

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

UNITED STATES OF AMERICA

v.

Case No. 8:19-cr-00605-WFJ-CPT

MICHAEL J. DACORTA _____/

**MOTION IN LIMINE TO EXCLUDE EVIDENCE AND TESTIMONY OF
JOSEPH ANILE PROTECTED BY ATTORNEY-CLIENT PRIVILEGE**

COMES NOW Defendant, Michael J. DaCorta, by and through undersigned counsel, and moves this Court pursuant to Federal Rule of Evidence 501 to preclude evidence and any testimony of Joseph Anile that is protected by attorney-client privilege. As grounds for support, Mr. DaCorta states the following.

I. Relevant Factual Background

The Government has indicted Mr. Michael DaCorta for Conspiracy to Commit Wire and Mail Fraud, Illegal Monetary Transaction, and False and Fraudulent Statement on Income Tax Return (Doc. 39). According to the Indictment and provided discovery documents, these allegations are based on facts and events occurring from 2011 until 2019.

Mr. Michael DaCorta is a businessman. He began his career as a day trader and quickly developed a niche in the foreign exchange market. As a result of his business acumen, he opened several businesses over the course of his professional life. It was when he was opening a beverage company named “Imperial State

Brewing,” that John Caliendo introduced him to attorney Joseph Anile. Mr. Anile was reputed to be a very experienced corporate attorney whose business dealings involved high level financial corporations like Lehman Brothers. Although Mr. DaCorta did not officially retain Mr. Anile at that time, he consulted Mr. Anile for his legal opinion on paperwork for Imperial State Brewing. Following their conversations about Imperial State Brewing, Mr. Anile and Mr. DaCorta remained in touch.

In 2001, Mr. DaCorta contacted Mr. Anile again. Mr. DaCorta asked Mr. Anile to assist and advise about transitioning from an equities trader to a currency trader. Mr. DaCorta then hired Mr. Anile to form his currency trading firm, International Currency Traders, Ltd. (ICT) and The DaCorta Group, Inc. Mr. DaCorta paid Mr. Anile \$5,000 in exchange for his legal advice, consultation, and formation of the companies. Evidence of their attorney-client relationship is documented through a variety of invoices, memorandums from meetings, and articles of incorporation and drafting of bylaws. (*See* Composite Exhibit A)¹. The relationship began at least in January 2001 and continued until at least 2006 regarding ICT. (*See* Exhibit B, Florida Department of State, Division of Corporations, International Currency Traders, Ltd., Inc. foreign corporation filing dated March 21, 2006).

¹ Exhibit A is being filed *ex parte* and under seal as the exhibit contains privileged information.

After the 2008 financial market crisis, Mr. DaCorta again consulted with Mr. Anile. Mr. DaCorta advised Mr. Anile that ICT would need to close, and Mr. DaCorta would have to file bankruptcy. Mr. Anile noted that he had also suffered as a result of the crisis as much of his business dealings originated through Lehman Brothers. Though Mr. Anile did not actually file the bankruptcy documents, the two continued to stay in contact about the financial crisis and the effects of this crisis.

Documentation demonstrates, though, that even though Mr. DaCorta did not retain Mr. Anile to file the bankruptcy documents, Mr. DaCorta did consult with Mr. Anile about it. This occurred in at least 2010. Specifically, there was a civil case associated with the larger bankruptcy, *Giudice v. DaCorta, et al*, 1:10-cv-03028-VM, Southern District of New York (Foley Square), and Mr. DaCorta retained Mr. Anile to assist with this case. (See Exhibit C, Retainer Agreement). This demonstrates that there was an attorney-client relationship between Mr. DaCorta and Mr. Anile regarding the bankruptcy and ICT.

In 2010, Mr. DaCorta met Ray Montie and joined Ambit Energy, a company that Mr. Montie worked at as a top-level marketer. As their professional relationship developed, Mr. Montie expressed his interest in the financial currency markets. As a result, Mr. DaCorta and Mr. Montie began Oasis Management LLC as a small investment “club.” Each investor was a limited “partner” in the club. Once Oasis Management LLC was created, Mr. DaCorta contacted Mr. Anile about the entity.

Mr. DaCorta sought Mr. Anile’s advice about transitioning Oasis Management LLC from an investment “club” into a new business entity. In the MOI from his proffer, Mr. Anile estimates this to be around late 2012. (*See* Exhibit D, Anile Memorandum of Interview, p. 2, ¶ 6). Mr. Anile and Mr. DaCorta met in person to discuss the legal issues. During that conversation, Mr. Anile agreed to join as a partner and be lead counsel for the business—focusing on legal, compliance, and administrative functions. Mr. Anile agreed to a sum of \$10,000 for legal work. (*See* Exhibit D, Anile Memorandum of Interview, p. 2, ¶ 6). Some of his duties included devising the format and structure of Oasis, advising Oasis on acquisition of assets, (*See* Composition Exhibit E – memorandums regarding acquisitions located on Anile’s desktop)², and ensuring legal compliance. At all relevant time periods, Mr. Anile was a licensed and barred attorney in the State of New York. He was admitted to the New York State Bar in 1991. Mr. Anile states that he did not know about the fraud until 2017 or 2018. (*See* Exhibit D, Anile Memorandum of Interview)

II. The Attorney Client Privilege Applies to All Communications Between Mr. DaCorta and Mr. Anile

The Federal Rules of Evidence incorporate and protect common-law privileges. *See* Fed. R. Evid. 501. The attorney-client privilege is “the oldest of the privileges for confidential communications known to the common law,” and it

² Exhibit E is being filed *ex parte* and under seal as the exhibit contains privileged information.

