

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

UNITED STATES OF AMERICA	:	
	:	<b>Criminal No. 3:06cr161(EBB)</b>
	:	
v.	:	
	:	
RICHARD CACCAVALE aka "Ricky"	:	<b>July 10, 2007</b>
	:	

**GOVERNMENT'S SENTENCING MEMORANDUM**

**A. Introduction**

In June 2006, the defendant was indicted and charged with, *inter alia*, racketeering conspiracy. On March 21, 2007, the Court accepted the defendant's plea to Count Two of the Indictment.

On April 30, 2007, the probation office determined that the defendant's adjusted offense level was 21. Should the Court conclude that the defendant has accepted responsibility, subtracting three levels results in a total offense level of 18. With a CHC of I, the Guidelines suggest a term of incarceration of 27 - 33 months and a fine of \$4000 to \$40,000.

As described in greater detail below, the defendant was an essential participant in the threats and price fixing that occurred in this case. The government respectfully requests that the defendant be sentenced at the high end of the applicable range, that is to a term of incarceration of 33 months, and be fined \$40,000.

Sentencing is currently scheduled for July 12, 2007 at 10:00 a.m.

## **B. Discussion**

The evidence in the case plainly and unequivocally reveals that the defendant was a trusted member of James Galante's inner-circle, working closely with a number of co-defendants to enforce the property rights system and achieve the goals of the conspiracy. As is described in the PSR, the members of the enterprise controlled the trash industry in Connecticut and western New York through price fixing, threats, and intimidation. As described below, this defendant, who is among the most culpable members of the conspiracy, (1) engaged in price fixing with Trash Hauler B; (2) threatened Trash Hauler B ; and (3) assisted in damaging Trash Hauler B's equipment. The defendant also participated in other criminal activity including: (4) threatening an individual who had angered one of his co-conspirators; (5) planning physical assaults targeting two different individuals; and (6) arranging for the theft of a luxury automobile in order to submit the filing of a false insurance claim. His criminal activity calls for a sentence of 33 months of imprisonment and a significant fine both to specifically deter the defendant from committing future crimes and to also satisfy the important objective of general deterrence.

### **1. The Defendant Engaged in Price Fixing**

Under the scheme that is at the heart of the charged racketeering conspiracy, certain customers are "owned" by particular haulers. If an "owned" customer attempted to use the services of another participating carter, that carter would either refuse to submit a bid or submit an artificially high bid to insure that the customer remained with the original hauler.

The defendant routinely participated in this aspect of the property rights system. For example, during the course of the conspiracy, the defendant called Trash Hauler B and indicated that he needed to meet to discuss a "cylinder." He met Trash Hauler B, not carrying a piston, but

rather bearing a list of disputed accounts serviced by the indicted companies. The defendant suggested that Trash Hauler B was trying to “stir up shit” by approaching these accounts and should leave them alone. On a second occasion, the defendant summoned Trash Hauler B to 307 White Street so they could discuss a “piston.” Upon Trash Hauler B’s arrival at 307 White Street, the defendant directed him to the “paint shop,” a location frequently used by Galante for meetings. Once there, Trash Hauler B met with James Galante, who had a list of four accounts he claimed were under contract to his companies and should be left alone by Trash Hauler B.

As described above, the defendant frequently displayed his consciousness of guilt, often using coded language in his telephone conversations to conceal his patently illegal activities. Throughout the course of the investigation, the defendant displayed an awareness that his activities might come to the attention of law enforcement, but at no point did he attempt to refrain from illegal activity – instead, he simply sought to avoid detection. For example, on one occasion, the defendant went to see Trash Hauler B and inquired if he had any information about a certain carting company. Specifically, the defendant believed that this company might be the “feds,” a reference to the fact that the company might actually be an undercover garbage hauling company operated by federal law enforcement.

### **B. The Defendant Threatened Trash Hauler B**

If a carter refused to participate in the property rights system or violated its unwritten rules, he was subjected to threats and intimidation by members of the conspiracy. As described below, the defendant threatened Trash Hauler B .

## 1. Background

In general, Trash Hauler B generally complied with the rules of the property rights system. In early 2005, when he attempted to buck the system, he elicited a strong response from Mr. Caccavale and his co-conspirators.

In April 2005, James Galante purchased a sanitation company and apparently believed he had an inherent right to service the Danbury Maron Hotel account, which had been serviced by the acquired company on a month-to-month basis. Trash Hauler B, believing the account was not “owned” by anyone, started to provide service to the customer at a lower price.

On April 29, 2005, Galante told Ciro Viento, “you go see that fucking piece of shit [Trash Hauler B] and stop playing around. He delivered the can himself to the Maron Hotel.” Viento asked who Galante was talking about and Galante responded, “that fucking piece of shit that you spoke to the other day in the fucking yard . . . that didn’t want to speak to Richie [Galietti] . . . he just delivered the fucking box [dumpster or container] himself to the Maron Hotel . . . You tell that mother fucker, I closed yesterday. He does not want a fucking problem with me.” Galante’s reference to yesterday’s closing concerned his purchase of the sanitation company.

