

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) Cr. No. 08-10094 WGY
)
1. CARMEN S. DINUNZIO,)
2. ANTHONY J. D'AMORE, and)
3. ANDREW MARINO)

GOVERNMENT'S SUBMISSION OF DETENTION AFFIDAVIT

The United States hereby files the attached affidavit of FBI
Special Agent Michael Kelly in connection with its motion that
certain defendants in this case be detained pending trial.

Respectfully submitted,

MICHAEL J. SULLIVAN

United States Attorney

By: /s PETER K. LEVITT
PETER K. LEVITT
Assistant U.S. Attorney

May 2, 2007

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AFFIDAVIT OF SPECIAL AGENT MICHAEL J. KELLY

I, Michael J. Kelly, being duly sworn, hereby depose and state as follows.

I. INTRODUCTION

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). I submit this affidavit in support of the government's motion that the following individuals be detained pending trial: **CARMEN DINUNZIO, A/K/A "CHEESEMAN", and ANTHONY J. D'AMORE.** On May 1, 2008, **DINUNZIO, D'AMORE,** and a third individual, **ANDREW MARINO,** were charged in a federal indictment with conspiring to bribe a state official in connection with a program receiving federal funds, in violation of 18 U.S.C. § 371. In addition, it is alleged that **CARMEN DINUNZIO** is the underboss of the New England Family of La Cosa Nostra ("LCN"), an organized crime syndicate. It is further alleged that **ANTHONY J. D'AMORE** is a close associate of the LCN.

2. I have been employed by the FBI for approximately twenty four years. During that time, I have been involved in hundreds of investigations relating to a wide variety of

suspected criminal activity, including, among other things, organized crime. For the past one year and a half, I have been assigned to the Organized Crime Squad in Boston. Prior to that, I have worked numerous assignments, including organized crime/drugs, bank fraud, bank robbery, and large scale drug organizations, in Maine, Denver, and Los Angeles. I have been the affiant on numerous affidavits in support of criminal complaints, search warrants, and other applications.

3. The information contained in this affidavit is based upon my personal involvement in this investigation, conversations with other law enforcement officials, and a review of other information related to this investigation. It is also based on law enforcement interviews with confidential informants and cooperating witnesses, and review of court records and other documents, and records. Because this affidavit is offered for the limited purposes of supporting the government's motion for pretrial detention, it does not contain all the information known to me regarding this investigation. Instead, it contains only the information necessary to support the government's motion.

II. THE INVESTIGATION

4. Starting in or about May 2006, a cooperating witness working with the FBI (hereinafter "CW-1") began having consensually recorded conversations with **DINUNZIO** and **D'AMORE** about a proposed deal to sell 300,000 cubic yards of loam (i.e.,

soil composed of sand, silt, manure, and clay), to the Massachusetts Highway Department for use on the Central Artery/Tunnel project, commonly known as the "Big Dig". Over the course of the next several months, **DINUNZIO** and **D'AMORE** had numerous consensually recorded conversations with CW-1 in which they discussed the proposed loam deal.

5. In summary, during these various recorded meetings, **DINUNZIO**, **D'AMORE**, and CW-1 discussed a deal in which they would bribe a Massachusetts Highway inspector, introduced to them by CW-1 as "Mike", to ensure that they received the contract to supply the Big Dig with 300,000 cubic yards of loam that would be supplied by **D'AMORE's** contact, **ANDREW MARINO**. The individual the parties knew as "Mike" was, in fact, an undercover law enforcement officer (hereinafter the "UC" or "Mike"). The proposed loam contract would be worth \$6,000,000 (i.e., the Big Dig would pay \$20 per yard of loam, including trucking and delivery costs to be billed by a company with which **MARINO** was associated, "Company A", that would supply the loam).

6. During consensually recorded conversations throughout the summer and fall of 2006, **DINUNZIO**, **D'AMORE**, and **MARINO** agreed to pay "Mike", who they believed was a Massachusetts Highway inspector, a cash down payment and 5% of the revenue from the contract in exchange for "Mike"'s assurance that they would get the contract to sell 300,000 yards of loam to the Big Dig.