“protects the disclosures that a client makes to his attorney, in confidence, for the purpose of securing legal advice or assistance.” *Cox v. Administrator U.S. Steel & Carnegie*, 17 F.3d 1386 (11th Cir. 1994), *modified on other grounds by* 30 F.3d 1347 (quoting *United States v. Zolin*, 491 U.S. 554, 562 (1989)). The purpose of the attorney-client privilege is to encourage “full and frank communication between clients and attorneys.” *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981).

The attorney-privilege does not cover all conversations between attorneys and clients. Instead, the privilege “attaches only to communications made in confidence to an attorney by that attorney’s client for the purposes of securing legal advice or assistance.” *In re Grand Jury Investigation*, 842 F.2 1223, 1224 (11th Cir. 1987). As the party invoking the attorney-client privilege, Mr. DaCorta must show (1) the existence of an attorney-client relationship and (2) that the communications were confidential and made to his attorney “in his professional capacity, for the purpose of securing legal advice or assistance.” *United States v. Schaltenbrand*, 930 F.3d 1554, 1562 (11th Cir. 1990) (internal quotation marks omitted). As to the second requirement, the “key question” is whether Mr. DaCorta “reasonably understood the conference to be confidential.” *Id.* (internal quotation marks and citation omitted). Mr. DaCorta can satisfy both requirements.

Mr. DaCorta asserts his privilege and seeks to exclude evidence and testimony of two categories of protected communications with Mr. Anile: (1) those while Mr.

Anile represented Mr. DaCorta in past business ventures (including, but not limited to, Beverage World and ICT), and (2) those while Mr. Anile represented Oasis and its affiliates.

A. Mr. Anile and Mr. DaCorta had an attorney-client relationship prior to Oasis and Mr. DaCorta asserts the attorney client privilege to protect these communications.

As explained *infra*, Mr. Anile was Mr. DaCorta's lawyer for various business ventures from at least 2001 until 2012. During the existence of the attorney-client relationship, Mr. DaCorta engaged in confidential communications with Mr. Anile for purposes of securing legal advice or assistance, and Mr. DaCorta reasonably believed those communications to be confidential. *See Schaltenbrand*, 930 F.3d at 1562. Accordingly, this Court should exclude any evidence, including testimony of Mr. Anile, that reveals those privileged conversations. Mr. DaCorta holds this privilege and asserts the privilege for all communications between himself and Mr. Anile pre-Oasis.

B. Mr. DaCorta asserts the privilege as it pertains to any communications between Oasis and Mr. Anile, its corporate counsel.

Conversations between corporate counsel and a company's officers or employees are privileged, *see Upjohn*, 449 U.S. at 391–95, and that privilege generally belongs to the company itself, *see In re Grand Jury Subpoenas*, 144 F.3d 653, 658 (10th Cir. 1998); *see also Commodity Futures Trading Comm'n v.*

Weintraub, 471 U.S. 343, 348–49 (1985). The *Weintraub* case is the seminal case on this issue.

In *Weintraub*, the United States Supreme Court ruled that the trustee of a corporation in bankruptcy (“Trustee”) had the power to waive the corporation’s attorney-client privilege for communications prior to the filing of the bankruptcy petition. In so holding, the Supreme Court started from the general principle that the attorney-client privilege as it pertains to a corporation is unique because an entity itself cannot waive or assert a privilege. The privilege must be held by individuals empowered to act on behalf of the corporation. *Id.* at 348. When new managers take over, the privilege (and the ability to waive it) is passed to those new managers. *Id.* at 349.

The key issue in *Weintraub*, then, was whether the privilege was held by the Trustee or the debtor’s directors. Because the Bankruptcy Code gave no direct guidance on the issue, the Supreme Court had to determine who most resembled the management of the company. *Id.* at 351. The Supreme Court determined that the Trustee had broad management powers and the directors retained virtually no management powers. *Id.* at 353. In light of that conclusion, the Supreme Court held that the Trustee controlled the privilege unless permitting it to do so would interfere with the policies underlying the Bankruptcy Code. *Id.* Because the Supreme Court identified no conflicting policies, it determined that the Trustee held the privilege

and had the power to waive the privilege as to pre-bankruptcy communications. *Id.* at 353–58.

Whether Mr. DaCorta or Oasis’s court-appointed receiver³ can assert the attorney-client privilege must be determined under the rubric of *Weintraub*. First, the Court must decide if the receiver is the individual who most closely resembles management of Oasis at this point. Resoundingly, no. The receiver, unlike the Trustee in *Weintraub*, has an interest that runs parallel to the interest of the Department of Justice and the United States Attorney’s Office. In the receivership case, the United States Attorney’s Office has requested status as an intervenor and has filed a motion to stay the proceedings and periodically has filed status updates with the Court. The receiver and the Government (DOJ and US Attorney’s office) are in lockstep. The US Attorney’s office is working on the criminal indictment and the receiver is working on the receivership case, but, nonetheless, their goals are the same—to recover assets for what they deem “victims.” For example, during the suppression hearing the receiver testified that a criminal conviction in Mr. DaCorta’s case would benefit the receivership case. While the receiver here exhibits certain

³ The receivership originated from a Commodity Futures Trading Commission (“CFTC”) complaint. Pursuant to that complaint, a receiver was appointed and case 8:19-cv-886-VM-SPF was docketed in the Middle District of Florida. The CFTC is a regulatory body. The Commission consists of “five commissioners appointed by the President, with the advice and consent of the Senate” It must submit its budget requests to Congress for approval. See CFTC at <https://cftc.gov>.

managerial aspects, in total, his behavior is more akin to a government agency than a manager of a profit-driven company.