Approximately fourteen minutes later, Viento called Trash Hauler B and asked to see him. Trash Hauler B responded, “certainly . . . I knew you would be calling me . . . You got a call, probably – I’m going to guess – about twenty-five minutes ago.” Viento and Trash Hauler B agreed to meet at Trash Hauler B’s place of business.

Approximately seven minutes later, Rich Galietti spoke to Viento. During the conversation Viento asked if the customer had a contract and Galietti responded, “well you know what, at the end of the day, it’s going to get to the point where if he’s [Trash Hauler B] going to

sit there and run around saying, ‘well they have a contract here, they don’t have a contract there,’ tell him to fucking stop, period.” Galietti, who could be heard talking to Galante in the background, said “I’m about to get fucking hit right now [by Galante] and if I get hit, [Trash Hauler B] is going to get fucking hit.” Galante then took the telephone from Galietti and told Viento “you tell that stupid cocksucker [Trash Hauler B] . . . verbatim: he [Trash Hauler B] was told. He knew what was going on. Don’t get cute with me. Tell him, ‘I’m not Waste [Management]. I am not Novella. He does not want a fucking problem with me.’”

On May 1, 2005, Galietti spoke to Viento. During the conversation, Galietti and Viento discussed the fact that the predecessor sanitation company did not have a contract with the Maron Hotel. Galietti stated that he told Novella, “you can’t go marching into fucking Jimmy’s [Galante] office when this shit’s going on . . . because our hands are fucking tied with your uncontracted work . . . and then Jimmy fucking rains down on us.” Galietti continued by saying, “he needs to fucking learn how to do it like I do it; somebody tries to cancel, I start cutting and pasting, I go back and grab cancelled checks in the back, take the signatures and throw them on there.” Viento responded, “there you go” and they both laughed.

On May 2, 2005, Galante spoke to Viento and said, “that thing’s [Trash Hauler B’s container] still there [Maron Hotel].” Viento said, “well, that’s kind of what we thought.” Galante asked, “do you have a way of getting a hold of this fuck [Trash Hauler B]?” Galante added, “tell the cocksucker that I said, quote, unquote, ‘that unless he wants a fucking nightmare, get that fucking thing out of there now.’” Viento agreed to pass along the message.

Approximately three minutes later, Viento spoke to Galante and informed Galante that he had attempted to call Trash Hauler B but could not reach him. Galante then asked, “did he say he

was going to pull it out or not, the other day?” Viento responded, “he never said.”

Approximately one minute later, Viento spoke to Trash Hauler B. During the conversation, Viento explained that he had received a telephone call from the “maniac [Galante], screaming at me.” Viento continued, “why don’t you do everybody a favor and take a ride up to the Maron Hotel and pull that compactor out of there? Otherwise, you’re going to be in for a world of hurt.” Trash Hauler B asked, “why is that, Ciro?” Viento responded, “I’m not going to go into the details over the phone. You and I had this conversation before.” Trash Hauler B then outlined the essence of the property rights system: “the bottom line is I didn’t take anything from you guys. Okay, I took it from [the predecessor company] . . . I had a score to settle with [the owner of the predecessor company]. You know that. And if you don’t, Jimmy does . . . I didn’t take anything from you guys. I get calls from you guys all day long, and I never touch them, ok? I call you and I try to do the right thing. [But] the Maron Hotel, I have worked on that for I don’t know how long.” At some point during this conversation, Galietti took the telephone from Viento and said, “do me a favor, alright. We’re getting ready to get on a plane [to the annual trash convention in Las Vegas]. We’re getting our balls busted, alright. The other day when I met with you, I was very fucking courteous, ok. You gave, you gave me an attitude. I let it go. I’m more than [a] fair guy. Do me a favor, ok, I, I explained it to you. Now here’s, here’s where I am right now, emotionally: Ciro and I are getting ready to get on a plane to go to the [Las Vegas] expo. I’m getting ready to get on a plane and fly home because I’m about to lose my mother fucking mind right now and I’m going to fucking snap. Here’s where I am, ok. I told you: Jimmy [Galante] fucking expects to buy a company with a certain amount of fucking dollars. Now, if you were so fucking hard up to get this work, you would have fucking chased it

before this deal was even going through. Well here's the deal, do not fuck Jimmy, 'cause that's what you're doing and at the end of the day I am going to turn into a mother fucking lunatic. I'm about to fucking snap in an airport and it's not going to work . . . Let me tell you something . . . I will fucking take your mother fucking eyes out if you want to fuck around." Trash Hauler B replied, "I'll tell you what mother fucker, you want to fuck with me, you go ahead, you want to see . . . how much balls I got? Who the fuck are you talking to?" Galietti then said, "trust me, I will fucking destroy you. If you want to play this fucking game, just keep going down this road, 'cause let me tell you something, it was explained to you kindly and nicely. I let your fucking attitude the other day go, I let it go. Now it's on . . ., I'll be back there in fucking a few hours, goodbye." Trash Hauler B was sufficiently threatened that he called the police to report the threat.