7. During a consensually recorded meeting on September 22, 2006, **DINUNZIO** provided \$10,000 in cash to CW-1 for the purpose of facilitating the down payment of the payoff to "Mike". On September 29, 2006, **DINUNZIO**, **D'AMORE**, and CW-1 met with "Mike" (i.e., the UC) at Company A and provided "Mike" with the \$10,000 in cash supplied by **DINUNZIO**, as well as an additional \$5,000 in official government funds ostensibly supplied by CW-1, as a down payment for "Mike"'s assistance in ensuring that they secure the contract to sell the Massachusetts Highway Department 300,000 yards of loam. This meeting was consensually recorded on audio and video tape. During that same recorded meeting on September 29, 2006, **MARINO** provided "Mike" with a sample of the 300,000 yards of loam that they proposed to sell to the Massachusetts Highway Department.

III. LA COSA NOSTRA

8. La Cosa Nostra ("LCN"), also known as the "Mafia," "This Thing of Ours," or "This Thing," is a secretive criminal organization which operates throughout the United States and the world. The LCN has a rigid hierarchical structure and its own system of laws. The LCN is composed of Families, each of which controls a designated geographical area. Each Family is headed by a Boss who has absolute authority within his Family. A "Consigliere" or counselor acts as the advisor to the Family. The Underboss, who is the second in command, assists the Boss in

running the Family and acts for him in his absence. Below the Underboss are a number of "Capos" or Captains who supervise the illegal activities of members and associates within their "Regime" or Crew. Individuals become LCN members by participating in the secret initiation ceremony of the LCN (after having served an apprenticeship in crime), through which they then become "Soldiers" or "made" (formally inducted) members, and who are assigned to the Regime of a Capo Regime. In addition, the Family makes use of "associates" who, although not formally members of the LCN, perform necessary and helpful roles in the Family's criminal activities.

IV. THE NEW ENGLAND LCN FAMILY

9. For many years, Raymond J. Patriarca, Sr., was the Boss of the Patriarca Family, the LCN Family with authority over New England. In the 1980's, federal convictions led to the removal of the leadership of the Boston branch headed by Underboss Gennaro Angiulo. After Patriarca, Sr., died, his son Raymond Patriarca, Jr., was elevated to Boss. In the late 1980's and early 1990's much of the Family leadership were incarcerated following numerous prosecutions in the District of Massachusetts, including United States v. Angiulo, et al., Cr. No. 82-235-N, United States v. Patriarca, et al., Cr. No. 89-289-MLW, United States v. DiGiacomo, et al., Cr. No. 90-10065-WLF, and United States v. Quintina, et al., Cr. No. 94-10027-WGY.

10. In 1991, Frank Salemme, Sr., was elevated to Boss and a gang war erupted resulting in a series of murders and attempted murders. In 1995, Salemme was indicted by a federal grand jury and subsequently sentenced to 12 years incarceration. By October 2000, the Boss of the New England Family of the LCN was Luigi "Louie" Manocchio, who remains the boss today. **CARMEN DINUNZIO** has been the underboss of the New England Family of the LCN since approximately 2004.

11. The business of the New England LCN Family is the earning and maintaining of money and other things of value through illegal activities, including without limitation extortion, gambling, loansharking, and money laundering. Family members rely on their reputations for violence and murder as implicit and explicit means to advance the Family's criminal objectives and to protect its members from law enforcement investigation and prosecution for the crimes they have committed on behalf of the Family. Members of the New England LCN Family have historically engaged in a regular and systemic pattern of obstruction of justice, intimidation of witnesses, and jury tampering to protect the Family and its members. The Family has also facilitated and financed Family members who have taken flight to avoid apprehension and prosecution. The international span of the LCN along with the life loyalty pledges of its members creates a global support network for LCN members,

associates, and their family members.

