

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CR-20586-PAS

UNITED STATES OF AMERICA

v.

BERNARD JEAN TERNUS,

Defendant.

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FACTUAL PROFFER

Had this matter proceeded to trial, the United States and Defendant Bernard Jean Ternus (the "Defendant") agree that the following facts would have been proved beyond a reasonable doubt, are true and correct, and are sufficient to support a plea of guilty:

On August 5, 2007, armed robbers entered the Musee des Beaux-Arts, also known as the Museum of Fine Arts, in Nice, France, and stole the following four original paintings: "Cliffs near Dieppe" by Claude Monet; "The Lane of Poplars at Moret" by Alfred Sisley; "Allegory of Water" by Jan Brueghel the Elder; and "Allegory of Earth" also by Jan Brueghel the Elder (hereinafter, "the Nice Paintings").

From August 2007 until June 2008, the Defendant and his co-conspirators, knowing that the Nice Paintings had been stolen, brokered the sale of the Nice Paintings to special agents of the Federal Bureau of Investigation working in an undercover capacity and to an officer of the French National Police working in an undercover capacity.

On October 8, 2007, the Defendant met in Miami-Dade County with two undercover FBI agents. The Defendant told the undercover FBI agents (hereinafter, "UCA 1" and "UCA 2") that he needed to sell four paintings, including a Monet and a Sisley, and he asked UCA 1 and UCA

2 if they could help him. The Defendant said he knew the people who stole the Nice Paintings, and now he had to find a buyer for the Nice Paintings. The Defendant also asked if a third undercover FBI agent, known to the Defendant as an art dealer and an associate of UCA 1 and UCA 2 (hereinafter, "UCA 3"), could help the Defendant with the sale of the paintings.

The Defendant then met with UCA 1 and UCA 3 on October 18, 2007, in a hotel suite in Miami-Dade County. The Defendant negotiated with UCA 3 for the sale of the Nice Paintings. The Defendant told UCA 1 and UCA 3 that the Nice Paintings were in southern France.

The following day, October 19, 2007, the Defendant met again with UCA 3 inside a car in Miami-Dade County and discussed the possible price for the Nice Paintings. The Defendant discussed with UCA 3 the possibility of UCA 1 and UCA 3 meeting the Defendant in Marseilles in November 2007 to inspect the Nice Paintings.

On October 25, 2007, the Defendant met UCA 1 and UCA 2 on a boat docked in Miami-Dade County. The Defendant told UCA 1 and UCA 2 that he had to travel to Marseilles the following week. His associates there are calling him all the time, he said, asking if he has a buyer yet for the Nice Paintings. The Defendant said that he will be fine when he returns to France if he can tell his associates there that he has a buyer for the Nice Paintings. The Defendant also discussed with UCA 1 and UCA 2 the possibility of buying kilos of cocaine from UCA 1 and UCA 2 for distribution in Europe.

On October 30, 2007, the Defendant departed from Miami International Airport and flew to Madrid, Spain aboard Iberia Lineas Airlines flight number 6122. He returned to Florida on December 7, 2007, arriving aboard American Airlines flight number 63 from Paris, France.

On December 17, 2007, the Defendant met UCA 1 and UCA 2 in Miami-Dade County. The Defendant discussed his recent trip to France and told the undercover agents that he had

access to the Nice Paintings. The Defendant told UCA 1 and UCA 2 that his associates stole the paintings. UCA 1 and UCA 2 agreed to travel to France in January to inspect the Nice Paintings. The Defendant also told UCA 1 and UCA 2 that he had a market in France, Italy, and Spain for UCA 1's and UCA 2's cocaine. The Defendant offered to introduce the undercover agents to people in France who can move cocaine.

Several weeks later, on January 5, 2008, the Defendant met with UCA 3 in Miami-Dade County. He told UCA 3 that the Nice Paintings were stolen by his team, and that he is now responsible for the Nice Paintings. The Defendant said he has had to pay over \$100,000 for their expenses, for things such as car rentals and house rentals. The Defendant and UCA 3 arranged to meet in Barcelona, Spain, during the week of January 16, 2008, with the people in France who are holding the Nice Paintings.

