



**NORTHERN NEVADA
REPEAT OFFENDER PROGRAM
RENO POLICE DEPARTMENT
FINANCIAL IMPACT REPORT
Defendant Ferrill Joseph Volpicelli
Washoe County District Court Dept. 10 – April 1, 2004**

OFFENSE: Defendant Volpicelli was indicted by Grand Jury for the following offenses:

Count I	Conspiracy to Commit Crimes Against Property (GM)
Count II	Burglary (F)
Count III	Burglary (F)
Count IV	Burglary (F)
Count V	Burglary (F)
Count VI	Burglary (F)
Count VII	Burglary (F)
Count VIII	Burglary (F)
Count IX	Burglary (F)
Count X	Unlawful Possession, Making, Forgery or Counterfeiting of Inventory Pricing Labels (F)

Defendant was convicted in a trial by jury on all 10 counts on November 14, 2003 and sentencing is set for April 1, 2004 in Washoe District Court Department 10.

FELONY CONVICTIONS:

1993 - Attempted Burglary
1996 - Tax Perjury (4 counts)
1998 - Burglary
 - Principle to Burglary
2003 - Indecent Exposure
2003 - Open & Gross Lewdness
2003 - Aid & Abet in the Commission of Attempting to Obtain Money by False Pretenses



Additionally, the defendant has 2 (two) prior misdemeanors and 1 (one) gross misdemeanor conviction.

RECOVERED PROPERTY:

Search warrants executed on the defendant's residence, safe deposit box and storage unit pursuant to this investigation recovered over \$11,000 of new, in the box, merchandise believed to be the fruits or instrumentalities of defendant Volpicelli's criminal activity. Some items still had fictitious Universal Product Code (UPC) labels attached.

The following is a list of items recovered from the defendant's storage unit that are new, in the box items. By monitoring telephone calls and mail at the Washoe County Sheriff's Office I've discovered numerous inconsistent statements made by Volpicelli to friends and relatives regarding the ownership of these items. Depending on who he is speaking to Volpicelli has stated that the items belonged to his co-defendant, Brett Bowman, and that he was storing the items for Bowman. In other conflicting statements Volpicelli has also stated that he had over \$10,000 worth of merchandise in the storage unit that he purchased for his children. It is not difficult to conclude, considering Volpicelli's past criminal activities and the results of this investigation, that most, if not all, of the below listed items were fraudulently obtained by the defendant through the application of his criminal scheme. All retailers identified in this case and mentioned in the Grand Jury indictment have noticed me that they wish to have their property returned.

ARGUE
TO RET.
TO STORES.
"KRISTIN"

1.	1 Quicken Business Lawyer 2001 Deluxe	Office Depot	\$29.88
2.	1 Brother P-Touch Electronic Labeling System	Office Depot	\$149.99
3.	1 Moen Extensa Faucet	Home Depot	\$199.00
4.	1 Deflect-O Bath N' Spa Exhaust Kit	Home Depot	\$175.00
5.	1 Kohler Rosario Low Flow Toilet	Home Depot	\$482.00
6.	1 Bulldog Security Remote Starter	Shopko	\$59.99
7.	1 Sonicare Plus Electric Toothbrush	Shopko	\$119.99
8.	1 Casio Cassiopeia Automatic PC	Shopko	\$79.99
9.	2 KDS Rad 5 - 15" LCD Monitors	Wal-Mart	\$377.00 ea.
10.	2 Hewlett-Packard Office Jet Printers	Wal-Mart	\$499.87 ea.
11.	3 Emerson TV/DVD Combos	Wal-Mart	\$299.94 ea.

12.	1 Simplicity Serge Pro Sewing Machine	Wal-Mart	\$263.00
13.	1 Compaq Computer	Wal-Mart	\$998.00
14.	1 Panasonic SC-DK10 DVD Stereo System	Wal-Mart	\$477.88
15.	1 Hoover Wind Tunnel Vacuum	Wal-Mart	\$288.00
16.	1 Kodak Ektagraphic III Slide Projector	Office Max	\$599.99
17.	1 Lego Steven Spielberg Movie Maker Set	Toys R' Us	\$60.00
18.	1 V-Tech Digital Telephone w/Answering System	Target	\$159.00
19.	2 V-Tech Digital Telephone Multi Handset Combo	Target	\$130.00 ea.
20.	2 Panasonic SC-HT70 DVD Dyna Movie	Target	\$449.67 ea.
21.	1 Memorex Travel View Mini-Van Console	Target	\$399.99
22.	1 100% Wool Handcrafted Rug	Lowe's	\$499.00
23.	1 Brother MFC-1970 Combo Fax-Scanner	Custom Office Supply	\$348.99
24.	2 Mabis Smart Read Plus Digital Blood Pressure	K-Mart	\$99.99 ea.
25.	1 Phantom Wildcat Vacuum	K-Mart	\$149.97
26.	1 Hoover Steam Vac	Shopko	\$299.99
27.	1 V-3 Racing Wheel	K-Mart	\$49.99
28.	1 Ozark Queen Size Air Bed	Wal-Mart	\$24.84
29.	2 Aero Minute Beds w/Fictitious Bar Codes	Wal-Mart	\$78.42ea.
30.	3 Willow Bay Comforters	Shopko	\$64.99ea.
31.	1 Krups Coffee Maker	Bed, Bath & Beyond	\$59.99

TOTAL = \$10,339.16

The following items were also recovered from the defendant's storage unit, however, retailer and pricing information was not immediately available at the time of this report:

One (1) G.E. Optima Amplified TV Antenna
One (1) Playstation Open Driving Force
Three (3) Kodak EZ200 Digital Cameras
One (1) Braun shaver
One (1) Norelco shaver
One (1) Panasonic Cordless Answering System
One (1) Texas Instruments Connectivity Value Kit
Two (2) Brother P-Touch cartridges
One (1) Texas Instruments calculator
One (1) Samsonite car charger
One (1) Multi Tool
One (1) Panasonic KP-150 Electric Pencil Sharpener
One (1) New in box Cigarette Lighter Jumpstarting System
One (1) New Sport Universal blue & green windbreaker size Large w/tags.