Approximately forty minutes later, Viento spoke to Trash Hauler B. Trash Hauler B requested that Viento have Galante call him. Viento replied, "Jimmy's not going to call you." Trash Hauler B then said, "your friend there [Galietti] made the wrong mistake threatening me." Viento said, "I got news for you, he's on a plane and he's on his way back . . . to Connecticut right now." Trash Hauler B repeated that Galietti had made a mistake threatening him. Viento responded, "okay . . . then you do what you got to do, and I'm sure he's gonna do what he's got to do."

Calls subsequently intercepted revealed that Viento and Galietti attended the expo in Las Vegas, Nevada the first week of May 2005 and, moreover, that Galietti did not actually take an early return flight to Connecticut to attack Trash Hauler B. The matter was not forgotten, however.

## **2. The Defendant Threatened Trash Hauler B and Assisted in Damaging Equipment**

During the week of May 16, 2005, several conversations were intercepted between Viento, Galante, Galietti and Caccavale in which they discussed destroying Trash Hauler B's equipment. On May 19, 2005, Viento spoke to Caccavale, who said, "you ready for this one? I got to talk to you in code, just in case. So just listen, I'll make it simple. You know the guy that you've been trying to get that won't answer your phone call [Trash Hauler B]?" When Viento confirmed that he understood the code, Caccavale stated, "we got him [Trash Hauler B] out of here the other day because he was in after 4:00 again." This is a reference to the conspirators' enforcement of the transfer station's business hours to punish/control outlaw carters and, conversely, to reward compliant cartel members. When Trash Hauler B was a participating member of the property rights system in Galante's good graces, he and other similarly favored carters were permitted to dump refuse at Galante's Danbury transfer station before 7:00 a.m. and after 4:00 p.m. But after Trash Hauler B refused to remove his compactor from the Maron Hotel, Galante instructed Caccavale to have the transfer station strictly bar Trash Hauler B from the transfer station before 7:00 and after 4:00.

Continuing, Caccavale told Viento, "now, we got me and the guy that's staying [a coded reference to Galietti, who was thinking about leaving the company] going to, uh, poke holes in the tires when it's [a Trash Hauler B truck] on the scale." Viento responded, "nice."

Later on May 19, 2005, Caccavale spoke with Galietti about the fact that Trash Hauler B's tires had been slashed. Caccavale alluded to "the tire guy" and Galietti asked, "anything happen with that?" Caccavale reported, "I know they went flat as they were driving out."

Galietti said, “oh yeah, you could see it man?” Caccavale replied, “I heard you popped it. I heard that from inside (laughing).” Galietti laughed too, and said “unreal.”

At approximately 3:54 p.m. on May 20, 2005, Galante called Galietti and told him that a Trash Hauler B’s truck just arrived at the “scale” at the Galante transfer station. Galante described the model of the truck and its exact location. Galietti said, “I think I should tattoo this thing.” Galante said, “yeah, headlights sound good to me” and Galietti said “okay, all right boss.” Based on a review of these calls and the investigation to date, it is believed that when Galietti told Galante he intended to damage the Trash Hauler B truck, Galante suggested that Galietti damage the truck’s headlights.

Later on May 20, 2005, Galante and Galietti spoke again, and Galietti reported that “apparently those tires must have went flat.” Galante asked why, and Galietti said, “Ricky [Caccavale] just called me. [Trash Hauler B] came fucking blazing into the yard, so Ricky comes out, what happens was, when Ricky and I went over there – after I talked to you – we were driving around his truck and when the driver saw us driving around, by the transfer station, he got on the phone, so something must have happened with the ones from yesterday.” Later in the same call, Galante spoke with Caccavale, who explained that Trash Hauler B “came flyin’ in here [Galante’s yard at 307 White Street] like a maniac” and Caccavale confronted Trash Hauler B about it. After Caccavale related the event to Galante, Galante instructed Caccavale to call Trash Hauler B and tell him, among other things, “HRRA [Housatonic Resource Recovery Authority] or no HRRA, you better hope you can put up a transfer station faster than I can boot you out.” In short, Galante emphasized that because he controlled the transfer station, he could easily make life difficult for Trash Hauler B.

