Attorney will be seeking a money judgment in an amount equivalent in value to the gross amount of the estimated proceeds of the crimes committed by the enterprise, both jointly and severally, for the 27 month period in which this investigation has been in effect, as measured from July, 2004, when it was commenced, and running through mid-October, 2006, when Eavesdropping Warrant #060504 was terminated. This application for an order of attachment, a provisional remedy specifically authorized by Article 13A, is requested in an effort to locate and levy upon assets belonging to the civil defendants within this state, pending the outcome of the criminal prosecution to which it is related. These assets will be utilized to satisfy the money judgment expected to be obtained in this proceeding. The individuals named in this civil proceeding have all played important roles in the spectacular success of the Giordano operation over the course of this investigation, and prior thereto. Given that every bet that this enterprise has been involved in soliciting, obtaining, and collecting, is illegal in this state (regardless of the offshore nature of much of its business) the monies involved are by their very nature, the proceeds of crime, and thus subject to

forfeiture. As such, joint and several liability is the applicable standard. Each participant named derived a substantial pecuniary benefit from their actions on behalf of the criminal enterprise. Under the state's asset forfeiture law, the District Attorney is authorized in seeking to deprive them from taking or retaining such a benefit. I respectfully wish to inform the Court that as to each named defendant herein, investigators have obtained eavesdropping transcriptions recording them in performing and discussing their duties and responsibilities on behalf of the enterprise. In the case of distributors and agents, the calls typically indicate the acceptance of illegal wagers, discussions pertaining to their own and their bettors' account balances, and settling up their total won-lost figures for a day, week, or month. These calls are typical of a gambling organization, and are available to the Court if required. Furthermore, in the case of the distributors and agents sued in this proceeding, computerized spreadsheets and balance reports with respect to these individuals are available, and, in some instances, annexed as exhibits. They provide snapshots of the status of their accounts and those of their players, which snapshots were downloaded by the given defendant, and simultaneously intercepted by OCID as the downloading was taking place.

17. With respect to the proceeds of crime taken in by the Giordano Bookmaking Enterprise, as noted earlier, this organization was up, running, and fully operational when this investigation was commenced in July, 2004. Eavesdropping Warrant #060504, the main investigative tool used in uncovering the structure, nature, and extent of the organization, as well as its participants and their roles, has been in operation through the middle of October, 2006. All told, this enterprise has been reaping its unlawful proceeds for a period of a minimum of 27 months. Indeed, as police and prosecutorial assets have been

committed to its investigation for that period of time, it is for that period for which this application seeking forfeiture of criminal proceeds is based. In determining the amount of relief to be provisionally requested of this Court in this application for an order of attachment, the District Attorney, in his capacity as a claiming authority under Article 13A, has **extrapolated over a 27 month/117 week period, the average ending balances of the three Weekly Balance Reports for Distributors Donald Clarke, Frank Falzarano and Daniel Corrar for activity taking place during January, 2006 as annexed hereto as Exhibits "C", "D" and "E" respectively.** The resulting average weekly figure will then be multiplied by 100, representing the over 100 agents known by investigators to be working through and for the Giordano enterprise. Clarke, a major player in the organization, had a very strong week, bringing proceeds to the organization for the week of January 16, 2006, of \$649,027. Frank Falzarano, considered more of a mid-level Distributor /Agent, had earnings for the enterprise for the same week totaling \$160,648. Finally, Daniel Corrar' s numbers, reflecting somewhat of a lower level of activity, that coming for the week ending on January 29, 2006, amounted to \$24,442. The weekly total for the three defendants amounts to **\$834,117**. *Divided by three, an average yield of \$278,039 in proceeds for the enterprise per week is reached.* Multiplied by 117 weeks, the product amasses to over \$32.5 million. Multiplying \$32.5 million by the 100 plus agents known to work through Giordano yields a figure of **\$3.2 billion** in proceeds for the 27 month period. While this figure would be justifiable and sustainable, it is respectfully conceded that while investigators know that Giordano maintains a network of over 100 distributor/agents, only 31 individuals and corporations have been named in the related indictment . The District Attorney could, by that

measure, and for the sake of fairness, reduce his request for relief by over 2/3 of that to which investigators believe to be sustainable. This would reduce our claim to \$1 billion in proceeds. **The District Attorney's Office has chosen to seek half that sum, or \$500 million as proceeds in this case.** That figure is both equitable, very conservative, and provable, given the worldwide reach of this enterprise, which, as noted at the outset of this affirmation, is the largest financial enterprise ever sued civilly in Queens County under our state's forfeiture statute.

18. It is reasonable to assume that in a prosecution such as this, that based on the OCID investigation, most, if not all defendants have family and friends not charged herein who have access to their funds. Additionally, all these defendants have the motivation and wherewithal to potentially contact their relatives and friends in an effort to dissipate or otherwise and secrete their assets. Assets of these defendants could, and most likely *are* located in a wide variety of locales and financial institutions, including banks, savings and loans, brokerage houses, mutual fund accounts, and otherwise. Of course, items such as cash, jewelry, and securities, may reasonably be expected to be found in safety deposit boxes or other financial institutions wherein levies pursuant to this order will occur. As such, given the obvious motivation of a criminal defendant perhaps released on his own recognizance or on relatively low bail to dissipate, hide or secrete assets from the claiming authority under Article 13A, it is respectfully requested that this Court grant as part of its *ex parte* order of attachment, an application for disclosure pursuant to the authorization of CPLR Section 1326. Pursuant to this directive, any bank or other financial institution upon which a levy is made by the "claiming agent" as defined by CPLR 1310 (2), shall inform said agent (in the

usual case, an officer of the NYPD) of the existence of any safety deposit box maintained therein or at any of its branches, (if known), in which a defendant whose assets have been attached hereunder has a legal or equitable interest. In this manner, the District Attorney may immediately seek, where appropriate, a search warrant to examine the contents thereof, in an effort to prevent a defendant from dissipating assets and defeating the claiming authority's right to seize and forfeit any ill-gotten gains. It is further requested that pursuant to CPLR 1326, each such financial institution upon which a levy hereunder is attempted be directed to disclose to the claiming agent to the extent of its knowledge, information regarding any property in its control in which a defendant herein has, or may have, an interest, or of any debts owed or which may be owed to such a defendant.

19. It is also respectfully submitted that the reach of this Court's order shall be limited to leviable assets in which these criminal defendants have, or may have, an interest, *within the confines of the state of New York*, up to and including the amount of relief granted. However, given the nationwide and even global reach of this particular enterprise, the assistance of the appropriate authorities in sister states and the federal government, as well as the governments of foreign states, is anticipated.

20. That a motion to confirm this order will be made on such notice to the defendants as this Court shall direct pursuant to CPLR 1317 (2) within five days of any levy hereunder, unless this period is waived or extended by the defendants.

21. For a discussion of the applicability of CPLR Article 13A to the facts of this case, and the District Attorney's entitlement to the provisional remedy of an *ex parte* order of attachment pursuant to the guidelines set forth under said Article, the Court's

attention is respectfully referred to the accompanying memorandum of law, which is submitted herewith.

22. **WHEREFORE**, it is respectfully requested that this Court issue an order of attachment in the amount of **\$500 million** against the assets of the defendants named herein as may be located within the jurisdiction of this Court, and which are appropriately subject to levy under law.

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David S. Zadnoff  
Assistant District Attorney

Dated: Kew Gardens, NY

November, 2006