ESTIMATED RECOVERED TOTAL = IN EXCESS OF \$11,000

**DETECTIVE
MAN HOURS**

WORKED: **647 TOTAL MAN HOURS.** Determined by the following:

Total number of hours worked by Detective Thomas on this case, excluding surveillance time, prior to the defendant's arrest on October 17, 2001 = 54 hours.

Total number of hours worked by Detective Thomas on this case after the defendant's arrest on October 17, 2001 = 285 hours.

Total surveillance hours worked by R.O.P. detectives = 189 hours.

Total number of hours worked by all R.O.P. detectives on the date of the defendant's arrest = 119 hours.

TOTAL = 647 hours or 16.17 40 hour work weeks.

It should be noted that this a conservative figure due to the fact that I did not take into account any follow-up investigative work completed by me or other R.O.P. detectives after February 2002. Additionally, I have not included court appearances, to include the Grand Jury, or any pre-trial meetings with the District Attorney's Office.

PROJECTED ECONOMIC LOSS TO THE COMMUNITY:

Through interviews with his co-defendant detectives learned that defendant Volpicelli engaged in his fraudulent price changing scheme *at least* once a week making approximately 5-10 stops a day at various retail stores throughout the Reno/Sparks area for the purpose of purchasing merchandise at a greatly reduced price through the application of defendant Volpicelli's scheme. NOTE: Numbers used in this projection have been rounded to the nearest dollar.

Merchandise defendant Volpicelli purchased ranged in price from \$25 to \$1000. For this projection I determined an average price by taking 41 of the items recovered from the defendant's storage unit with confirmed price information and divided that into the total cost of those items which is roughly \$10,339. The resulting average purchase price is \$252.

Assuming defendant Volpicelli only applied his scheme once a week, five (5) times per day, one could reasonably conclude that he purchased \$1,260 worth of merchandise on any given day that he chose to set his scheme in motion. When that total is multiplied out over a twelve 12 month period defendant Volpicelli could conceivably attain over \$65,520 worth of merchandise per year.

It is not unreasonable to conclude that defendant Volpicelli actually committed these crimes on a far more frequent basis when he was not in the company of his co-defendant.

Through an affidavit provided to I.R.S. Revenue Agents in 1997 defendant Volpicelli outlined his criminal enterprise and, in so doing, estimated that using fraudulent Universal Product Codes he purchased merchandise at approximately 25% of actual cost.

Using this information, defendant Volpicelli could conceivably have purchased the above mentioned items for approximately \$16,380 resulting in a net savings to him of \$49,140 tax free income per year. Consider that this figure applies only if the defendant engaged in his scheme one (1) time per week, five (5) times per day for one (1) calendar year.

Taking the same numbers but assuming the defendant engaged in his scheme ten (10) times per day, one (1) time per week his yearly tax free income would be \$93,280.

SYNOPSIS:

On June 1, 2001 Defendant Volpicelli was released from the Nevada Department of Corrections and paroled to the Reno area stemming from a burglary conviction in 1998 wherein he committed similar, and in some instances, the same crimes alleged in this case for which he was ultimately convicted.

Based upon the evidence obtained in this case after the defendant's arrest on October 17, 2001 it is clear the defendant immediately engaged in the same criminal activity he was convicted of in his 1998 case and continued to do so right up until the time he was arrested. Additionally, defendant Volpicelli has previously sworn, through the above mentioned affidavit, that he has engaged in this type of criminal activity since the mid 1980's wherein he states in part, "This scheme was the way I generated the majority of the income to support my wife and family to a very nice lifestyle from the beginning of 1987 until I became aware of the IRS criminal investigation in 1995."

I've spoken to Internal Revenue Service Agent Robert Graham reference the defendant's criminal activities back in the late 1980's to mid 1990's and he advised me that his investigation showed that defendant Volpicelli earned approximately \$800,000 over a three (3) year period while applying the same scheme he used in this case.

R.O.P. detectives also learned through monitoring jail telephone conversations and the defendant's mail that many items *not* seized in this investigation were also fruits of his criminal activity. Those items were discreetly transferred to family, friends and/or associates before detectives could follow up on the information.

Defendant Volpicelli's reasons for participating in this type of criminal activity vary depending on what day it is and to whom he is speaking. The defendant minimizes his crimes by describing them as misdemeanors and he has taken no responsibility in this case but, instead, has declared that his co-defendant was responsible for these crimes.

The defendant has no substantiated history of drug addiction, at least according to prior pre-sentence investigation reports before 2001, however, shortly after his arrest and incarceration for these crimes he suddenly described himself as a drug addict in an apparent attempt to get probation and enter a rehabilitation program. Through an interview I had with the defendant he described prison rehabilitation programs as "a joke". Through my contact with the defendant and my experience as the case agent with this investigation I have come to the personal conclusion that defendant Volpicelli is not only inherently dishonest but, more importantly, inherently criminal.

In spite of several prison incarcerations as well as opportunities at parole and probation, it is clear that defendant Volpicelli has no intention of curbing his criminal behavior. Since the date of his arrest up until the present time he has taken absolutely no responsibility for his actions but instead has laid blame at the feet of his co-defendant. The actual dollar figure that defendant Volpicelli has cost the taxpayers of this community reference this case is impossible to calculate but it is reasonable to conclude that it is in the tens of thousands if not hundred's of thousands of dollars.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Reed Thomas', with a stylized, elongated flourish extending to the right.

Detective Reed Thomas
Reno Police Department
Northern Nevada Repeat Offender Program

No. CRO3-1263

State

vs.

Ferrill Volpicelli

Ex. 5

Admitted: 4-1, 20 04

RONALD A. LONGTIN, JR., CLERK

3v [Signature]
Deputy

Patricia M. McGaffin, CCS II

Street Readiness Program Coordinator
Northern Nevada Correctional Center

April 7, 2003

TO WHOM IT MAY CONCERN:

This letter is to certify that Ferrill Volpicelli, NDOC number 60076, was a participant in the Bridges to Freedom program, a pre-release program designed to assist people getting out of prison to develop a better, more positive self image. It also teaches them how to search for suitable legal employment and to be a successful interviewee in a hiring interview.