Instead, Mr. DaCorta is the person most closely resembling management. Oasis, though no longer trading, continues to be run by a board of directors. That board of directors consisted of Mr. DaCorta, Mr. Anile, and Mr. Montie, and none of those individuals have given up their positions on the Board. Thus, Mr. DaCorta as Oasis's director retains the power to exercise or waive Oasis's privilege.⁴ At the very least, because the receiver is not the individual who most closely resembles the management of Oasis, the receiver does not have the power to waive attorney-client privilege over Mr. DaCorta's objection.⁵

Second, even if the receiver is the one who most closely resembles management of Oasis, letting the receiver control the privilege here is inappropriate if it would interfere with any important policies. As we assert above, the receiver is working with the Government. Permitting the receiver here in a federal criminal case to hold the privilege and make a determination (unlike the Trustee in *Weintraub*, who exercised the attorney-client privilege in connection with a civil case) is like

⁴ If this Court disagrees and does not deem it appropriate for Mr. DaCorta to hold the privilege, the power to exercise the privilege should extend to Mr. Montie, who has not been federally indicted, rather than the receiver.

⁵ Significantly, nothing demonstrates that the receiver has even attempted to waive the attorney client privilege.

letting the fox guard the henhouse. Thus, permitting the receiver to exercise the privilege would *not* benefit the corporation of Oasis. To the contrary, it would only assist the Government further with both the criminal case and the receivership. There are individuals – namely, Mr. DaCorta and the board of directors – who are in a better position to make the assessment of whether it is in the best interest of Oasis to waive the privilege.

In sum, under the reasoning of *Weintraub*, the receiver is not the appropriate person to waive the attorney-client privilege on behalf of Oasis. Since Mr. DaCorta remains the director and individual most involved in the company's management, he controls Oasis's attorney-client privilege and asserts it as to all privileged conversations between Mr. Anile and the company's officers, directors, and employees. *See Upjohn*, 449 U.S. at 391–95.

C. The Government bears the burden of proving an exception to the attorney-client privilege, such as the crime-fraud exception, applies.

Mr. DaCorta anticipates that the Government may assert that an exception to the attorney-client privilege applies to some of the otherwise-protected communications. In particular, the Government may argue that the communications were made in furtherance of a crime, such that the privilege does not apply. *See In re Grand Jury Subpoena*, No. 21-11596, --- F.4th ---, 2021 WL 2628069, at *4 (11th

Cir. June 25, 2021). The Government bears the burden of showing that the exception applies. Specifically, the Government must show two things:

First, there must be a prima facie showing that the client was engaged in criminal or fraudulent conduct when he sought the advice of counsel, that he was planning such conduct when he sought the advice of counsel, or that he committed a crime or fraud subsequent to receiving the benefit of counsel/s advice. Second, there **must** be a showing that the attorney's assistance was obtained **in furtherance of** the criminal or fraudulent activity or was closely related to it.

Id. (quoting *In re Grand Jury Investigation (Schroeder)*, 842 F.2d 1223, 1226 (11th Cir. 1987)) (emphasis added).

As to the first requirement, the Government must make a “showing of evidence that, if believed by a trier of fact, would establish the elements of some violation that was ongoing or about to be committed.” *Id.* (internal quotation marks omitted). As to the second requirement, the Government must show “that the attorney’s assistance was obtained in furtherance of the criminal or fraudulent activity or was closely related to it.” *Id.* at *7 (internal quotation marks omitted).

The Eleventh Circuit has not clarified whether the second requirement is satisfied by a mere showing that the communication was “related” to the crime, or whether the government must show the communications were made “in furtherance” of the crime. *See id.* at *7–*8. Several other circuits, however, have “disclaimed any focus on ‘relatedness’ and instead focused exclusively on whether the

communications at issue were made ‘in furtherance’ of the crime or fraud.” *Id.* at *8 (citing *In re Grand Jury Invest.*, 810 F.3d 1110, 1113 (9th Cir. 2016); *In re Grand Jury Subpoena*, 745 F.3d 681, 693 (3d Cir. 2014); *United States v. White*, 887 F.2d 267, 271 (D.C. Cir. 1989); *In re Antitrust Grand Jury*, 805 F.2d 155, 168 (6th Cir. 1986)).

Mr. DaCorta submits that the other circuits got it right: the crime-fraud exception applies only when the communications were made “in furtherance” of the crime. But, no matter what test this Court adopts, it should hold the Government to its burden to establish that the exception applies. This is why, in part, an evidentiary hearing on this issue is necessary. A mere assertion by the Government that the exception applies should not be sufficient to deny this Motion.

The Government will not be able to meet its burden. Based on Mr. Anile’s long-standing representation of Mr. DaCorta over a period of nearly twenty years, their confidential communications covered topics entirely unrelated to the alleged wire and tax fraud, and certainly not in furtherance of those crimes. *See infra* at 2–4 (discussing Mr. Anile’s professional relationship with Mr. DaCorta). Indeed, Mr. Anile has stated he did not become aware of the alleged fraud until 2017 at the earliest, which supports the argument that Mr. DaCorta was not using that advice in furtherance of a crime. Moreover, even post-2017, there is no evidence that any

advice Mr. Anile gave was related to or utilized in furtherance of the alleged fraud. These communications, then, should be excluded.