Approximately ten minutes later, Caccavale called Trash Hauler B and said, “Jimmy wants to know if you want to come and talk to him. It seems that you have a problem. He says, ‘grow some balls and come and see him.’” Trash Hauler B said, “tell Jimmy, I called him and he pretty much told me he didn’t want to talk to me.” They then agreed to set up an appointment between Galante and Trash Hauler B. Caccavale then reported as much to Galante, who said, “tell him [Trash Hauler B] quote unquote: ‘I’ve always done the right thing by you. I warned you . . . [and] basically [you] stuck it up my ass.’” Galante essentially repeated himself and then said that “I’ve learned in life that you never start a war unless you’re sure you can win it.” Galante called Trash Hauler B a “greedy fuck.” Galante said that Trash Hauler B was warned, and then Trash Hauler B went out and did it [compete]. Galante continued, “Whether [Trash Hauler B] sees me or not, when this is done, [he] will be doing residential houses for \$15 a month.” Galante added that “this is personal.” Continuing, Galante told Caccavale, “whatever [his] problem was with [the predecessor company] -- [his] problem is now with me. He can’t plead ignorance.” Galante also noted that although Trash Hauler B attempted to excuse what he did at the hotel by pointing to his hatred of the predecessor company; Galante had not done anything to Trash Hauler B. Galante told Caccavale that he would have to hurt Trash Hauler B, adding, “I hope [Trash Hauler B’s] pockets are deep enough. If he could not sleep when going through the bullshit with [the predecessor company] . . . does he think he can sleep now that he is dealing with an expert?” Concluding, Galante instructed Caccavale to tell Trash Hauler B that Galante will get “college kids to follow [Trash Hauler B’s] trucks and solicit all his residential customers at \$15 a month.” Thus, unless Trash Hauler B “smartens up,” he will lose his only friend.

At approximately 5:37 p.m. on May 20, 2005, Caccavale spoke with Viento and asked “hey are you ready for this?” Viento interrupted and said, “yeah, you and Galietti stabbed fuckin’ two tires today when they were on the scale.” Caccavale added “not only that, no, we were shootin’ his [Trash Hauler B’s] truck.” Later in the conversation Viento asked “you want to know what the difference between me, you and Galietti is? When that maniac [Galante] tells you to do something, you two fucking idiots just do it.” Later in the conversation, Caccavale stated that he told Trash Hauler B “don’t even go this way . . . We work for Jimmy and if you’re hurting Jimmy, you’re hurting us and we’re here to protect Jimmy.”

Approximately thirty minutes later, Galietti spoke with Caccavale about why Trash Hauler B was upset with them. Galietti recounted the incident when he threatened Trash Hauler B, saying “I will be on an airplane in five minutes, I will come up there and I will gouge your fucking eyeballs out of your mother fucking skull.” Later in the conversation Galietti said, “those tires were flat this morning. He [Trash Hauler B] knows something is going on.” Caccavale responded, “he knows we’re fucking with him.” Caccavale said that Trash Hauler B is “starting to feel the heat already and we didn’t even do nothing to him.” Galietti responded, “oh yeah, dude, I have not even begun to fight.” Caccavale opined that Trash Hauler B would come in on Monday and that should be it, but if Trash Hauler B “comes in like a jerk,” Caccavale would tell him to take his medicine like a man. Caccavale said that Galante would berate Trash Hauler B a little and then “he’ll have to take his medicine like a man.”

Later on May 20, 2005, Caccavale reported to Galante that he had spoken to Trash Hauler B and “laid it on to him thick.” Caccavale stated that when he told Trash Hauler B that Galante was “taking this very personally,” Trash Hauler B asked what he had to do. Galante then stated,

“what do you have to do? Mind your own business.” Caccavale said that although Trash Hauler B indicated that he was “willing to do the right thing,” Caccavale reminded him “look you were told; you were warned.” Caccavale told Galante that Trash Hauler B was still talking about how the matter went back two years, to which Caccavale replied, “that’s fine, but you went after Jimmy. You were warned and that was it. And now you took. And Jimmy’s your only fucking friend.” Caccavale also told Galante that Trash Hauler B said that he “still likes Jimmy personally” and that he would “never forget what he did for me.”<sup>1</sup> Continuing, Caccavale reported that Trash Hauler B is “willing to do the right thing, if [Trash Hauler B] can see Jimmy alone.” Galante then asked, “did you tell him about the fifteen bucks a month?” Caccavale said that he gave Trash Hauler B “the remark about the Novellas and Frankie [Russo].” According to Caccavale, Trash Hauler B replied that he “wasn’t Novella . . . I can go a long way.” Caccavale told Trash Hauler B, “you don’t want to do this . . . I know you’re just saying this shit . . . because you’re just trying to stand up . . . But you know what? I’m not going to tell Jimmy you’re not Novella, ‘cause . . . that’s a bad attitude to have . . . because then it looks like you’re trying to be a hard ass. And you don’t want to go this way.” Caccavale concluded that Trash Hauler B wants “to do the right thing.”

Galante then instructed Caccavale to call back Trash Hauler B and report that he could not get in contact with Galante and that he [Caccavale] left Galante a message but did Trash Hauler B a favor by not mentioning the part about Trash Hauler B being able to hold his own. Specifically, Galante instructed Caccavale: “Call him back and tell him that you couldn’t get me.

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<sup>1</sup> When Trash Hauler B first started in the business, Galante allowed him to borrow some equipment to pick up dumpsters because Trash Hauler B’s equipment was of inferior quality.