12. On October 29, 1989, law enforcement intercepted and recorded a LCN induction ceremony in Medford, Massachusetts, evidencing the life-long blood loyalty oaths of "omerta" pledged by every LCN member. With their oaths, LCN members effectually vow to their fellow LCN members that membership in the LCN Family supersedes all other personal relationships, moral codes, and obligations imposed by law or otherwise. LCN inductees explicitly pledge to kill, if necessary, members of their own biological families in order to protect the LCN Family. A breach of omerta is punishable by death. After induction, LCN members can identify another LCN Family member by referring to him as a "Friend of Ours."

V. THE DEFENDANTS

A. CARMEN DINUNZIO

13. **CARMEN DINUNZIO** has been a made member of the LCN since approximately the late 1990s. In or about 2004, he was appointed underboss of the New England LCN Family by Luigi "Louie" Manocchio following the death of Alexander "Sonny Boy" Rizzo.

14. In 1993, **CARMEN DINUNZIO** pled guilty in federal court in California to extortion and conspiracy using extortionate means to collect and attempt to collect an extension of credit

extortion charges.¹ In 1993, **DINUNZIO** was sentenced to 48 months imprisonment to be followed by three years of supervised release. After his release from prison, **DINUNZIO** and his brother, Anthony DiNunzio, returned to Boston where they became active in the New England LCN Family.²

15. In December 2006, **DINUNZIO** was indicted in Essex Superior Court in Massachusetts for extortion, organizing and promoting an illegal gambling operation, and conspiracy to violate the gambling laws. **DINUNZIO** was released on \$20,000 cash bail and those charges remain pending.

16. Each of the co-conspirators in this case, as well as CW-1, brought something to the table in connection with the loam deal. **D'AMORE** had the connection for the loam -- i.e., he had **MARINO** -- and **MARINO** himself had access to the loam from Company A as well as the trucks to carry the loam through his trucking company ("Company B"). CW-1 had the purported inside man at the

¹ The 1992 indictment resulted from an FBI investigation which indicated that, among other things, **CARMEN DINUNZIO** and his brother, **ANTHONY DINUNZIO**, were associates of the Chicago LCN Family -- i.e., that they assisted in furthering the affairs of the Chicago LCN but were not formally inducted as members -- and that they had conspired to participate in the use of extortionate means to collect and attempt to collect extensions of credit on behalf of the Chicago LCN.

² Anthony **DINUNZIO** was also charged in the federal case in California and pled guilty to interference with commerce. He was sentenced to one year imprisonment to be followed by three years of supervised release.

Massachusetts Highway Department -- the undercover law enforcement officer known as "Mike". The recorded conversations reveal that **DINUNZIO**, because of his reputation as a high level member of the NELCN, brought to the loam deal the threat of force and financial credibility.

17. For example, on October 9, 2006, **DINUNZIO**, CW-1, and the UC met and discussed the loam deal, and concerns they had over whether **MARINO** was going to back out. During the conversation, which was consensually recorded on audio tape, they engaged in the following exchange.

UC: What I, what I need though, just so you understand on my end what I need is a guarantee that somebody's got their foot on Marino's neck.

DINUNZIO: Listen to me. Right here you got the guarantee from here.

UC: According to him, that's, that's.

DINUNZIO: All right?

UC: I don't know you.

DINUNZIO: Look it, I don't even come out, I come out cause of this guy. I'm the Cheeseman.

UC: Well, same, same thing here. You're the cheeseman?

DINUNZIO: You ask anybody about me.

UC: Okay.

DINUNZIO: All right?

UC: Well, I'm not putting myself in a bad spot here, am I?

DINUNZIO: No, you're not. But listen.

CW-1: No, you're in very good company.

DINUNZIO: We straighten out a lot of beefs, a lot of things. I mean when he, when this fucking kid, Anthony, who is fucking hiding somewhere, we says you should have never did this, you should have told us. And then he embarrassed the shit out of [REDACTED].

UC: Right.

DINUNZIO: That's another thing. [REDACTED] don't want you to look bad, he don't want to look bad. And Marino's gonna do what he's gotta do.

UC: Well, I, I didn't-

DINUNZIO: And he ain't gonna bullshit us, Marino, that's fucking cause we ain't gonna listen to that shit.