CONCLUSION

Mr. DaCorta requests this Court exclude any evidence, including testimony of Mr. Anile, that is protected by attorney-client privilege.

Dated this 30th day of August 2021.

Respectfully submitted,

Alec Fitzgerald Hall, Esq.
FEDERAL DEFENDER

/s/ Jessica Casciola
Jessica Casciola, Esq.
Assistant Federal Public Defender
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201 South Orange Avenue, Suite 300
400 North Tampa Street, Ste 2700
Tampa, FL 33602
Telephone: 813-228-2715
Fax: 813-228-2562
Email: Jessica_Casciola@fd.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 30th day of August 2021, the foregoing was filed with the Clerk of Court using the Cm/ECF system, which will send a notice of the electronic filing to the following:

Rachelle Bedke, AUSA
David WA Chee, AUSA
Francis D Murray, AUSA
Suzanne C Nebesky, AUSA

/s/ Jessica Casciola
Jessica Casciola, Esq.
Assistant Federal Public Defender

EXHIBIT B

F06000001807

UCC FILING SERVICES Fax: (850) 681-6011 Mar 21 2006 4:49 PM Page 1 of 1
Division of Corporations

Florida Department of State
Division of Corporations
Public Access System

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Fax Number : (850) 681-6011

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SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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International Currency Traders, Ltd., Inc.

Certificate of Status	0
Certified Copy	1
Page Count	045
Estimated Charge	\$78.75

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PAGE 001/001 Florida Dept of State



March 21, 2006

FLORIDA DEPARTMENT OF STATE
Division of Corporations
UCC FILING & SEARCH SERVICES, INC.

SUBJECT: I C T, INC.
REF: W06000013549

We received your electronically transmitted document. However, the document has not been filed. Please make the following corrections and refax the complete document, including the electronic filing cover sheet.

A business entity may not serve as its own registered agent. Please designate an individual or another business entity with an active registration or filing with this office, having a Florida street address identical with that of the registered office.

If you have any further questions concerning your document, please call (850) 245-6973.

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Letter Number: 706A00019193

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P.03

APPLICATION BY FOREIGN CORPORATION FOR AUTHORIZATION TO TRANSACT BUSINESS IN FLORIDA

IN COMPLIANCE WITH SECTION 607.1503, FLORIDA STATUTES, THE FOLLOWING IS SUBMITTED TO REGISTER A FOREIGN CORPORATION TO TRANSACT BUSINESS IN THE STATE OF FLORIDA.

1. International Currency Traders, Ltd.

(Enter name of corporation; must include "INCORPORATED," "COMPANY," "CORPORATION," "Inc.," "Co.," "Corp.," "Inc.," "Co.," or "Corp.")

ICT, INC.

(If name unavailable in Florida, enter alternate corporate name adopted for the purpose of transacting business in Florida)

2. New York

(State or country under the law of which it is incorporated)

3. 56-1948225

(FEI number, if applicable)

4. March 6, 2002

(Date of incorporation)

5. Perpetual

(Duration: Year corp. will cease to exist or "perpetual")

6.

(Date first transacted business in Florida, if prior to registration) (SEE SECTIONS 607.1501 & 607.1502, F.S., to determine penalty liability)

7. 1 Summit Court, Ste. 102, Fishkill NY 12524

(Principal office address)

1 Summit Court, Ste. 102, Fishkill NY 12524

(Current mailing address)

8. Currency sales and trading activities

(Purpose(s) of corporation authorized in home state or country to be carried out in state of Florida)

9. Name and street address of Florida registered agent: (P.O. Box NOT acceptable)

Name: Joseph S. Anile, II

Office Address: 8875 Hidden River Parkway, Ste. 300

Tampa, Florida 33637

(City)

(Zip code)

10. Registered agent's acceptance:

Having been named as registered agent and to accept service of process for the above stated corporation at the place designated in this application, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

[Handwritten signature]

(Registered agent's signature)

11. Attached is a certificate of existence duly authenticated, not more than 90 days prior to delivery of this application to the Department of State, by the Secretary of State or other official having custody of corporate records in the jurisdiction under the law of which it is incorporated.

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

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P.04

12. Names and business addresses of officers and/or directors:

A. DIRECTORS

Chairman: Michael J. DaCorta
Address: 1 Summit Court, Ste. 102
Fishkill NY 12524

Vice Chairman:
Address:

Director: Joseph T. Salamone
Address: 1 Summit Court, Ste. 102
Fishkill NY 12524

Director:
Address:

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SECRETARY OF STATE
PALM BEACH, FLORIDA

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B. OFFICERS

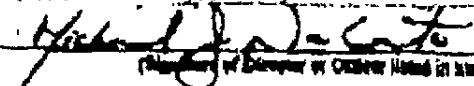
President: Michael J. DaCorta
Address: 1 Summit Court, Ste. 102
Fishkill NY 12524

Vice President:
Address:

Secretary: Joseph T. Salamone
Address: 1 Summit Court, Ste. 102
Fishkill NY 12524

Treasurer:
Address:

NOTE: If necessary, you may attach an addendum to the application listing additional officers and/or directors.