Say ‘I know he went to the race track.’ Tell him, ‘listen . . . you know I thought about what you said. If I ever tell him [Galante] that – [Galante] brought Waste [Management] to their knees, he brought Allied to their knees. Allied sold to him. So you want to know something? There’s a lot about that man you don’t know. You just know him from when you were a little kid and he bought your father’s business. He only is showing you the respect because of your father, Lord rest him.’” Galante continued, “Say, ‘you know what, because I made a commitment to his father, Lord rest him.’ Say, ‘but you know what? That only goes so far.’” Galante then added, “and tell him . . . ‘let me explain something about this guy. If he wanted to fucking dance around with you, you’d be dancing. And I guarantee you, whoever you think you know, he knows somebody bigger. Whether it’s political, whether it’s this, that.’” Based on the investigation to date, the government respectfully submits that Galante was alluding his connections to politicians and, moreover, organized crime.

Galante also instructed Caccavale to tell Trash Hauler B that Trash Hauler B will never get a permit for a transfer station: “If you [Trash Hauler B] don’t think for one second Jimmy will do everything in his power to make sure you don’t get a transfer station, you’re out of your mind[.] And more importantly, tell him, ‘if you think -- because even if you do get a transfer station, your garbage has got to come to me. You can’t go directly to the plant. So it’s got to come to me. So the best you can get is demolition, debris transfer station. When you find out that the only way you can make this work is with volume, who’s going to go to you?’” After Caccavale indicated that he would relay the message, Galante continued, “say, ‘let me tell you something. You can talk that shit if it makes you feel like a big guy that stood up to Jimmy. You better say that in the mirror, because if you really want to do that, if I [Caccavale] ever [tell] that

guy [Galante], I'll tell you exactly what his response would be to me: tell that fuck he's got it, go to the bank now, go to the mattress, he's going to need it.' And you know what, all my work's contracted. When I get done with you [Trash Hauler B], between legal fees, this, that, fucking around with you. You want to know something, he'll be sleeping in the hospital because he won't be able to sleep at home. Tell him." Caccavale stated that he would call Trash Hauler B and, per Galante's instructions, indicate that he could not get in touch with Galante but then deliver the message.

Approximately ten minutes later, Caccavale spoke to Galante again and reported that Trash Hauler B is "all fucked up." Galante replied, "you broke him." Caccavale then reported on his most recent conversation with Trash Hauler B: "I says [sic] you know what, 'why don't you do the right thing then?' I go, 'do you really need this fucking bullshit? That you want to go to war with Jimmy Galante, who fucking brought Allied and Waste [Management] to his knees?'" Galante replied, "you did good. Okay, now he's all fucked up. Now let him think about it all weekend." Caccavale also told Galante that he said to Trash Hauler B, "Ciro and Jimmy told you [that] you can go after the Waste [Management] work, but stay away from this shit -- contract, no contract." When Trash Hauler B complained that he no longer liked Viento, Caccavale said "we work for Jimmy. You know what? You're going to go against Jimmy, you're going to go against us."

Caccavale continued to update Galante, adding that he told Trash Hauler B that, "he'll [Galante] chew you up. And you . . . think you know people and politicians? I says, you think you know people, you know, like the other way? Everybody you think you know, do you really think he cares?" Galante then asked Caccavale, "did you call on your cell or the hard line?"

Caccavale replied, "I did it on the hard line, 'cause I watched what I said. I didn't want to make it to where, you know -- I was actually talking nice to him. I didn't bring up anything that would sound like, that even if he taped it, it wouldn't mean nothing." Galante stated, "Good job. Good job . . . We'll let him think about it over the weekend."

In the final analysis, Trash Hauler B was allowed to keep the account, which had an approximate gross value of \$600/month. Galante and his associates, however, viewed Trash Hauler B as duly cowed after the foregoing chain of events. In this regard, Trash Hauler B has advised the FBI that both before and after the April/May 2005 events just described, he met with Viento and/or Caccavale on several occasions to discuss customers. Viento and Caccavale would produce customer lists and always requested to meet with Trash Hauler B in person, not wanting to discuss the lists over the telephone.

### **C. Defendant Engaged in Other Criminal Conduct with his Co-conspirators**

As noted above, the defendant engaged in threats and acts of property damage in order to enforce the property rights system. The defendant also engaged in other criminal activity with his co-conspirators, including verbally threatening a potential romantic rival of one of his co-conspirators and conspiring to physically assault two other individuals.

#### **1. The Defendant Threatened a Potential Romantic Rival of a Co-conspirator.**

During the course of the investigation intercepted telephone calls revealed that Ciro Viento had a romantic relationship with an employee of one of the trash hauling companies. The employee met a driver from a local carting company, who then called her cell phone on more than one occasion. Although the employee did not complain to anyone about the driver, Viento discovered that the driver had left a voice mail message on her cell phone. Viento initially had

another individual tell the driver to stay away from the employee. Viento denied to the employee that he had any connection to the message to the driver.