UC: I don't know an- I don't know anything up until.

CW-1: His point is Marino is getting paid all the money. We gotta make sure that Marino pays us.

DINUNZIO: Well, we went there with the understanding. Oh, he's gonna pay us. Of course he's gonna pay us.

CW-1: We gotta be sure. It's a lot of money. He's, we're dealing with the [REDACTED], too.

DINUNZIO: Listen to me. They better leave, cause the money will be no good to them. If they had \$100,000,000 and I'm talking out of school here.

CW-1: Mmm, hmm.

DINUNZIO: They better leave town.

CW-1: Okay. Cause-

DINUNZIO: Cause it ain't gonna be safe nowhere for them.

18. Later in the same recorded conversation on October 9, 2006, **DINUNZIO** stated: "If the check ain't there, then I'm going to the fucking can cause somebody's gonna get hurt. Bad."

19. On November 14, 2006, **MARINO** met, and had a consensually recorded conversation, with a second cooperating witness working with the FBI ("CW-2"). Their conversation sheds light on **DINUNZIO's** role in the loam deal.

CW-2: I want to do the loam.

MARINO: Okay.

CW-2: Yeah, but I'm afraid.

MARINO: What are you afraid of?

CW-2: (UI) I'm, you know, when you mentioned those -- there's guy's involved -- I want to make sure it's all.

MARINO: Well, the Cheese Man doing it is the Boss. He --

CW-2: (UI) Who's the Cheese Man?

MARINO: That's the guy in the North End -- the head of the fucking organization. That's the guy that's always in the news. So, there's no contact with me and him --

CW-2: What does does he --

MARINO: Except for the one time when he came to my fucking house.

CW-2: Is he a Big Dig guy?

MARINO: No, he's the head of (UI) Mafia.

CW-2: Oh, I thought he was a Big Dig guy.

MARINO: No, he's got nothing to do with the Big Dig. He's got the Big Dig guys, the inspectors, in their pockets. These Irish guys. The guy with the beard, he came to the yard [i.e, the UC "Mike"]. All the Mass Port pick-ups came to my yard.

CW-2: Really?

MARINO: Oh yeah, he's got control. This guy's got control.

CW-2: So we're covered. We're not gonna get fucked.

MARINO: The Cheese Man . . . nobody's gonna get fucked. I'm getting paid. I'm doing the billing for \$19, okay? And it comes out to like \$17 we give for the material. We gotta give back . . .

CW-2: So . . .

MARINO: . . . back \$2 or something like that. . . .

. . . .

MARINO: He pays the mob and everybody else. You understand?

. . . .

MARINO: It's six million dollars. Twenty dollars time 300,000 yards.

CW-2: Wow.

MARINO: It's a six million dollar deal. And they're gonna walk away with 500 and something. Five, almost six hundred thousand.

. . . .

MARINO: The inspector, the inspector's getting 100 grand out of the fucking -

CW-2: Yeah, but that's not coming back to.

MARINO: Not me. That's why I don't want to have nothing come to me.

CW-2: (UI).

MARINO: See, I'd deny it. I just don't know nothing -- I was just paying this guy. I don't know what he's doing with it. He set up the deal. That's not my business.

CW-2: Well, no, I just don't trust [REDACTED]. In other words, [REDACTED]'s a rat.

MARINO: I don't trust [REDACTED] either. He's a rat. But, hey, he got nothing to do with me. They'll kill him, dude. It's not one - this ain't fucking regular hoodlum that's setting this up - this is the Cheese Man (UI) - fucking guy is (UI) organization.

CW-2: (UI) fucking Cheeseman (UI).

MARINO: You'll know his name if I said it, but nobody says his name.

. . . .

MARINO: Yeah, he just came to talk cause he wanted to fucking get more money out of me.

CW-2: Yeah, so he's got a direct connect with you then?

MARINO: Yeah, he just said (UI) -

CW-2: How bad is he? Is he a bad, bad guy?