13. 
(Name of Director or Officer listed in number 12 of the application) application)

14 Michael J. DaCorta - President
(Typed or printed name and capacity of person signing application)

UCC SERVICES

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P.05

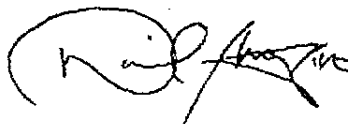
**State of New York
Department of State } ss:**

I hereby certify, that the Certificate of Incorporation of INTERNATIONAL CURRENCY TRADERS, LTD. was filed on 03/06/2002, with perpetual duration, and that a diligent examination has been made of the Corporate index for documents filed with this Department for a certificate, order, or record of a dissolution, and upon such examination, no such certificate, order or record has been found, and that so far as indicated by the records of this Department, such corporation is an existing corporation. I further certify the following:

A Biennial Statement was filed 03/30/2004.

I further certify, that no other documents have been filed by such Corporation.

*WITNESS my hand and the official seal
of the Department of State at the City of
Albany, this 10th day of March two
thousand and six.*



Special Deputy Secretary of State

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TALLAHASSEE, FLORIDA

EXHIBIT C

ATTORNEY-CLIENT FEE CONTRACT (LITIGATION)

This agreement is made between The Marrone Law Group, P.C., a attorneys and counselors at law who practices at 66-85 73rd Place Middle Village, New York 11379 within the county of Queens, Joseph Anile, Esquire referred to in this agreement as "attorney," and Michael Dacorta and International Currency Traders, LTD. with offices located at 5 Pat Drive Poughkeepsie, New York 12603, County of Queens, referred to in this agreement as "client," in order to set out the terms and conditions under which attorney will represent client.

SECTION I

EFFECTIVE DATE

This agreement shall take effect upon its execution by both parties and the payment of an initial deposit as set forth in Section IV of this Agreement.

SECTION II

SCOPE OF SERVICES

Attorney agrees to represent client in connection with client's case:

Anthony Giudice v. Michael Dacorta and International Currency Traders, LTD a pending law suite CV number 10CV3028 currently pending within the Southern District of New York, Federal District Court and any court appearances, motions, trial, arbitration and/or mediation. This office does not do appeals.

Attorney will represent client and provide such reasonable legal services as are necessary in pretrial, trial, and post trial proceedings up to the rendition of judgment. After rendition of judgment, attorney will not represent client whether on appeal or in other post judgment proceedings unless another agreement is entered into between attorney and client. This law firm does not handle appeals.

SECTION III

ATTORNEY'S FEES

Client agrees to pay attorney's fees in accordance with the following Rate Schedule:

a. Hourly rates for legal personnel

Attorney	\$ 275.00 per hour
Associates	\$ 200.00 per hour
Paralegals	\$ 100.00 per hour

The rates set out in this Rate Schedule are subject to change on thirty (30) days' written notice by attorney to client.

Client agrees to pay by the hour at attorney's prevailing rates as set forth in the Rate Schedule for time spent on client's matter by attorney's legal personnel. Attorney will charge client for the time attorney spends on telephone calls relating to client's case, including calls with client, opposing counsel, court personnel, or witnesses. If more than one person assigned to client's case attends a meeting, court hearing or other proceeding, each of them will charge for the time spent. Attorney will charge for waiting time in court and in such other place as necessary. Attorney will also charge for travel time at the rate of \$300.00 per hour, whether in town or out of town.

SECTION IV

RETAINER FEE/DEPOSIT

Client agrees to pay attorney an initial deposit of \$ 5,000.00 not later than May 7, 2010. Of the initial deposit, \$ 5,000.00 will be attorney's retainer fee paid in exchange for attorney's agreement to represent client. Attorney's hourly charges will be credited against it. Client authorizes attorney to use such deposits to pay the fees, costs, and other expenses incurred in connection with the subject of this agreement.

Whenever client's deposits are exhausted, attorney is entitled to require further deposits, up to a maximum of \$ 5,000.00 for each request. When a trial or arbitration date is set, attorney will be entitled to require client to pay all sums then owing to attorney and to deposit the attorneys' fees that attorney estimates will be incurred in preparing for and completing the trial or arbitration, as well as the jury fees, arbitration fees, and such other fees as are likely to be incurred.

Client agrees to pay all deposits after the initial deposit within ten (10) days of attorney's request. Any unused deposit at the conclusion of attorney's services will be refunded, except the retainer fee.

Attorney will send client periodic statements of fees, costs, and expenses incurred.

SECTION V

COSTS AND EXPENSES

a. In addition to the hourly fees set forth in Section III of this Agreement, client agrees to pay all costs and expenses incurred in connection with client's case including, but not limited to, costs fixed by law or assessed by courts and other agencies, court reporters' fees, process server's fees, long distance telephone calls, messenger fees, delivery fees, postage, parking, highway and bridge tolls, photocopying and other reproduction costs, fax transmission costs, clerical staff overtime, word processing

charges, charges for computer time, and other similar items. All costs and expenses will be charged at attorney's cost, except for the items listed on the Rate Schedule.

b. Client agrees to pay for transportation, meals, lodging and all other costs of any necessary out-of-town travel by attorney's personnel. Client also agrees to pay for the time attorney and legal personnel spend traveling, based on the travel rate set forth in Section III.

c. In the event it becomes necessary to hire expert witnesses, consultants, or investigators, attorney will not hire such persons unless client agrees to pay their fees and charges and deposits with attorney an amount sufficient to pay such fees and charges.

SECTION VI

ATTORNEY'S LIEN

Client grants attorney a lien on all claims in which attorney represents client under this agreement. The lien shall cover any sums due and owing to attorney at the termination of attorney's services and will attach to any money or property recovered by client. Attorney shall also have a lien on client's records, money, or property in attorney's possession for any sums due and owing to attorney at the termination of attorney's services.

SECTION VII

CLIENT'S DUTIES

Client agrees to tell attorney the truth, to cooperate with attorney, to keep attorney informed of any developments that are relevant to the case, to faithfully comply with this agreement, to pay attorney's fees on time, and to keep attorney advised of client's address and telephone number and any changes of such address or telephone number.

SECTION VIII

TERMINATION AND WITHDRAWAL

Client may terminate this agreement at any time. Attorney may withdraw from the case with client's consent or without client's consent for good cause, such as failure to comply with client's duties as provided for in Section VII, refusal to pay any increased rates for hourly rates, costs, and expenses, failure to follow attorney's advice on any matter material to client's case, or if circumstances arise that would render attorney's continuing representation unlawful or unethical.

Upon the termination of attorney's services, whether or not it is terminated by client or by attorney, all unpaid charges shall immediately become due and payable to attorney.

Attorney will likewise deliver to client all records of the case and all property of client in attorney's possession, except those subject to any lien.

SECTION IX

DISCLAIMER OF GUARANTEE

Attorney will use attorney's best efforts in representing client, but makes no promises or guarantees regarding the outcome of client's case. Attorney's comments regarding the outcome of the case are mere expressions of opinion. Neither does attorney guarantee any time frame within which client's case will be resolved.

Dated: May 6, 2010

The Marrone Law Group, P.C.
66-85 73rd Place
Middle Village, New York 11379

By: _____
Gerard M. Marrone, Esquire

Client represents that client has carefully read and fully understood every word in this agreement and agrees to its terms and conditions, and agrees to faithfully comply with them.

Michael Dacorta

International Currency Traders, LTD.

x _____

EXHIBIT D



DEPARTMENT OF THE TREASURY
Internal Revenue Service
Criminal Investigation

Memorandum of Interview

Investigation #: 1000294834 **Location:** USAO Tampa
Investigation Name: Joseph Anile II
Date: May 2, 2019
Time: 10:00 a.m.
Participant(s): Joseph Anile II, Subject
Gerard Marrone, Attorney for Anile
Joseph Stone, FBI Special Agent
Rachelle Bedke, AUSA
Gabriel Acosta, OFR Investigator
Shawn Batsch, Special Agent

On the above date and time, a proffer was conducted with Joseph Anile II (Anile). The meeting began with AUSA Bedke discussing the definition of a proffer. Anile signed the letter along with his attorney, Gerard Marrone. Anile provided the following information:

1. Anile started the proffer by saying he was an attorney and met Michael DaCorta (DaCorta) in the mid 90s to early 2000s. He knew DaCorta formerly worked on Wall Street. When Anile met DaCorta, DaCorta wanted to raise funds for a beverage company (name of company unknown). Anile prepared some paperwork for the beverage company and he didn't hear back from DaCorta for several years.
2. Anile crossed paths with DaCorta again in the mid 2000s when DaCorta asked Anile to set up a corporate book for another company (name unknown). At this time, Anile was working for Tom Russo who was his (Anile's) boss at the time. The law firm they were working for had financial issues and Russo left to work for Lehman Brothers.
3. Anile then left this law firm around the same time Russo left and began working for himself. Because of his relationship with Russo, Anile began to obtain clients that worked for Lehman Brothers. Anile's main client ended up being Lehman Brothers for several years. The work he was doing for Lehman Brothers clients was security lending. Anile hired some junior attorneys and a paralegal.
4. In the early 2000s, Anile sold his home to put the money into his business. He ended up renting a home for a while. In 2007 or 2008, the bottom fell out of the

financial industry and he lost his clients at Lehman Brothers.

5. In 2009, Anile tried to start up another law firm but couldn't get it off the ground. Anile tried to work with Gerard Marrone but it didn't work out. Anile had an office in Uniondale, NY. In 2010, Anile's friend offered him a job as counsel at Harris Beach. At this time, Russo was the head of AIG and Anile met with Russo to obtain some clients for Harris Beach. Anile worked at Harris Beach until 2012 when he moved down to Florida to take care of his sick mother. Anile's brother had been caring for their mother prior to Anile moving to Florida. His mother died on October 8, 2012. During this time period, Anile also lost his home to Hurricane Sandy.
6. Shortly after Anile's mother died and he lost his home, DaCorta reached out to him and said he (DaCorta) founded a new company called Oasis Management. DaCorta explained that he (DaCorta) trades foreign currency for friends and family and is doing very well. DaCorta asked Anile to set up a hedge fund. DaCorta offered to pay Anile \$10,000 for legal work, which Anile accepted. Anile found a "shelf" hedge fund called Sierra Partners but they never used this company. DaCorta said he had a clearing firm that had an algorithm that hedged trades to always make money.
7. Anile interviewed counsel in New York to assist with obtaining a Broker Dealer company out of New Zealand. Anile used this same law firm to assist with setting up a parent company in the Cayman Islands, Oasis International Group (OIG). Oasis Management was loaning money to OIG. DaCorta said he was raising funds to open a trading platform to focus on trading specific currencies with a focus in Asia. Anile filed a Regulation D offering to raise funds for the trading platform.
8. DaCorta then hired his friends from New York and San Francisco to help with the new company. Lloyd "Butch" Lyle was hired to work on the back office for Oasis. Lyle is now living in North Carolina. Anile does not recall the individual's name from San Francisco. At some point, DaCorta, Lyle and the other individual were all angry with one another and DaCorta said he wanted to fire them. Anile explained to DaCorta, that he (DaCorta) should just buy out their stock and walk away.
9. DaCorta then hired Anile's brother, Frankie Anile, to set up the back office. Frankie Anile called Anile one day and said he found out that DaCorta reconstituted an account. Anile then asked DaCorta about the reconstituted account. DaCorta admitted he did this and said he would never do it again. Anile said he (Anile) "closed an eye to it."
10. Frankie Anile later became sick and DaCorta hired Joe Paniagua to take over the back office. Paniagua and Frankie Anile worked together on the back office before Frankie Anile became sick and passed away. Frankie Anile passed away in February 2016 and Paniagua took over the back office. Paniagua was an engineer from Long Island. DaCorta was working with Paniagua directly.

Paniagua was preparing the investor statements, himself.

11. Sometime in 2017, Dave Manoukian, who was the head of the clearing house (ATC Brokers), notified DaCorta that New Zealand changed regulations for Broker Dealers. The new regulation made it mandatory for the President of the company to reside in New Zealand. So, DaCorta and Anile let the New Zealand license expire.
12. DaCorta and Anile decided to get another Broker Dealer license in Belize. For some unknown reason, DaCorta didn't want his name on the license. So Anile used his name on the company and the license. Anile was the only officer in this Belize company. Anile then asked DaCorta to become a partner in OIG and Anile agreed.
13. Sometime in 2017, Joe Paniagua called Anile and said the money in the investor accounts didn't make sense. Anile questioned DaCorta about this and DaCorta responded that OIG was down \$4 million in FOREX trading.
14. Around September 1, 2017, Anile moved down to Lakewood Ranch and moved into a rental house that DaCorta was renting prior to purchasing 13318 Lost Key Place. Anile then opened a P.O. Box in Lakewood Ranch, which he still currently uses.
15. After Anile learned DaCorta was down \$4 million, DaCorta wanted to change the investment platform for Oasis to a lender based platform. Meaning, the investor funds would be considered loans to the company. Anile assisted DaCorta with the promissory notes. Anile suggested to DaCorta that the loans needed to be short term loans versus long term loans so the notes would not be considered a securities offering. DaCorta told Anile he wanted to convert to this loan based system and use some of the funds to trade FOREX and use the rest to purchase assets to be used as collateral for the trading platform. The assets could then be used to pay all the investors back if anything happened. So, they converted the clients to promissory notes.
16. In 2018, they had set up a system in which Joe Paniagua was receiving requests for withdrawals from the Oasis clients. Paniagua would then tell Anile about the requests and Anile would initiate the withdrawals.
17. In October 2018, Dave Manoukian from ATC Brokers told DaCorta that the CFTC wanted to look at the Oasis trading account. Sometime in November, DaCorta told Anile about the CFTC inquiry and said there was a shortfall of about \$7 million to \$15 million. Anile said DaCorta did not have a list of all the Oasis investors and what was owed to them. They hired John Caliendo (CPA) to help figure it out. Caliendo said there were approximately 900 investors.
18. Anile knew Ray Montie as a salesman for Ambit Energy. Anile's brother signed up with Ambit. DaCorta wanted Montie to be a partner in the company. Anile said he met Montie a dozen times and knew Montie was recruiting people for

Oasis. Anile was also aware Montie invested/loaned money to Oasis along with his Ambit co-workers and family members.

19. On April 17, 2019, Anile was scheduled to meet Montie and DaCorta to discuss the other current business ventures pursued by Anile. Anile rarely went to the Oasis office on Gulf of Mexico Drive, but went to the office that day for a short period of time. When he was there, he saw Vinny Raia, Deb Cheslow, Gil Wilson, Joe Paniagua, Ray Montie and DaCorta. Anile and Montie went into DaCorta's office to talk about the following business ventures:
- a. A cannabis business out of California
 - b. A company called Mirror Innovations which was a digital imprint company. Anile said he reached an agreement with this company recently. Anile was going to use his cousin to introduce vendors. No capital was put into this company, but Oasis had to guarantee \$100,000 of sales within the first two years. Anile opened a new entity for this business venture
 - c. A portable generator company that invented a generator with solar panels. DaCorta's friend, Michael Chalhub, worked on evaluating this business to determine if Oasis should invest.
 - d. A window screen company that patented impact resistant screens.

20. When asked what Anile did all day long while being employed with Oasis, Anile said he only worked from 10:00 a.m. to 1:00 p.m. Anile mostly paid bills, checked emails, and did paperwork. He did not have an employment contract or compensation agreement with Oasis. Anile said he was paid \$10,000 a month which increased to \$17,000. The money he took out from Oasis was money he was borrowing from the company, but the company owed him money based on a \$2 million promissory note. Therefore, the money he borrowed from the company came out as a wash since he was owed about the same amount of money.

At this point in the interview, Anile was provided information that contradicted his statements about not knowing about this fraud until 2017 and 2018 as well as the money he was taking from Oasis for his own personal use. Gerard Marrone asked for a moment with his client and the investigators left the room. When the meeting reconvened, Anile changed his statements and providing the following information:

21. Anile started off by saying he knew prior to 2017 that Oasis was a fraud. He knew there were no revenues or earnings coming into the bank accounts. Anile was provided a list of the deposits to the Fundadministration/Mainstream Fund Services bank account each day. Anile was aware the money he was transferring to his Bowling Green Capital account was investor funds and not company earnings. Anile was using Bowling Green Capital as his personal account.
22. Anile knew Oasis was a scam and could not provide a reason as to why he kept

taking money from the company knowing there was a large shortfall.


23. Joe Paniagua showed Anile the back office. Anile knew that the information that was provided to the investors/lenders was false and misleading. Anile knew Oasis was losing money and the information provided to investors was showing Oasis was actually doing well in the FOREX market.
24. Anile admitted to being present during meetings with DaCorta and potential investors. Anile admitted he knew what DaCorta was telling the potential investors was "a lie" but he didn't say anything. Anile said he (Anile) never brought or referred anyone to invest with Oasis because he knew it was a scam. Anile has been on one or two conference calls with potential investors and knew what was being said on the calls was false. Anile even recalled DaCorta telling investors the company earned over 21% for the investors one year. Anile knew this was false. Anile said DaCorta would tell investors that only a portion of the investor funds was traded and the company was profitable. Anile knew this to be false.
25. The idea to issue promissory notes instead of investments was because of the large losses that Oasis was incurring.
26. Anile was asked by Doug Clark if Anile would invest in Oasis. Anile responded that he (Anile) would never lend money on an unsecured note.
27. Oasis paid for the holiday party for the last two years. The event expenses were approximately \$147,000 one year and was paid for from the Mainstream Fund Services account. Anile recalled DaCorta telling everyone at the party that everything was good and Oasis had a good year. Anile knew this to be false.
28. Joe Paniagua knew about the large ATC Brokers trading losses and would ask Anile if there were assets on the other side to cover the losses. Anile said he would tell Paniagua, yes. DaCorta was providing the Oasis earning figures to Paniagua to post to the investors' accounts. Anile said he did not see the ATC Broker account losses personally, but knew Oasis had losses. Joe Paniagua had access to the ATC Broker account and could see the actual trading results.
29. A software system was set up in which Joe Paniagua pulls down the earnings from ATC Brokers and formats the information and updates the investors' accounts.
30. Anile did not believe Ray Montie knew of the fraud. Montie was DaCorta's sales machine and brought in a lot of people for Oasis. Montie had multiple accounts with his own investments with Oasis. Montie's family also invested with Oasis.
31. John Haas was "on boarding" lenders through his company called Satellite Holdings. Haas was proving his clients with a 10% return on investment,

annually, while lending the same money to Oasis for a 12% return, annually. Therefore, Haas was making 2% on the investment money he brought into Oasis. Anile didn't believe Haas knew Oasis was a fraud.

32. Anile didn't know much about Frank Duran. DaCorta told Anile that he (DaCorta) met Duran at the gym. Duran brought several large clients to Oasis.
33. Gil Wilson was brought on to deal with the IRA money. Wilson was working for a large investment firm prior to working for Oasis. Wilson worked for Oasis Management and not for OIG.
34. DaCorta would tell Anile how much to pay each of the Oasis employees.
35. Stephen Dribusch was a trader and also had access to the ATC trading account. Dribusch should know there were large losses in the trading account.
36. DaCorta believes everything in the U.S. is fake and believes the dollar will collapse and the U.S. economy will fail. This was one reason DaCorta said he was buying silver. DaCorta believed if the U.S. economy failed, he would be able to use the silver to continuing living and to feed his family. DaCorta mentioned leaving the US at some point and living in another country.
37. Anile provided further information about his conversation with DaCorta after DaCorta found out that the CFTC was looking into his trading accounts. Anile recalled telling DaCorta that if all of this went bad, they would need to hire attorneys to defend them. DaCorta asked how much money they would need for attorneys and Anile responded they would need about \$500,000. Shortly, after this conversation, DaCorta began sending gold and silver, along with currency, to Anile's house. Anile agreed this could have been DaCorta's getaway plan if law enforcement ever came.
38. John Caliendo is in the process of making a balance sheet for each entity and to figure out how much is owed to investors. Anile gave the Fundadministration/Mainstream Fund Services information to Caliendo to assist.
39. Anile was asked about his bio on the Oasis website. Anile said he was an economist for the Attorney General's Office in NY for a large case they were working there. He also worked with the CFTC in law school on the Hunt Brothers case. This was a case where the Hunt brothers tried to corner the silver market. Anile wasn't a licensed attorney at this time.
40. Anile was aware of DaCorta's previous investigation by the NFA. DaCorta gave Anile a copy of the letter. Anile admits to not telling any of the investors about DaCorta's previous problems with the NFA.
41. To this day, Anile is unaware of how much the shortfall is, but believes it's between \$7 million and \$15 million because that is what DaCorta told him.

42. Anile said DaCorta purchased the Desert Ridge Glen house for Frank Duran as well as some condos in Vardon Terrace. Anile did not set up the LLCs to purchase these properties, but did update the LLCs (annual filings) online. Vinny Raia bought one of the condos back from the Oasis and Oasis issued a mortgage to Raia.
43. DaCorta purchased the beach condo at 6300 Midnight Pass from John Scamardella. DaCorta didn't pay for the condo, but just credited Scamardella's Oasis account \$1 million. Anile admitted that DaCorta just stole this condo from Scamardella because the \$1 million in the Oasis account is false.
44. Anile said Oasis also bought a house for the company landscaper and issued a mortgage for the house.
45. Anile said he recorded phone calls with DaCorta, Joe Paniagua, and John Paniagua after law enforcement executed search warrants at his house. Anile still has the recorded calls.

I prepared this memorandum on May 7, 2019, after refreshing my memory from notes made during and immediately after the interview with Joe Anile II.


Shawn Batsch
Special Agent