Viento then enlisted the assistance of Caccavale to threaten the driver with a beating. Specifically, on November 4, 2004, Caccavale told Viento that he had used a pay phone to call the driver. Caccavale advised Viento that he “told [the driver] that I would butt fuck his mother in front of him and then put a bullet in her head and his head and told him, you’re fuckin’ around with the wrong people. Lose her [the employee’s] fuckin’ number. ‘I’m not afraid of you,’ he goes. So I says, motherfucker, make the phone call and we’ll see how afraid you are of me,’cause remember my voice ‘cause I’m fuckin’ comin’ for you, motherfucker. Make that phone call. I dare you to make the phone call, motherfucker. I says, lose that number. Lose her. And he’s, he’s goin’, ‘I’m not scared of you.’ I says, motherfucker, lose her fuckin’ number or I will fuck you up . . . . Now you got, now the guy’s gonna call, Ciro. The guy’s gonna make the phone call. He’s gonna call, so now ya gotta do somethin’ ‘cause you can’t, you cannot make this phone call and not get away with it.” Viento replied, “No, I want it done.” Caccavale asked, “you want me to arrange it? Why don’t we get the guy with the bus? Why don’t we use John when he gets back? He’ll do anything. At least if he ge-, he fucks up, what’ll we do? He, uh, he’s just crazy enough.” Caccavale then proposed using his connections with another source of violence, “How about this? I have an idea that once Monday I give the, my friends what, what I’m supposed to give them? How about I have ‘em to do a courtesy call?” Viento replied, “I don’t know if I want to waste that favor when we could have it done for nothing.” Caccavale stated, “For nothing. I’m saying, I’m handing them almost eleven thousand fuckin’ dollars. They could at least fuckin’, they’re up this way anyway. They’ll do it for nothing.” Viento

answered, “Nah, if I’m gonna do it, I’m, if I’m gonna do a freebie, I’d rather do somebody else. Ya understand?” Caccavale indicated he understood and added, “Well, then we’re gonna have to come up, you know what? He said, uh, the guy I was with said he would do it but he’s gotta do it, ya know, at night somewhere else. Ya know, he wants to put a mask on and beat him up.” Viento said, “That’s fine.” Caccavale asked, “So you want me to arrange this where the, we should just do it now anyway whether he calls her or not?” And Viento said, “Do it.” Viento then called an employee in the yard at the transfer station, told him to put his phone on “private” and stated, “Call me the next time you see that guy ... in the yard, please.”

Later that day, the employee told Viento that the driver had just called her to advise that “he got a threatening phone call today . . . . To stay the fuck away from me. And told him that the only thing he needs to worry about is a fucking bullet to his head or something like that. I don’t know. But that’s just not fucking cool to me. So I wanna know who fucking called him. And I wanna know how anybody got the . . . cell phone number, which he says the only person he ever called on it was me. So how did anybody get that phone number to be able to call him and say that to him?” Viento lied, “I don’t know.” A moment later Viento cautioned the employee, “Well, maybe you shouldn’t be talking to him anymore. Especially if somebody’s threatening him.”

Upon concluding the conversation with the employee, Viento updated Caccavale. Viento told Caccavale, “I still want him to get a beating.” A moment later Viento stated that the employee “wasn’t happy. But, oh well. How do you think she’s gonna be when she finds out he took a beating someplace?” Caccavale laughed and answered, “not too good.” Viento then stated, “well, when that happens we don’t want it to be, we, we don’t want it to be known . . .

.We want it, we want it to be a secret beating . . . what I'm saying is when the guy catches his beating we don't want any names mentioned. It's just a random act of violence. Happens every fucking day." Caccavale replied, "mmm-hmm. Yes, it does."

The FBI continued to monitor conversations between these individuals. Based on the ensuing conversations, it seems that the plan to have the driver beaten dissipated, and no violence occurred.

## **2. The Defendant Attempted to Arrange Physical Assaults Targeting Two Different Individuals at the Direction of a Co-Conspirator**

### **a. Caccavale Planned an Assault at the Request of a Co-Conspirator**

During the course of this investigation, law enforcement officials learned that a Connecticut state politician asked Galante to have someone "pay a visit" to an individual. Galante turned to Caccavale, a trusted associate, to carry out the request. To this end, Caccavale contacted another individual to arrange the "visit," which they understood to involve a physical assault of the individual. On April 7, 2005, Caccavale, using coded language that referred to the visit as "deck building," learned that his associate had found "a guy to build that deck" and that it would cost \$500. Caccavale suggested that the guy should start by "scouting it out" and Caccavale would then go over the rest of the details. Caccavale expressed reluctance at saying too much on the phone.

On April 8, 2005, the individual told Caccavale that his guy is ready to "do that deck" because the weather is nice. Caccavale opined that he did not want any "heat" and that he hoped "the sun's not out," believed to be a reference to law enforcement. Concerned that the intended beating was imminent, on or about April 9, 2005, federal and state law enforcement officers went

to the residence of one of Galante's associates. Upon seeing a state police trooper on his street, the Galante associate cancelled the planned "visit."

In May, 2005, Caccavale and the individual resumed planning the visit. On May 12, 2005, the individual told Caccavale that he had it all mapped out, but, two days later, the individual told Caccavale it was no good because the target no longer worked at either job location. Caccavale learned that the assailant had been had been to the target's house and was unable to get in. The individual also complained to Caccavale that they did not know what the target looked like.

Unable to find the target, in subsequent conversations on May 14, 2005, Caccavale and the individual planned to lie to Galante about completing the visit. They discussed the cover story they would tell Galante to assure him the mission had been accomplished. It does not appear that the assault ever took place.

**b. Planned Assault of a Co-conspirator Who Had Fallen Out of Favor**

**(i) Caccavale Attempts to Hire "The Carpenter" To Assault Galietti**

On January 5, 2005, Rich Galietti argued with Chris Rayner during a meeting at 307 White Street after Rayner implied that Galietti was not careful with the companies' money. The argument escalated and, eventually, Galietti punched Rayner, who made the "mistake" of standing up when Galietti warned him not to do so.

On January 5, 2005, Viento received an incoming call from Ricky Caccavale, who reported that Galietti had assaulted Chris Rayner earlier in the day. Caccavale asked Viento, "if he's Chris (Rayner), and he works for all these people, do you think he's going to let Rich get

away with it?" Viento replied, "you have to remember who he works for, he can't be cowboying it. He'd have to ask for approval."

On January 7, 2005, at approximately 9:34 a.m., Viento received a call from Ricky Caccavale, who first told Viento to "buckle up." Caccavale told Viento that he had to go to Mt. Kisco to meet "my friend." A few minutes later, at approximately 9:37 a.m., Viento called back to Caccavale, who explained that he was going to see "The Carpenter" (who was subsequently identified by the FBI as a Genovese family associate) because "Galietti needs cabinets in his house." As the conversation continued, Caccavale stated that Galietti had gone from "gold to cooked." Caccavale added, "if you cross a certain line, I guess you're done." Viento replied, "guess what, keep that in fucking mind, nobody is fucking safe." Later in the conversation, Caccavale asked if they had any "snap shots", which was a likely reference to a photograph of Galietti that would be provided to the person(s) tasked with assaulting Galietti. Viento stated that they did not, and that it would be too obvious to try to get one at this point. Caccavale stated that he knew the type of vehicle (presumably the car driven by Galietti) and asked if Viento knew where Galietti lived. Viento said that he would get the address.

About an hour later, Viento called Caccavale and said, "he" (believed to be Galante) had asked why Caccavale had gone to Mt. Kisco, and that "he" added that Caccavale "didn't go there for me (Galante)." Viento told Galante that he didn't know why Caccavale was out of the yard either. Viento then told Caccavale that he was providing this information "in case he (Galante) asks." Viento added that Caccavale should cover his ass.

At approximately 11:00 a.m., Caccavale called Viento and reported that the person who was going to be used was upset that he was being shifted from a previously planned assignment

to a new assignment, this time on an unidentified person. Specifically, Caccavale told Viento that he had just gotten his “ass chewed out by my friend” because “we got no problem doing the jump. Let me go and do what I gotta do. . . We’re already into it. We did all the leg work, and now you want to shift this to another guy. . . . This is not a game where you go look for one guy, look for another guy. . . . You’re starting to drive me nuts. This is not a fucking game. We could get jammed up out here following people. We’re out of our element. . . . You know this ain’t fucking years ago. They watch everything.” Caccavale then told Viento that the guy does not want to talk to Caccavale on the phone and does not want to discuss anything with him “in the open.”

Later in the same conversation, Viento and Caccavale made it clear to each other that while both knew that Galante had sanctioned the impending assault, Galante did not want Viento to know as much and, accordingly, Viento and Caccavale should keep their stories in line. Specifically, Viento stated, “I just wanna make sure you’re covered on where you were and what you were doing.” Caccavale replied, “I’ll tell him, look he (Galante) sent me down here.” Viento replied, “I know he (Galante) did, but obviously he doesn’t want me to know that. . .so when I said you went to Mt. Kisco, he (Galante) said, ‘what did he go to Mt. Kisco for, I didn’t send him there.’” Viento then told Caccavale that he stated to Galante “I don’t know, he told me he was leaving the yard. He told me he was going to Mt. Kisco.” Viento then advised Caccavale that in the future, if asked about the trip to Mt. Kisco, Caccavale should say: “I always tell Ciro when I’m leaving the yard, and he (Viento) asked ‘where are you going?’ and I (Caccavale) just say I got something to do in Mt. Kisco and I’ll be back.”

## **ii. The FBI Interceded to Stop the Assault**

The FBI interceded to interrupt this plot the next morning, Saturday January 8, 2005.

Using contacts on the NYPD, the FBI had a detective attempt to contact Galietti to warn him that there was “street information” from a reliable source that Galietti might be in harm’s way. The detective initially contacted Galietti’s parents. The parents in turn contacted Rich Galietti, who in turn advised Galante that someone, most likely Rayner, was looking to hurt him. The ruse worked: Galietti was sufficiently warned, the beating was apparently aborted, and the targets did not suspect that there was an ongoing federal wiretap. For example, Galietti devoted most of his effort to trying to ascertain whether the detective who called him about the threat, and the threat itself, were real.

Galietti also reached out to Viento. Galietti told Viento that he had received information from the NYPD about a threat and asked if he thought that Rayner would have put a “hit” out on him. Viento said that he would try to speak to Galante. Viento then left a voice mail message for Galante. Next, Viento spoke to Caccavale. Clearly agitated, and implying that Caccavale had a big mouth, Viento told Caccavale that Galietti had called to report that NYPD had information about an unspecified threat against Galietti. Caccavale assured Viento that it had not come from him. Viento asked how Caccavale had arranged to change the target of the assault (from an unidentified person to Galietti) without giving Galietti’s name. Caccavale indicated that the job had not been accepted, so he never provided a name. Viento pressed Caccavale: “[t]he guy from the third floor (Galante) sent you to meet with someone to switch from the first person to the second” and Caccavale confirmed that no names had been given. Viento then spoke with Galietti about the threat, and Galietti stated that he believed Rayner was setting him up for a beating.

Galietti told Viento that the detective was legitimate and that there might be some legitimacy to the threat being related to Rayner.

### **III. Discussion**

This case involves a wide-ranging conspiracy to control the carting industry in Connecticut and western New York. The industry was illegally dominated by a variety of means, including fraud, price fixing, threats, and violence. What is striking about this defendant's conduct is both the breadth of his involvement in the conspiracy and the exuberance that characterized his efforts to further the goals of the conspiracy. Simply put, the defendant enjoyed his trusted role within the enterprise. While many of the co-conspirators had a limited role in a particular aspect of the conspiracy, this defendant was plainly a member of the inner circle and is among the most culpable of defendants in this case.

For example, one of the primary tools used by the co-conspirators was price fixing, namely insuring that companies participating in the property rights system did not compete for the same customers. This defendant brought lists of disputed customers to Trash Hauler B and summoned him to a meeting with Galante under the guise of discussing "pistons" or "cylinders."

The defendant's involvement in the conspiracy, however, did not stop there. When Trash Hauler B violated the unwritten rules of the property rights system, the defendant called and threatened him, saying, among other things, "he'll [Galante] chew you up. And you . . . think you know people and politicians? I says, you think you know people, you know, like the other way? Everybody you think you know, do you really think he cares?" Later, Galante congratulated the defendant for his efforts, saying "you broke him."

Additionally, when a message had to be sent to Trash Hauler B by damaging his equipment, Caccavale participated and then bragged about his involvement to Ciro Viento:

Caccavale: Hey are you ready for this?

Viento: Yeah, you and Galietti stabbed fuckin' two tires today when they were on the scale.

Caccavale Not only that, no, we were shootin' his [Trash Hauler B's] truck."

Such conduct alone warrants a sentence at the top of the range, but the defendant's criminal activities in this case did not stop with enforcement of the property rights system. The defendant was involved in threats of violence or planning an assault with other members of the conspiracy. For example, at the request of a co-conspirator, he went to a pay phone and called an individual and said that he "would butt fuck his mother in front of him and then put a bullet in her head." Later in the conversation, Caccavale said "motherfucker, make the phone call and we'll see how afraid you are of me,'cause remember my voice 'cause I'm fuckin' comin' for you, motherfucker."

Such actions are wholly inconsistent with the attempt to portray the defendant as "engaging and humorous." Defendant's Sentencing Memorandum at 3. Under 18 U.S.C. § 3553(a), the Court should consider "the nature and circumstances of the offense and the history and characteristics of the defendant." Here a sentence at the top of the range specified in the plea agreement is warranted given the scope of the defendant's involvement in the conspiracy and the manner in which he carried out his criminal acts.

In his sentencing memorandum, the defendant indicates that his criminal conduct was a direct consequence of his work at AWD and argues he has lead a law abiding life. The evidence shows otherwise. For example, in 2004, Mr. Caccavale received \$2000 in cash to assist in an

insurance scam. Specifically, an individual who was not employed at a trash hauling company told the defendant he was having trouble with a BMW and wanted it to disappear. Caccavale indicated that he knew of two individuals who could help. In June, 2004, the car owner gave Caccavale \$2000 in cash. Caccavale told him to drive the car to the Danbury Mall at a specified time, go shopping, and then report the car as stolen. The BMW owner followed Caccavale's instructions, reported the car stolen, and informed his insurance company. Caccavale saw that the car was taken from the parking lot and told the owner that it was buried. The vehicle, however, was recovered two months later and the owner has since agreed to make restitution to his insurer. This scenario belies the defendant's contention that he led an otherwise law abiding life. His attempt to place the blame for his criminal conduct on his work environment is merely hollow rhetoric.

### **III. Conclusion**

As a trusted member of the inner circle of the conspiracy, the defendant readily and routinely engaged in multiple criminal acts in order to perpetuate the objectives of the racketeering enterprise. As the recorded conversations demonstrate, Mr. Caccavale was not averse to participating in property damage, threatening individuals or planning physical assaults. Against this backdrop, and given the sentencing objectives of both specific and general deterrence, a sentence at the top of the range and a substantial fine are warranted.

Respectfully submitted,

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This is to certify that a copy of the within and foregoing has been both filed electronically  
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