On January 19, 2008, the Defendant met in Barcelona, Spain with UCA 1, UCA 2, and UCA 3 as well as Unindicted Co-Conspirator B, an associate of the Defendant's who had traveled from France for this meeting. The Defendant and Unindicted Co-Conspirator B then negotiated with the undercover agents for the sale of the Nice Paintings. They discussed a two-part transaction consisting of a total of €3 million (Euros) for all four Nice Paintings. Two of the Nice Paintings would be delivered to UCA 3 in Barcelona, Spain in exchange for €1.5 million (Euros), and, on a separate date, the remaining two Nice Paintings would be delivered to UCA 3 for €1.5 million (Euros). All four of the Nice Paintings ultimately were to be brought to the United States where UCA 3 had "buyers" for them. The Defendant expected to share in the profits of the sale of the Nice Paintings. The Defendant and Unindicted Co-Conspirator B desired a two-part transaction so that they, and their associates, had leverage with law enforcement in the event anyone was arrested upon the sale of the first two Nice Paintings. They

intended to use the remaining two Nice Paintings to bargain for the release of anyone who was arrested.

Shortly after this Barcelona meeting, the Defendant returned to Florida and, on January 31, 2008, met with UCA 3 inside a car in Miami-Dade County. The Defendant reviewed with UCA 3 the terms of the deal that they had discussed on January 19 in Barcelona. They agreed that UCA 3 would meet with Unindicted Co-Conspirator B in Barcelona, Spain where two of the Nice Paintings would be sold to UCA 3 for €1.5 million (Euros), and the remaining two Nice Paintings would be sold to UCA 3 for €1.5 million (Euros) on a separate date. The Defendant again stated the importance of holding back two of the Nice Paintings as leverage in case anyone is arrested following the first exchange.

On February 23, 2008, the Defendant again met with UCA 3 in a hotel suite in Miami-Dade County to discuss the transaction. During that meeting, Unindicted Co-Conspirator B called the Defendant. The Defendant told Unindicted Co-Conspirator B that he and UCA 3 would be traveling to Spain. The Defendant then gave the telephone to UCA 3, and UCA 3 discussed the transaction with Unindicted Co-Conspirator B.

The following month, on March 27, 2008, the Defendant met with UCA 1 and UCA 2 in Miami-Dade County to review the transaction details. UCA 1 and UCA 2 would be providing the money for the Nice Paintings on behalf of UCA 3. UCA 3 and UCA 1 would meet Unindicted Co-Conspirator B in Barcelona during the week of April 18, and Unindicted Co-Conspirator B would send his people to Miami at the same time. Two of the Nice Paintings would be transferred to UCA 3 in Barcelona while purchase money would be given in Miami to the Defendant and associates of his and Unindicted Co-Conspirator B. During this March 27 meeting, the Defendant telephoned Unindicted Co-Conspirator B to inform him of this plan. The

Defendant said Unindicted Co-Conspirator B told him to call him the next day to discuss the details and hung up. The Defendant then informed the undercover agents that they always communicate by way of public phone booths for security reasons.

The Defendant met with UCA 1 and UCA 2 two weeks later on April 10, 2008, in Miami-Dade County. UCA 1 and UCA 2 proposed that instead of UCA 3 receiving the Nice Paintings in Barcelona, they, UCA 1 and UCA 2, would travel to France and take delivery of the paintings there for UCA 3, and the paintings would later be brought to the United States. The Defendant agreed. He called Unindicted Co-Conspirator B, and said that Unindicted Co-Conspirator B also agreed. The Defendant told UCA 1 and UCA 2 that they would take delivery of the paintings in Marseille, Toulon, Nice, or Cannes, and that the representative of Unindicted Co-Conspirator B who would receive payment for the paintings would travel to Miami to meet with UCA 1 and UCA 2 prior to delivery of the paintings.

On April 16, 2008, Unindicted Co-Conspirator A and Unindicted Co-Conspirator C, both of whom are associates of Unindicted Co-Conspirator B, arrived in Miami on American Airlines flight number 69 from Madrid, Spain.

Two days later, on April 18, 2008, the Defendant, Unindicted Co-Conspirator A, Unindicted Co-Conspirator C, UCA 1, and UCA 2 all met for two hours on a boat docked in Broward County to negotiate the terms, structure, and logistics of the sale of the Nice Paintings. Unindicted Co-Conspirator A noted that Unindicted Co-Conspirator B had set the purchase price with UCA 3 at €3 million (Euros) for all four Nice Paintings. They discussed transferring the paintings in France either to UCA 1 and UCA 2 or to a France-based representative of UCA 1 and UCA 2. Unindicted Co-Conspirator A stated that he is the only person who knows where the Monet and the Sisley are, because he hid them separately from the two Brueghels. He stated

he wanted to transfer the two Brueghels first and hold back the Monet and Sisley for security reasons. If we are surrounded by police, he said, we could threaten to tear up the other two, which are more valuable. At the end of the meeting, the Defendant, Unindicted Co-Conspirator A, Unindicted Co-Conspirator C, and the undercover agents all toasted for good luck.

Before Unindicted Co-Conspirator A and Unindicted Co-Conspirator C returned to France, Unindicted Co-Conspirator A set up a second meeting with the Defendant and UCA 1 and UCA 2. They met on April 20, 2008 at a restaurant in Miami-Dade County. There, they again reviewed the terms and structure of the transaction, and all agreed that the co-conspirators would sell all four Nice Paintings to the undercover agents for €3 million (Euros) in a two-part transaction. Unindicted Co-Conspirator A repeated his request that the undercover agents take delivery of the two Brueghels first. Shortly thereafter, Unindicted Co-Conspirator A and Unindicted Co-Conspirator C returned to France.

In early May 2008, at the initiation of Unindicted Co-Conspirator A, the location of both the transfer of the Nice Paintings and the transfer of the purchase money was changed so that both would occur in France.

On May 16, 2008, Unindicted Co-Conspirator A met in Carry le Rouet, France, with an officer of the French National Police who was working in an undercover capacity (hereinafter, "UCA 4"). UCA 4 was believed to be the France-based representative of UCA 1 and UCA 2 who was referred to during the April 18, 2008 meeting in Miami. At this May 16 meeting, Unindicted Co-Conspirator A showed the stolen Sisley painting and one of the stolen Brueghel paintings ("Allegory of Water") to UCA 4. UCA 4 agreed to purchase the Nice Paintings on behalf of UCAs 1, 2, and 3. UCA 4 negotiated to do one transaction for all four Nice Paintings

on behalf of UCAs 1, 2, and 3. All four Nice Paintings ultimately were to be delivered to UCA 3 in the United States.

On June 4, 2008, when the final transaction was to occur, French National Police officers arrested Unindicted Co-Conspirator A, Unindicted Co-Conspirator B, and others in and around southern France. And the French National Police recovered all four Nice Paintings from inside a van located in Marseilles, France.


The total insurance value of the four Nice Paintings is approximately €4 million (Euros), which converts to approximately \$6.3 million.

During the entire time that the Defendant worked with his co-conspirators to sell the Nice Paintings, he and his co-conspirators knew that the Nice Paintings had been stolen. Indeed, it was the sole object and purpose of the conspiracy for the Defendant and his co-conspirators to unlawfully enrich themselves by transporting or transferring in interstate or foreign commerce the four stolen Nice Paintings.

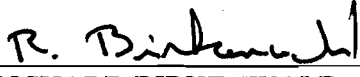
The Defendant and his unindicted co-conspirators engaged in the above-described conduct in Miami-Dade County in the Southern District of Florida, and elsewhere.

Respectfully submitted,  
R. ALEXANDER ACOSTA  
UNITED STATES ATTORNEY

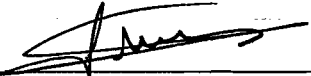
Date: 07/10/08

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