MARINO: No, they're great guys. (UI) I've known him for a while. Not him. I know the family.

. . . .

B. ANTHONY D'AMORE

20. **D'AMORE** is not a made member of the LCN. The investigation has revealed, however, that he is a longtime associate of the LCN and has been closely aligned with several LCN members, including former and current high-level members of the Springfield, Massachusetts, faction of the Genovese LCN family.

21. **D'AMORE** has served two federal prison sentences. In July 1991, **D'AMORE** was indicted in federal court in Boston for failing to report the transportation of monetary instruments of more than \$10,000. **D'AMORE** pled guilty and was sentenced four months imprisonment to be followed by 3 years of supervised release.

22. In March 1992, while the first case was pending, **D'AMORE** was indicted in federal court in Boston for conspiracy to possess with intent to distribute cocaine and marijuana, and conspiracy to import marijuana. **D'AMORE** pled guilty and, in March 1995, was sentenced to 108 months in prison to be followed by 60 months supervised release. **D'AMORE's** term of supervised release for the federal drug trafficking charges commenced on March 29, 2002 and ended on March 27, 2007. Consequently, he was on federal supervised release when he committed the offense charged in this case.

23. During the investigation of this case, **D'AMORE's** long-standing ties with the New England LCN were corroborated by consensually recorded conversations between **D'AMORE** and a cooperating witness working with the FBI ("CW-1"). For example, during a recorded meeting on September 27, 2006, CW-1 and **D'AMORE** had the following exchange regarding the loam scheme.

CW-1: Hey, if we do a good job, we'll get a button [i.e., get inducted as made members of LCN].

D'AMORE: You can keep it. You can keep it. How's that? You think I want it?

CW-1: I don't know.

D'AMORE: Listen to me (unintelligible) for nothing.

CW-1: No?

D'AMORE: (Unintelligible) who needs the fucking grief?

CW-1: Right.

D'AMORE: Wouldn't you just rather be on the outside, like this, looking in and knowing you've got a few friends?

CW-1: Right.

D'AMORE: You know, you're making a few bucks and you know what, you're always going to be right anyway.

CW-1: Yeah, membership has its costs.

D'AMORE: Yeah.

18. Later in the same conversation on September 27, 2006, **D'AMORE** discussed how his supervised release status was hampering his ability to make more money for his New England LCN friends.

D'AMORE: [D'Amore's attorney] filed a motion for me to get off parole. The government flat out denied me.

CW-1: Really?

D'AMORE: So, I got until April. It's killing me to be on this, because I could move around and make everybody a lot of money. I really could move around and make a lot of money for everybody, you know what I mean? But I just can't.

CW-1: There are more and more guys getting on the street.

D'AMORE: Listen to me, I want this to come off real easy. And you know what? When it's all said and done, I'm going to take fifty grand, give it to Carmen and say, "here, take care of your other guys that are coming home."³

CW-1: Yep.

D'AMORE: You know, it's all relative to me. You know what? Listen, there's a bunch of nice guys coming home. Vinnie Federico [LCN soldier] he did 30 years that guy He's coming home in a month or two -- he's getting married. . . . There's a few more. Bobby Russo [Robert Carrozza, LCN soldier]

³ Based on my training and experience, and the recorded conversations in this investigation, I believe that **D'AMORE's** reference to "your other guys who are coming home" is a reference to other LCN members who have served prison sentences and who were recently, or are soon to be, released. This is another indication that membership in LCN is a life-long commitment and that there is every reason to believe that, regardless of the conditions of release, **CARMEN DINUNZIO** will continue to associate with fellow LCN members and will continue to commit crimes and facilitate the crimes of others on behalf of the criminal organization.

VI. CONCLUSION

19. Based on the foregoing, I believe that there is no condition or combination of conditions for **CARMEN DINUNZIO, A/K/A "CHEESEMAN"** and **ANTHONY J. D'AMORE** that will reasonably assure the safety of any other person and the community or the appearance of the defendants as required.

Signed under the pain and penalties of perjury this 1st day of May 2008.



MICHAEL J. KELLY
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION