

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 06-20286-Cr-Gold/Bandstra

UNITED STATES OF AMERICA

v.

LOUIS S. ROBLES,
Defendant

GOVERNMENT'S FACTUAL BASIS IN SUPPORT
OF ENTRY OF GUILTY PLEA

Pursuant to Rule 11(b)(3) of the Federal Rules of Criminal Procedure, the United States of America submits the following factual basis in support of the entry of a guilty plea by defendant Louis S. Robles to Counts 8, 9, and 23 of the Indictment. All three Counts charge the defendant with mail fraud, in violation of Title 18, United States Code, Sections 1341, 1346, and 2. This factual basis also contains the requisite facts to support the forfeiture allegations of the indictment and an order of forfeiture consistent with the forfeiture allegations.

If this case were to go to trial, the United States would establish the following:

1. In April 1972, the defendant was admitted to practice as an attorney in the State of Florida. During the 1980s and through at least late 2002, the defendant operated his own law firms (hereinafter "the Robles firms"). The defendant resided in the Miami area, and his firms' central offices were located in Miami. The defendant's firms were staffed with various personnel who

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worked at the defendant's direction. These included additional lawyers, paralegals, bookkeepers and accounting staff, and other support personnel.

2. From at least as early as the late 1980s until the time of his suspension by the Florida Bar in February 2003, the largest portion of the defendant's practice involved representing individuals who suffered injuries or illnesses from exposure to asbestos (hereinafter "Asbestos Clients").

3. Asbestos is a name given to certain fibers that were used in a variety of building materials, among other things, including some types of insulation, ceiling tiles, plaster, wallboard, fireproofing materials, and pipes. Asbestos is made up of microscopic bundles of fibers that can become airborne when disturbed, causing significant health problems when inhaled into people's lungs. Some of these health problems include asbestosis and mesothelioma. Asbestosis involves the severe scarring of the lungs, and mesothelioma is an asbestos-related cancer of the pleura (the outer lining of the lung and chest cavity) and/or the peritoneum (the lining of the abdominal wall).

4. A large number of the defendant's Asbestos Clients were in their sixties, seventies, or eighties. Many Asbestos Clients were deceased, and their actions belonged to members of their family and/or their estates. From the late 1980s through February 2003, the defendant represented more than 7,000 different Asbestos Clients. Although the defendant's central offices were located in Miami, the Asbestos Clients who the defendant represented resided in different locations all over the United States.

5. Most of the Asbestos Clients who the defendant represented had personal injury claims against multiple defendants. Oftentimes, Asbestos Clients would have claims against more

than 10 different manufacturers, distributors, and/or users of asbestos products. Most of these cases were resolved through settlement, and only a very small number of the cases went to trial. Based upon records of the Robles firms, between January 1, 1989 and September 30, 2002, the defendant received more than \$164,000,000 in about 75,000 settlements on behalf of his Asbestos Clients.

6. The defendant's Asbestos Clients typically retained him on a contingency-fee basis, pursuant to a form retainer agreement prepared by the defendant. Under the retainer agreement, the defendant's attorneys' fees were paid based upon a percentage of any settlement or judgment received, plus reasonable costs. The amount of attorneys' fees that the defendant would be permitted to retain in a given case depended upon the state in which the individual Asbestos Client resided. Depending upon the client's state of residence, the retainer agreement would allow the defendant to keep as his fee between 33% and 40% of any settlement or judgment received.

7. Throughout the entire course of his representation of his Asbestos Clients, the defendant was governed by the professional rules of conduct regulating members of the Florida Bar (hereinafter "the Florida Bar rules"). The defendant was aware of the application of the Florida Bar rules and particularly the rules that imposed upon him a fiduciary duty to act in his clients' best interests, a duty to keep his clients reasonably informed about the status of a matter, a duty to promptly comply with reasonable requests for information, and a duty to comply with the different rules regarding administration of client trust accounts. These rules provided, in pertinent part, as follows:

- a. A lawyer shall hold in trust, separate from the lawyer's own property, funds and property of clients that are in a lawyer's possession in connection with a representation;

- b. Upon receiving funds or other property in which a client has an interest, a lawyer shall promptly notify the client;
- c. Except as otherwise provided by rule, law, or agreement, a lawyer shall promptly deliver to the client any funds or other property that the client is entitled to receive; and
- d. Upon request by the client, a lawyer shall promptly render a full accounting regarding any funds or property held in trust.

8. The defendant also was aware that the Florida Bar rules further provided that a lawyer should hold the property of others with the care required of a professional fiduciary, and that money or other property entrusted to a lawyer for a specific purpose is held in trust and must be applied only to that purpose.

9. The different Florida Bar rules referenced in paragraphs 7 and 8, above, vested the defendant's Asbestos Clients with an intangible right to the defendant's honest services and imposed upon the defendant a corresponding obligation to provide his Asbestos Clients with honest services in his handling of their matters and of client funds that he held in trust.

10. Commencing no later than April 1994 and continuing through at least February 19, 2003, the defendant devised a scheme to defraud his Asbestos Clients and deprive them of both: (a) money and property and (b) their intangible rights to the defendant's honest services. The purpose and object of the scheme was for the defendant to unjustly enrich himself in violation of his duties to his Asbestos Clients. The defendant accomplished the purpose and object of the scheme by misappropriating monies from those clients for his personal use and benefit, and that of his various businesses. He also did so by making materially false representations and concealing and omitting to state material facts concerning, among other things, his receipt of the settlement funds on behalf

of his Asbestos Clients, his unauthorized use of his Asbestos Clients' settlement funds, and his disbursement of the settlement funds owing to one Asbestos Client to pay another Asbestos Client.

11. By way of background, over the course of the fraud scheme in this case the defendant controlled and maintained multiple client trust accounts for the deposit and holding of Asbestos Client trust funds. By the time that the scheme to defraud in this case commenced, the Robles firms had in place an intricate computer database program to conduct the firms' accounting for client trust funds. This database was established by a Robles firm contractor/employee, acting on the defendant's behalf and with the defendant's knowledge. The database was routinely operated by various employees of the Robles firms in the course of their duties with the Robles firms.

12. When the database was operated as intended, once a settlement check was received by the Robles firms on behalf of one or more Asbestos Clients, the database was equipped to compute virtually to the penny how the sum contained in the check was to be allocated to different accounts. That is, the database for the Robles firms was equipped to compute how much from a given check was to be allocated for payment of attorneys' fees, how much was to be allocated to pay costs of representation, and how much was owed to the client or clients. When the database for computing asbestos settlements was initially installed, settlement disbursements would be made in batches of 50 clients at a time. The normal turnaround time between receipt of a check and payment to the Asbestos Client ordinarily would be between two and three months.

13. Throughout the course of the scheme to defraud, the defendant directed his employees to routinely circumvent the internal accounting database in two ways that allowed him to

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misappropriate millions of dollars in settlement proceeds owed to his Asbestos Clients from the firm client trust accounts.

a. First, the defendant would instruct employees to draw attorneys' fee checks from Asbestos Client trust accounts without regard to whether the check corresponded to any particular settlement or any particular settlement amount(s). The defendant would meet with members of his staff on a weekly and sometimes daily basis to inquire about the status of incoming settlements, the status of funds in Asbestos Clients trust accounts, and the status of payments due to meet the operating expenses of the Robles firms, such as payroll or rent. The defendant would instruct an employee to cut checks from the trust accounts. The checks would be characterized as "attorneys' fees" due to the defendant, even though the checks were not connected with any particular settlements received. The checks would exceed the amounts that the defendant was entitled to collect, based upon settlements paid to that time.

b. Second, the defendant would instruct employees to circumvent the procedures that otherwise would cause checks for settlement proceeds to be automatically issued to Asbestos Clients. Instead, the defendant would routinely delay delivering settlement proceeds to the Asbestos Clients. The defendant would decide whether and when Asbestos Clients would be paid settlement proceeds owed to them. No Asbestos Client would paid settlement proceeds without the personal approval of the defendant. Over the course of the scheme to defraud, Asbestos Clients experienced ever-growing delays in receiving settlement proceeds due to them.

14. The combination of these two practices by the defendant created what amounted to an ever-expanding pyramid scheme. The defendant would misappropriate funds from settlements owed to Asbestos Clients from a particular case or cases. Those Asbestos Clients who were eventually paid their settlement proceeds would be paid from settlement proceeds received at later times that the defendant owed to, and misappropriated from, other Asbestos Clients. Because the defendant continually misappropriated funds in excess of what he was legitimately owed, while at the same time imposing longer and longer delays in delivering settlement proceeds to the Asbestos Clients, the scheme resulted in an ever-increasing chasm between the amount that the defendant misappropriated in Asbestos Client trust funds and the funds that were available to repay the Asbestos Clients. As of March 1996, the gap between the amount that the defendant had misappropriated from his Asbestos Clients and the available funds in the Asbestos Client trust accounts to pay them was slightly in excess of \$3 million. This gap grew at an average rate of over \$1 million annually. By September 30, 2002, the defendant had misappropriated a total of \$13,522,159.92 in settlement proceeds that had been due to his Asbestos Clients. However, as of the same date, the defendant had less than \$25,000 in funds available in all of his Asbestos Client trust accounts.

15. The defendant used the misappropriated funds for purposes that included supporting his personal lifestyle expenses and his investments in various start-up businesses that eventually failed. During the course of the scheme, the defendant lived in a 9,000 square-foot waterfront home on Key Biscayne, Florida. His monthly mortgage was over \$48,000, and he paid substantial sums for domestic help and other household expenses and improvements. The defendant also owned

properties in Telluride, Colorado. The defendant would routinely travel in limousines and chartered jets. At different times during the fraud scheme, the defendant and his then-wife were spending over \$2 million dollars annually in mortgage payments and various living and travel expenses. Over the course of the 1990s, the defendant also invested and lost millions of dollars in start-up ventures in the motion picture business, the recording business, and the waste management and recycling business. In connection with his motion picture companies, the defendant also leased apartments in Los Angeles and New York. Over the course of the scheme, the defendant routinely ran substantial deficits in his expenditures, as compared to his income, which led to continued misappropriation of settlement proceeds due to his Asbestos Clients.

16. The defendant perpetrated the continued success of his fraud scheme through various materially false pretenses and promises that were designed to mislead and deceive his Asbestos Clients regarding the status of their funds and more particularly regarding the facts of his misappropriation of settlement funds owed to them. As ever-increasing numbers of the defendant's Asbestos Clients experienced ever-increasing delays in receiving settlement proceeds due to them, the number and intensity of client inquiries and complaints to the Robles firms grew. In response to these inquiries and complaints, starting in January 1999 the defendant mailed periodic newsletters to his Asbestos Clients in which he further deceived them as to the nature and status of their settlement payments and the reason why they had not been paid. In these newsletters, defendant Robles claimed that he was holding all settlement funds until a Client's case was settled with respect to all asbestos defendants. By this time, many asbestos defendants were in bankruptcy, and all lawsuits had been tolled, meaning that according to defendant Robles's explanations the ultimate payment to the Asbestos Clients of their settlement proceeds could drag out for years. Defendant

Assistant United States Attorney
Attorney for Defendant
Defendant

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Robles's newsletters, however, did not inform the Asbestos Clients of the true reason why their payments had been stalled and withheld, which was the defendant's continuing and growing misappropriation of Asbestos Client trust funds. The defendant instructed firm personnel to provide the same explanations to Asbestos Clients who would phone the firm to inquire or complain.

17. In furtherance of his scheme to defraud and to execute his scheme to defraud, the defendant would routinely cause to be delivered various mail matter by the United States Postal Service and/or a private and commercial interstate carrier. As noted in paragraph 16 above, the defendant would periodically send newsletters to his Asbestos Clients in which he would make false and misleading statements regarding the reason payments of settlement proceeds had been stalled and withheld. In addition, over the course of the scheme the defendant caused scores of mailings to be sent as part of the routine process that ultimately resulted in the defendant receiving settlement funds from asbestos defendants on behalf of his Asbestos Clients, which funds that defendant in turn would misappropriate. As an ordinary course, the process that resulted in settlement checks being sent by asbestos defendants to the Robles firms involved at least four different types of mailings:

a. At the defendant's direction, Robles firm employees would mail letters to Asbestos Client that would recommend that the clients agree to proposed settlements with various asbestos defendants. The letters also would contain settlement releases to be signed by the clients that would release the settling corporate defendants from future liability in the respective matters, along with stamped, self-addressed envelopes for the clients to return the settlement releases to the Robles firms.

b. Per the instructions in the letters from the defendant, the clients would mail the signed settlement releases back to the Robles firms in the self-addressed envelopes.

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c. Robles firm employees, acting at the defendant's direction, in turn would collect the settlement releases from the different Asbestos Clients and mail them to the respective asbestos defendants.

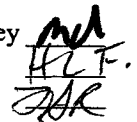
d. The respective asbestos defendants then would mail the settlement payments back to the Robles firms.

18. For purpose of executing the scheme to defraud explained above, the defendant caused the following items to be delivered by the United States Postal Service and/or by a private and commercial interstate carrier.

a. *Count 8* arises out of a letter that the defendant caused to be mailed on or about June 12, 2001, from his offices in Miami, Florida, to the personal representative of the estate of Dean Stolz.

1. In the letter, the defendant recommended settlement of the estate's personal injury claim against the H.K. Porter Asbestos Trust for \$552.00. This letter also enclosed a corresponding settlement release agreement for the representative to execute. Mr. Stolz's representative executed the settlement release agreement, and the settling asbestos defendant delivered the funds to defendant Robles. However, defendant Robles misappropriated the settlement proceeds due to Mr. Stolz's representative.

2. Mr. Stolz was a resident of Nevada. In April 1991, Mr. Stolz retained the defendant to represent him in personal injury claims due to asbestos exposure. Mr. Stolz died in March 1992, at age 67. Based upon the defendant's internal accounting records, as of September 30, 2002, the defendant had defrauded Mr. Stolz



and his estate out of \$47,011.20 in asbestos settlement proceeds due to them from a total of nine separate settlements.

b. **Count 9** arises out of a letter that the defendant caused to be mailed on or about June 12, 2001, from his offices in Miami, Florida, to the personal representative of the estate of Joseph Fausphoul.

1. In the letter, the defendant recommended settlement of the estate's personal injury claim against the H.K. Porter Asbestos Trust for \$552.00. This letter also enclosed a corresponding settlement release agreement for the representative to execute. Mr. Fausphoul's representative executed the settlement release agreement, and the settling asbestos defendant delivered the funds to defendant Robles. However, defendant Robles misappropriated the settlement proceeds due to Mr. Fausphoul's representative.

2. Mr. Fausphoul was a resident of Louisiana. In August 1993, Mr. Fausphoul retained the defendant to represent him in personal injury claims due to asbestos exposure. Mr. Fausphoul died in April 1995, at age 66. Based upon the defendant's internal accounting records, as of September 30, 2002, the defendant had defrauded Mr. Fausphoul and his estate out of \$34,179.76 in asbestos settlement proceeds due to them from a total of thirteen separate settlements.

c. **Count 23** arises out of a letter that the defendant caused to be mailed on or about October 17, 2001, from his offices in Miami, Florida, a letter to the personal representative of the estate of Bobby Brewer.

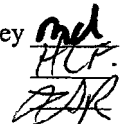
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1. In the letter, the defendant recommended settlement of the estate's personal injury claim against the Center for Claims Resolution Defendants for \$3,172.00. This letter also enclosed a corresponding settlement release agreement for the representative to execute. Mr. Brewer's representative executed the settlement release agreement, and the settling asbestos defendant delivered the funds to defendant Robles. However, defendant Robles misappropriated the settlement proceeds due to Mr. Brewer's representative.

2. Mr. Brewer was a resident of Arizona. In March 1994, Mr. Brewer retained the defendant to represent him in personal injury claims due to asbestos exposure. Mr. Brewer died in July 1995, at age 70. Based upon the defendant's internal accounting records, as of September 30, 2002, the defendant had defrauded Mr. Brewer and his estate out of \$2,441.34 in asbestos settlement proceeds due to them from a total of nine separate settlements.

19. As noted above, the defendant's scheme to defraud generated proceeds of \$13,522,159.92. This sum constitutes the aggregate amount in settlement proceeds that the defendant collectively misappropriated from 4,393 different Asbestos Clients. As of May 22, 2006, the defendant had transferred a total of approximately \$1 million in proceeds from this scheme into the following four accounts:

- a. Account No. 1000016245762 at SunTrust Bank, Orlando, Florida;
- b. Account No. 3000858 at Stonegate Bank, Fort Lauderdale, Florida;
- c. An investment account at Cordell Funding, L.L.L.P., Coconut Grove, Florida; and




- d. An investment account at Anglo-American Financial, Charlottesville, Virginia.

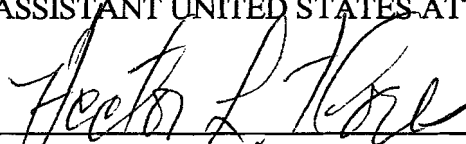
These accounts were frozen by an Order of the Court in this matter, entered on May 22, 2006 (DE 6). The defendant acknowledges and agrees that the above-referenced property – that is, the approximately \$13.5 million in misappropriated Asbestos Client settlement proceeds, plus the funds frozen pursuant to the Court order – constitutes or is derived from proceeds traceable to the violations of 18 U.S.C. §1341 to which he has agreed to plead guilty. The defendant further acknowledges and agrees that the above-referenced property is/are subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c), and the procedures set forth at Title 21 United States Code, Section 853.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

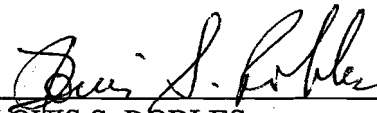
Date: 9-15-07

By: 
MICHAEL S. DAVIS
LUIS M. PÉREZ
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ASSISTANT UNITED STATES ATTORNEYS

Date: 9/17/07

By: 
HECTOR L. FLORES, ESQ
ATTORNEY FOR DEFENDANT

Date: 9/17/07

By: 
LOUIS S. ROBLES
DEFENDANT