The specific topics covered are:

Orientation
Time Management
Money and Credit
Communication
Goal Setting
Decision Making
Stress and Health
Assertiveness
Exploring Interests

Interview Skills
Packing Our Product
Responsiveness
Strengths
First Impressions
Job Progression
Show Time
Employer Panel
Celebrating Success

Special guest speakers gave presentations on a variety of topics such as Twelve Step Programs, Parole Board Hearings, Doing a Successful Parole, and Driver's License testing and related questions about securing a license.

Sincerely

Patricia McGaffin

Patricia McGaffin
Program Coordinator



V11.81



VIETNAM VETERANS OF AMERICA
CHAPTER #545
P.O. BOX 607
CARSON CITY, NEVADA 89702

September 24, 2002

Ferrill Volpicelli 60076

Nevada State Prison

Letter of Completion

Dear Mr. Volpicelli

This letter is written to confirm that you have successfully completed the 16 contact hours; Parenting Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

To receive this letter, you met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Rodger Hudnall Psych II".

Rodger Hudnall, Psychologist II

Nevada State Prison

RH:rwm

V11.82



VIETNAM VETERANS OF AMERICA
CHAPTER #545
P.O. BOX 607
CARSON CITY, NEVADA 89702

July 25, 2002

Ferrill Volpicelli 60076
Nevada State Prison

Letter of Confirmation

Dear Mr. Volpicelli

This letter is written to confirm that you have successfully completed the 40 contact hour; Substance Abuse Addiction and Recovery Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

To receive this letter, you met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Rodger Hudnall Psych II".

Rodger Hudnall, Psychologist II

Nevada State Prison

RH:rwm

V11.83



VIETNAM VETERANS OF AMERICA
CHAPTER #545
P.O. BOX 607
CARSON CITY, NEVADA 89702

July 25, 2002

Fernil Volpicelli 60076
Nevada State Prison

Re: Survive and Change Program; Relapse Prevention Module

Letter of Completion

Dear Mr. Volpicelli

This Letter of Completion is written to confirm that you have successfully completed the 20 contact hour Relapse Prevention Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

This letter confirms that you have met the following requirements:

- Good attendance
- Class participation.
- Class assignments
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely

Rodger Hudnall Psych II

Rodger Hudnall, Psychologist II
Nevada State Prison

Rth:jam

V11.84



VIETNAM VETERANS OF AMERICA
CHAPTER #545
P.O. BOX 607
CARSON CITY, NEVADA 89702

July 23, 2002

Ferrill Volpicelli 60076

Re: Survive and Change Program; Anger Management Module

Letter of Completion

Dear Mr. Volpicelli

This letter is written to confirm that you have successfully completed the 16 contact hour; Anger Management Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

To receive this letter, you met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

R. H. Loris Psych II
Dr. Rebecca Loris, Senior Psychologist
Nevada State Prison

RHL:m



VIETNAM VETERANS OF AMERICA
CHAPTER #545
P.O. BOX 607
CARSON CITY, NEVADA 89702

May 8, 2002

Ferrill Volpicelli 60076

Nevada State Prison

Re: Survive & Change Program; 106 Computer Assisted Alcohol Abuse Prevention Module

Letter of Completion

Dear Mr. Volpicelli

This Letter of Completion is written to confirm that you have successfully completed the 14 lesson, 28 Hour Computer Assisted Alcohol Abuse Prevention Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

This letter confirms that you have met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

Rodger Hudnall Psych II
Rodger Hudnall, Psychologist II
Nevada State Prison

RH: rwm

V11.86



VIETNAM VETERANS OF AMERICA
CHAPTER #545
P.O. BOX 607
CARSON CITY, NEVADA 89702

April 18, 2002

Ferrill Volpicelli 60076
Nevada State Prison

Re: Survive and Change Program; 105 Computer Assisted Drug Abuse Prevention Module

Letter of Completion

Dear Mr. Volpicelli

This Letter of Completion is written to confirm that you have successfully completed the 10 lesson, 20 Hour Computer Assisted Drug Abuse Prevention Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

This letter confirms that you have met the following requirements;

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

R. Hudnall Psych II
Rodger Hudnall, Psychologist II
Nevada State Prison

RH: rwm



VIETNAM VETERANS OF AMERICA
CHAPTER #545
P.O. BOX 607
CARSON CITY, NEVADA 89702

October 15, 2002

Ferrill Volpicelli 60076
Nevada State Prison

Letter of Completion

Dear Mr. Volpicelli

This letter is written to confirm that you have successfully completed the 9 contact hours;
Domestic Violence Module.

This Module is one of seven required to successfully complete the Survive and Change Program.

To receive this letter, you met the following requirements:

- Good attendance.
- Class participation.
- Class assignments.
- Homework assignments.

If there is any additional information required, please feel free to contact me.

Sincerely,

Dr. Rebecca Loftis

Dr. Rebecca Loftis, Senior Psychologist
Nevada State Prison

RH:rwmm

V11.88

No. CR03-1263
State

vs.

Ferrill Velpicelli

Ex. 6

Admitted: 4-1, 2004
RONALD A. LONGTIN, JR., CLERK

3v [Signature]
Deputy

STATE OF NEVADA
DEPARTMENT OF CORRECTIONS
INMATE ACHIEVEMENT CERTIFICATE



This is to certify that

Ferrill Volpicelli

*Has successfully completed a prescribed course in the
Survive and Change Program
Consisting of Seven Modules of formal instruction.*

Dated this 12 day of December 20 02

"Pride in Excellence"

James B. AWP

ASSOCIATE WARDEN PROGRAMS, N.S.P.

Rodger Anderson Sr Byer

SENIOR PSYCHOLOGIST, N.S.P.

Department of Corrections, Medical Division

Health Related Recovery

This Is To Certify That:

FERRILL VOLPICELLI #60076

Has successfully completed
40 hour course addressing life skills and overcoming substance abuse

Awarded On:

March 13, 2003

By Dr. Karen Gedney
NNCC HRR Program Facilitator

KGed



CERTIFICATE OF ACHIEVEMENT

Awarded To:

FERRILL VOLPICELLI # 60076

In recognition for:
SUCCESSFUL COMPLETION OF
LITERACY / ESL TUTOR TRAINING

Jose Quintero
JOSE QUINTERO / LITERACY SPECIALIST

10-28-02
Date

NSP GARDENING CLASS 1

■ THE BELOW NAMED STUDENT HAS
COMPLETED THE FIRST NSP GARDENING
COURSE:

■ FERRIL VOLPICELLI #60076

WZ

WARDEN BUDGE

J

JAMES P. MAXEY

DATE: OCTOBER 17, 2002

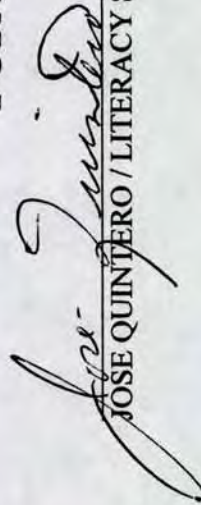
CERTIFICATE OF ACHIEVEMENT

Awarded To:

FERRILL VOLPICELLI # 60076

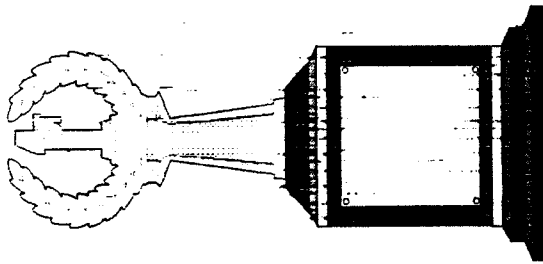
In recognition for:

6 MONTHS OF DEDICATED SERVICE
FOR LITERACY/ESL TUTORING PROGRAM


JOSE QUINTERO / LITERACY SPECIALIST

10-28-07
Date

Certificate of Achievement



FERRILL VOLPICELLI

PARTICIPATION IN
BRIDGES TO FREEDOM

Date March 10, 2003

Coordinator

A handwritten signature in black ink, appearing to be 'MJD', written over a horizontal line.

Criminon™

"There is no person alive who cannot make a new beginning."
...The Way To Happiness Book

Does hereby certify that
Ferrill Volpicelli

*Has satisfactorily attained the requirements necessary and is
hereby awarded a Certificate of Completion of*

The Way to Happiness Course

This 15th day of Aug. 2002 Certificate # 5568

Steven Jey
Criminon Executive Director

Certificate of Achievement

for completion of
Bridges to Freedom / Street Readiness Program

awarded to:

FERRILL VOLPICELLI

for completing sixty four hours of class instruction
and participation in group activities
in Self Improvement and Job Search Workshop

April 7, 2003



Patricia M. McGaffin
Patricia M. McGaffin, Coordinator

GOSPEL ECHOES TEAM

Certificate

This is to certify that FERRILL VOLPICELLI

has successfully completed the Advance Course

The Christian Way in Marriage

by

Home Bible Studies, a ministry of the Mennonite Church.

Granted this 1st day of May, 20 03

**GOSPEL
ECHOES
TEAM**
ASSOCIATION



Peggy A. Beck
Instructor

Marvin R. Beachy
Marvin R. Beachy, President

No. CR03-1263

State

vs.

Ferrill Volpicelli

Ex. 7

Admitted: 4-1, 2004
RONALD A. LONGTIN, JR., CLERK

3v *[Signature]*

Deputy

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

Electronically Filed
Sep 05 2013 04:59 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

THE STATE OF NEVADA,
Plaintiff,

vs.

FERRILL JOSEPH VOLPICELLI,
Defendant.

Sup. Ct. Case No. 63554
Case No. CR03-1263
Dept. 9

RECORD ON APPEAL

VOLUME 11 OF 13

EXHIBITS

APPELLANT

Ferrill J. Volpicelli #79565
P O BOX 359
Lovelock, Nevada 89419

RESPONDENT

Washoe County District Attorney's
Office
Terrance McCarthy, Esq.
P O Box 11130
Reno, Nevada 89502-3083

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STATE OF NEVADA vs FERRILL J VOLPICELLI
SEPTEMBER 5, 2013

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STATE OF NEVADA vs FERRILL J VOLPICELLI
SEPTEMBER 5, 2013

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STATE OF NEVADA vs FERRILL J VOLPICELLI
SEPTEMBER 5, 2013

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EXHIBITS

PLTF: STATE OF NEVADA
DEFT: FERRILL JOSEPH VOLPICELLI

PATY: T. Riggs
DATY: B. Van Ry

Case No: **CR03-1263** Dept. No: **10** Clerk: **G. Bartlett** Date: 04/01/04

Exhibit No.	Party	Description	Marked	Offered	Admitted
1	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
2	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
3	State	Certified copy of prior felony conviction	4/1/04	No obj.	4/1/04
4	State	Picture of Deft.	4/1/04	No obj.	4/1/04
5	State	RPD Financial Impact report	4/1/04	No obj.	4/1/04
6	Deft	Various letters of completion	4/1/04	No obj.	4/1/04
7	Deft.	Various certificates	4/1/04	No obj.	4/1/04

FILED

FEB 11 2004

RONALD A. LONGTIN, JR., CLERK
By: *[Signature]*
DEPUTY

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Code 1850

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0148

vs.

Dept. No. 9

FERRILL JOSEPH VOLPICELLI,

Reporter: D. Davidson

Defendant.

JUDGMENT

The Defendant, Ferrill Joseph Volpicelli, having been found Guilty on Count II of the Information by the Court on December 17, 2003, and no sufficient cause being shown by Defendant as to why judgment should not be pronounced against him, the Court rendered judgment as follows:

That Ferrill Joseph Volpicelli is guilty of the crime of Aiding And Abetting In The Commission Of Attempting To Obtain Money By False Pretenses, a violation of NRS 193.330, NRS 195.020 and NRS 205.380, a felony, as charged in Count II of the Information, and that he be punished by imprisonment in the Nevada Department of Corrections for a maximum term of forty-eight (48) months with a minimum parole eligibility of twelve (12) months, with credit for zero (0) days time served to be served consecutively to the sentence imposed in case number CR03-1263.

It is further ordered that the Defendant pay the statutory Twenty-five Dollar (\$25.00) administrative assessment fee and reimburse the County of Washoe the sum of

EXHIBIT

tabbies

V112

1 Five Hundred Dollars (\$500.00) for legal representation by the Washoe County Public
2 Defender's Office.

3 Dated this 11th day of February, 2004.
4
5

6 Connie J. Steinheimer for
7 JAMES W. HARDESTY
8 DISTRICT JUDGE
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CODE: 4185

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[Signature]
JAMES W. HARDESTY, JR.
CLERK

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

THE HONORABLE JAMES W. HARDESTY, DISTRICT JUDGE

--ooOoo--

STATE OF NEVADA,

Plaintiff,

Case No. CR02-0148
Dept. No. 9

vs.

FERRILL JOSEPH VOLPICELLI,

Defendant.

_____ /

TRANSCRIPT OF PROCEEDINGS

SENTENCING

FEBRUARY 11, 2004

RENO, NEVADA

Reported by: DONNA DAVIDSON, CCR #318, RMR, CRR
Computer-Aided Transcription

A P P E A R A N C E S

For the Plaintiff:

KRISTIN L. ERICKSON
Deputy District Attorney
75 Court Street
Reno, Nevada 89520

For the Defendant:

JACK A. ALIAN
Attorney at Law
360 W. Liberty Street
Reno, Nevada 89501

For the Division of Parole and Probation:

HEIDI POE

1 RENO, NEVADA, WEDNESDAY, FEBRUARY 11, 2004

2 9:07 A.M.

3 --oOo--

4
5 THE COURT: State versus Ferrill Volpicelli.

6 Ms. Erickson is here for the State, Mr. Alian
7 is here for Mr. Volpicelli, Ms. Poe is here for the
8 Division of Parole and Probation.

9 This is the time set for sentencing in this
10 case.

11 Mr. Volpicelli, have you seen the presentence
12 report in this case?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Any factual corrections,
15 Mr. Alian, you or your client would like to bring to
16 my attention?

17 MR. ALIAN: Your Honor, I believe on the last
18 page where they are figuring out the custody status
19 and total days, they have total days zero, and it
20 says under sentencing 02-148. Or 147. I assume that
21 what they mean is that he gets zero time for this
22 case, which would be 02-148 rather than 147.

23 Other than that, I don't have any other
24 factual corrections to make.

1 THE COURT: Okay. What is your position with
2 regard to the recommendation of the Division?

3 MR. ALIAN: Thank you, Your Honor. Your
4 Honor, if I may, I would respectfully ask the Court
5 to consider first running this case concurrent with
6 CR02-1264. The Parole and Probation Department has
7 asked that it run consecutive.

8 The Court has heard this case, so I won't
9 belabor the matter, but I would ask the Court to also
10 consider perhaps a 12 to 30 month sentence in this
11 instance; and the reason why I suggest that -- and
12 run it -- and ask that the Court consider running it
13 concurrent is the fact that Mr. Volpicelli, as we
14 know, has an extensive criminal history but at the
15 same time also has some severe, I think,
16 psychological problems.

17 In addition, he's also facing federal
18 revocation. So he's going to be in for a long period
19 of time. This at least gives him some light at the
20 end of the tunnel. I think that it also will allow
21 him to do some things which I think he really must do
22 in the prison system to help himself, and that is
23 avail himself of all the psychological help that he
24 can get while there.

1 Based upon that, that's why I respectfully
2 ask the Court to run it concurrent and consider a
3 12-to-30-month sentence in this instance. Thank you.

4 THE COURT: Ms. Erickson?

5 MS. ERICKSON: Thank you, Your Honor.

6 Your Honor, the defendant now stands
7 convicted of eight felonies. In addition he's been
8 found guilty of eight burglary charges in Department
9 Number 10, including charges of unlawful
10 manufacturing of inventory labels.

11 I will not go over the facts of this crime as
12 you heard all the facts during the course of the
13 trial. What is of extreme concern to the State, Your
14 Honor, is this is a despicable crime. This is a man
15 who used his own son to further his criminal
16 activities.

17 It's heartbreaking to listen to that tape of
18 the phone call when he's trying to convince his son
19 to commit this crime. You can hear the hesitation in
20 his son's voice, he knows it's wrong, he knows he's
21 not supposed to do it, he knows it's illegal, but
22 it's his own dad asking him to do it. How could he
23 say no to his own father trying to convince him, talk
24 him into doing criminal acts? It's despicable, Your

1 Honor.

2 Your Honor, this man is dangerous. He's
3 dangerous because he's smart. He's smart, he's
4 persuasive, he's conniving. He persuaded his own son
5 to commit this act. In the other trial in Department
6 10, he convinced another person, basically, to do the
7 dirty work for him. Once he switched the labels, he
8 convinced them to go in and make the purchase or
9 return in order to steal from that particular store.

10 He's a dangerous man, Your Honor. The State
11 would ask that you sentence the defendant to 24 to 60
12 months in the Nevada State Prison and run that case
13 consecutive to CR02-1263.

14 THE COURT: All right. Ms. Poe?

15 MS. POE: Nothing further, Your Honor.

16 THE COURT: Okay. Mr. Volpicelli, you have
17 an opportunity to address the Court. I have, of
18 course, read your statement. Is there anything else
19 you would like to say?

20 THE DEFENDANT: Your Honor, I would request
21 that the Court consider running this sentence
22 concurrent with the sentence I'm currently serving in
23 Carson City, and that way I can put this behind me
24 and get on with my life.

1 THE COURT: Okay. The Court believes the
2 sentence should measure the crime and the offense
3 that took place, not pile on years just because of
4 your criminal history.

5 You are sentenced to a term of 48 months in
6 the Nevada Department of Corrections, with a minimum
7 parole eligibility of 12 months consecutive to
8 CR02-1263.

9 You will pay a \$25 administrative-assessment
10 fee, \$500 in public defender fees.

11 One other issue, Mr. Volpicelli, I wanted to
12 mention to you. You have counsel in this case; I
13 believe you have counsel in the other case in this
14 department. You are a prolific letter writer, making
15 a number of requests to the Court, to the Court's
16 clerk, to the court reporters.

17 As long as you are represented by counsel,
18 you need to channel those requests through your
19 counsel. If you want transcripts, if you want copies
20 of your records, if you want copies of your files,
21 there's a procedure that's set into place. We
22 respond to those as quickly as we can. And they will
23 be responded to.

24 But I would request that those requests be

1 made through your counsel. And we will respond to
2 those in due course with orders and directions to
3 counsel and to the clerk's office accordingly.
4 Otherwise, when we get all these letters written by
5 you in a pro per way, frankly we just send those to
6 your counsel requesting them to do the things that
7 you should be asking them to do on your behalf.
8 Okay?

9 THE DEFENDANT: I understand, Your Honor.

10 THE COURT: All right. Thank you.

11 Zero days credit for time served.

12 (Proceedings concluded.)

13 ---oOo--
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1 STATE OF NEVADA)
2) ss.
3 COUNTY OF WASHOE)

4 I, DONNA DAVIDSON, Official Reporter of the
5 Second Judicial District Court of the State of
6 Nevada, in and for the County of Washoe, do hereby
7 certify:

8 That as such reporter, I was present in
9 Department No. 9 of the above court on said date,
10 time and hour, and I then and there took verbatim
11 stenotype notes of the proceedings had and testimony
12 given therein.

13 That the foregoing transcript is a full, true
14 and correct transcript of my said stenotype notes, so
15 taken as aforesaid.

16 That the foregoing transcript was taken down
17 under my direction and control, and to the best of
18 my knowledge, skill and ability.

19 DATED: At Reno, Nevada, this 21st day of
20 February, 2004.

21 
22

23 DONNA DAVIDSON, CCR #318
24

2-12
DA #215954

WCSO WC01-204619

1 CODE 1800
Richard A. Gammick
2 #001510
P.O. Box 30083
3 Reno, NV 89520-3083
(775) 328-3200
4 Attorney for Plaintiff
5

ORIGINAL

FILED

2002 FEB -6 PM 3:52

RONALD A. LONGTIN, JR.

BY DEPUTY

67988
6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
7 IN AND FOR THE COUNTY OF WASHOE
8

* * *

9 THE STATE OF NEVADA,

10 Plaintiff,

11 v.

Case No. CR02-0148

12 FERRILL JOSEPH VOLPICELLI,

Dept. No. 9

13 Defendant.
14 _____/

15 INFORMATION

16 RICHARD A. GAMMICK, District Attorney within and for
17 the County of Washoe, State of Nevada, in the name and by the
18 authority of the State of Nevada, informs the above entitled
19 Court that FERRILL JOSEPH VOLPICELLI, the defendant above named,
20 has committed the crimes of:

21 COUNT I. AIDING AND ABETTING IN THE COMMISSION OF
22 BURGLARY, a violation of NRS 195.020 and NRS 205.060, a felony,
23 in the manner following:

24 That the said defendant on or between the 22nd day of
25 October A.D. 2001, and the 23rd day of October A.D. 2001, or
26 thereabout, and before the filing of this Information, at and

V11.13

1 within the County of Washoe, State of Nevada, did willfully and
2 unlawfully aid and abet TRAVIS V., a juvenile, to enter the
3 WASHOE COUNTY DETENTION FACILITY, at 911 Parr Boulevard, Reno,
4 Washoe County, Nevada, with the intent to obtain money by false
5 pretenses in an amount greater than \$250.00 in that he counseled,
6 encouraged, induced or otherwise procured TRAVIS V. to commit
7 said offense.

8 ²⁰ COUNT II. AIDING AND ABETTING IN THE COMMISSION OF
9 ATTEMPTING TO OBTAIN MONEY BY FALSE PRETENSES, a violation of NRS
10 193.330, NRS 195.020 and NRS 205.380, a felony, in the manner
11 following:

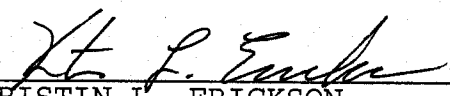
12 That the said defendant on or between the 22nd day of
13 October A.D. 2001, and the 23rd day of October A.D. 2001, or
14 thereabout, and before the filing of this Information, at and
15 within the County of Washoe, State of Nevada, did willfully,
16 unlawfully and knowingly aid and abet TRAVIS V., a juvenile, in
17 attempting to obtain money by false pretenses in that TRAVIS V.
18 falsely represented to Washoe County Sheriff's Office personnel
19 that a previously issued Washoe County check to TRAVIS V. was
20 lost and/or missing thereby requesting a new check in an amount
21 greater than \$250.00 be issued, with the intent to cheat or
22 defraud at 911 Parr Boulevard, Reno, Washoe County, Nevada, in
23 that FERRILL JOSEPH VOLPICELLI counseled, encouraged, induced or
24 otherwise procured TRAVIS V. to commit said offense.

25 ///

26 ///

1 All of which is contrary to the form of the Statute in
2 such case made and provided, and against the peace and dignity of
3 the State of Nevada.

4 RICHARD A. GAMMICK
5 District Attorney
6 Washoe County, Nevada

7 By: 
8 KRISTIN L. ERICKSON
9 4258
10 Deputy District Attorney
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1 The following are the names and addresses of such
2 witnesses as are known to me at the time of the filing of the
3 within Information:
4

5 RENO POLICE DEPARTMENT

6 DETECTIVE R. THOMAS #2481

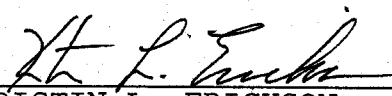
7 WASHOE COUNTY SHERIFF'S OFFICE

8 DETECTIVE L. LODGE #0386

MARGARET NETT

9 ELIZABETH BENNETT
10
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RICHARD A. GAMMICK
District Attorney
Washoe County, Nevada

20
21
22 By 
23 KRISTIN L. ERICKSON
24 4258
Deputy District Attorney

25 PCN 82444353

26 02041619

No. C R03-1263

State

vs.

Ferrill Volpicelli

Ex. 1

Admitted: 4-1, 20 04
RONALD A. LONGTIN, JR., CLERK

3v

R. Bantlett

Deputy

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: MAR 31 2004

RONALD A. LONGTIN, JR., Clerk of the Second Judicial District Court, in and for the County of Washoe, State of Nevada.

By

[Signature] Deputy

V11.17

FILED

NOV 3 1998

BETTY J. LEWIS, Clerk

By

Deputy Clerk

1 No. CR98-2160

2 Dept. No. 9

3
4 **IN THE SECOND JUDICIAL DISTRICT COURT**
5 **OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF WASHOE**
6

7
8 **STATE OF NEVADA,**

Reporter: D. Vieira

9 **Plaintiff,**

10 **vs.**

J U D G M E N T

11 **FERRILL JOSEPH VOLPICELLI,**

12 **Defendant.**
13 _____ /

14 The Defendant, having entered a plea of Guilty, and no sufficient cause being shown
15 by Defendant as to why judgment should not be pronounced against him, the Court rendered
16 judgment as follows:

17 That Ferrill Joseph Volpicelli is guilty of the crime of Burglary, a violation of NRS
18 205.060, a felony, as charged in Counts I and II of the Information, and that he be punished by
19 imprisonment in the Nevada State Prison for a minimum term of twenty-four (24) months to a
20 maximum term of seventy-two (72) months and by payment of a fine in the amount of Five Thousand
21 Dollars (\$5,000.00) on Count I, to run consecutively to the Federal prison term he is obligated to
22 serve; a minimum term of sixteen (16) months to a maximum term of seventy-two (72) months
23 Nevada State Prison on Count II, to run consecutively to Count I. The sentence is suspended as to
24 Count II and the Defendant is placed on probation for a period of time not to exceed three (3) years,
25 to run consecutively to Count I and consecutively to the Federal prison term. The Defendant is given
26 credit for eighty-seven (87) days time served. It is further ordered that the Defendant pay the

27 //

28 //

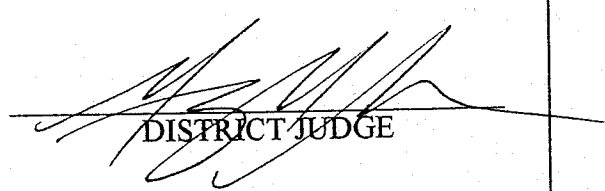
EXHIBIT

2

V. 1.18

1 statutory Twenty-Five Dollar (\$25.00) administrative assessment fee and pay the DNA fees of Two
2 Hundred Fifty Dollars (\$250.00).

3 Dated this 3rd day of November, 1998.

4
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6 
7 DISTRICT JUDGE
8
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FILED

99 APR -1 A9:09

THY HARVEY, CLERK

31
DEPUTY

Case No. CR98-2160

Department No. 9

THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA
BEFORE THE HONORABLE MARGARET SPRINGGATE DISTRICT JUDGE

-oOo-

THE STATE OF NEVADA

Plaintiff

vs.

FERRILL JOSEPH VOLPICELLI

Defendant

ARRAIGNMENT

TRANSCRIPT OF PROCEEDINGS
Thursday, September 24, 1998; 8:30 A.M.
Reno, Nevada

APPEARANCES:

For the Plaintiff:

MICHAEL MAHAFFEY, Esq.
Deputy District Attorney
Washoe County Courthouse
Reno, Nevada, 89501

For Defendant:

DAIVD HOUSTON, Esq.
333 Marsh Avenue
Reno, Nevada

Reported By:
Computer-aided Transcription

JUDITH ANN SCHONLAU, CSR #18

1 THURSDAY, SEPTEMBER 24, 1998; 8:00 A.M.

2 -o0o-

3
4 THE COURT: CR98-2160, State versus Ferrill Joseph
5 Volpicelli. The Defendant is present together with his
6 attorney, Mr. Houston.

7 MR. HOUSTON: Good morning, Your Honor.

8 THE COURT: Good morning, Mr. Houston. Good morning,
9 Mr. Olmstead.

10 MR. HOUSTON: Your Honor, the name is correctly
11 spelled and stated on line twelve. We are familiar with the
12 content of the Information.

13 Your Honor, the negotiations are we will be entering
14 pleas to Count I and II of guilty.

15 THE COURT: State the nature of the negotiations.

16 MR. HOUSTON: Yes, Your Honor. The nature of the
17 negotiations are as follows: The State agrees, primarily, to
18 concur with Parole and Probation as far as whatever
19 recommendation Parole and Probation may make.

20 Further, the State agrees not to pursue any additional
21 charges that could have been filed or were filed in reference
22 to this particular case.

23 THE COURT: Do you waive the reading of the
24 Information?



1 MR. HOUSTON: Yes, we do.

2 THE COURT: Mr. Mahaffey?

3 MR. MAHAFFEY: That is correct.

4 THE COURT: May I see the Plea Memorandum?

5 Mr. Volpicelli, you have heard the statements of your
6 counsel and the District Attorney as to the plea negotiations.
7 Is that your understanding as well?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Before I can accept your plea of guilty, I
10 have to go through some questions with you to make sure you
11 understand the rights you are giving up by entering the plea.

12 Do you understand that?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Do you understand by entering a plea of
15 guilty to Counts I and II, burglary, felonies, do you
16 understand that as to Count I, you may be imprisoned for one to
17 ten years in the Nevada State Prison? You would be eligible
18 for probation.

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: That you may also be fined up to \$10,000?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And that as to Count II, you may be
23 imprisoned for a period of one to ten years in the Nevada State
24 Prison and would be eligible for probation?



1 THE DEFENDANT: Yes.

2 THE COURT: You may also be fined up to \$10,000.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Do you understand the Court may also
5 impose the requirement that you pay restitution in these cases?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: Do you understand that you could be
8 sentenced to Count I and Count II consecutive to each other or
9 concurrent?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you understand the Court is not bound
12 by the plea negotiations that have gone on in this case, and
13 that I can impose any sentence allowed by law?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Do you understand if you do not plead
16 guilty, you have a right to trial by jury?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you understand you have a right to
19 confront the witnesses who testify against you?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: You would have a right to subpoena
22 witnesses to come and testify in your behalf.

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: You would have a right to remain silent

1 throughout the trial and require the State to prove the
2 elements of the offense beyond a reasonable doubt.

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: By entering a plea of guilty in this case,
5 you are giving up those constitutional rights; do you
6 understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: Mr. Mahaffey.

9 MR. MAHAFFEY: Thank you, Your Honor. Sir, you have
10 pled guilty to two counts of burglary. If this matter went to
11 trial, the State would prove the following as to each count:
12 That on or about January 9, 1998, in Wahose County, State of
13 Nevada, you did wilfully and unlawfully enter buildings
14 belonging to others. When you did this, you did it with the
15 intent to commit uttering a forged instrument, a felony, within
16 those buildings. Do you understand what the State would prove?

17 THE DEFENDANT: Yes, Sir.

18 THE COURT: Mr. Volpicelli, did you commit these
19 crimes?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Is there anything you have not understood
22 about the proceedings here today?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: Has anyone made and threats or promises to



1 you in exchange for your plea?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: To Count I charged in the Information,
4 burglary, a felony, how do you plead?

5 THE DEFENDANT: Guilty.

6 THE COURT: To Count II charged in the Information,
7 burglary, a felony, how do you plead?

8 THE DEFENDANT: Guilty, Your Honor.

9 THE COURT: The Court finds you understood your
10 constitutional rights, you understood the nature of the charges
11 and the penalties that may be imposed and will accept you plea
12 of guilty.

13 A date for sentencing.

14 THE CLERK: October 29th, 8:30 A.M.

15 MR. HOUSTON: Your Honor, Would October 26th be
16 possible?

17 THE COURT: Is that possible for Parole and Probation?
18 That is a Monday. We can't do Mondays. Maybe Tuesday?

19 MR. HOUSTON: The 28th, Your Honor?

20 THE COURT: The 28th is fine. That should give you
21 enough time, Mr. Webb.

22 MR. HOUSTON: Thank you, Your Honor.

23 (Whereupon the proceedings were concluded.)

24



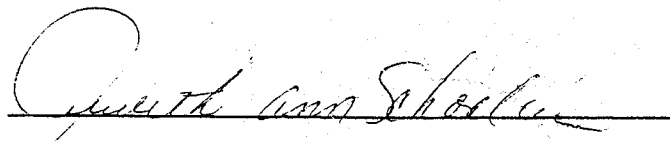
1 STATE OF NEVADA,)
2 County of Washoe.) ss.

3 I, JUDITH ANN SCHONLAU, Official Reporter of the
4 Second Judicial District Court of the State of Nevada, in and
5 for the County of Washoe, DO HEREBY CERTIFY:

6 That as such reporter I was present in the Department
7 9 of the Second Judicial District Court on Thursday, September
8 24, 1998, at the hour of 8:30 a.m. and that I then and there
9 took verbatim stenotypy notes of the proceedings had and
10 testimony given therein in the case of THE STATE OF NEVADA
11 versus FERRILL JOSEPH VOLPICELLI, Case Number CR98-2160.

12 That the foregoing transcript, consisting of pages
13 numbered 1 - 5, is a full, true and correct transcription of my
14 said stenotypy notes, so taken as aforesaid, and is a full,
15 true and correct statement of the proceedings had and testimony
16 given in the matter of the
17 above-entitled action to the best of my knowledge, skill and
18 ability.

19
20 DATED: At Reno, Nevada, this 31st day of March, 1999.

21
22 
23 JUDITH ANN SCHONLAU, CSR #18
24



In the Justice Court of Reno Township

County of Washoe, State of Nevada

159462 T3A

CR98-2160

'98 SEP 17 23:24

THE STATE OF NEVADA,

Plaintiff,

vs.

FERRILL JOSEPH
VOLPICELLI

Defendant.

No. 91,346

Waiver of Preliminary Examination

I, the Defendant in the above-entitled action, being fully advised of my rights in the premises, hereby waive my preliminary examination on the charge of Burglary in the above entitled action, and consent that I may be remanded to the Second Judicial District Court of the State of Nevada, for further proceedings therein.

DATE: 9 SEPT 98

Def will plead guilty to 2 counts
Burg. state agrees to DISMISS
All remaining charges and not
to pursue any additional
charges state will concur with
P.A. 11/27

Case No. CR98-2160

Dept. No. 9

FILED

BETTY J. LEWIS
Clerk

Sept. 24, 1998

By Wagoner
Deputy Clerk

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE.

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

GUILTY PLEA MEMORANDUM

FERRILL JOSEPH VOLPICELLI,

Defendant.

1. I, FERRILL JOSEPH VOLPICELLI, understand that I am charged with the offense(s) of: COUNTS I and II: BURGLARY, violations of NRS 205.060, felonies.

2. I desire to enter a plea of guilty to the offense(s) of COUNTS I and II: BURGLARY, violations of NRS 205.060, felonies, as more fully alleged in the charge(s) filed against me.

3. By entering my plea of guilty I know and understand that I am waiving the following constitutional rights:

///

///

///



1 A. I waive my privilege against self-incrimination.

2 B. I waive my right to trial by jury, at which trial
3 the State would have to prove my guilt of all elements of the
4 offenses beyond a reasonable doubt.

5 C. I waive my right to confront my accusers, that is,
6 the right to confront and cross examine all witnesses who would
7 testify at trial.

8 D. I waive my right to subpoena witnesses for trial on
9 my behalf.

10 4. I understand the charge(s) against me and that the
11 elements of the offense(s) which the State would have to prove
12 beyond a reasonable doubt at trial are that on the 9th day of
13 January, 1998, or thereabout, in the County of Washoe, State of
14 Nevada, I did, as to Count I, willfully and unlawfully enter COMP
15 USA located at 6407 South Virginia Street, Reno, Washoe County,
16 Nevada, with the intent then and there to commit Uttering a
17 Forged Instrument, a felony, therein.

18 I further understand the charge(s) against me and that
19 the elements of the offense(s) which the State would have to
20 prove beyond a reasonable doubt at trial are that on the 9th day
21 of January, 1998, or thereabout, in the County of Washoe, State
22 of Nevada, I did, as to Count II, willfully and unlawfully enter
23 OFFICE DEPOT located at 4819 South Virginia Street, Reno, Washoe
24 County, Nevada, with the intent then and there to commit Uttering
25 a Forged Instrument, a felony, therein.

26 ///



1 5. I understand that I admit the facts which support
2 all the elements of the offenses by pleading guilty. I admit
3 that the State possesses sufficient evidence which would result
4 in my conviction. I have considered and discussed all possible
5 defenses and defense strategies with my counsel. I understand
6 that I have the right to appeal from adverse rulings on pretrial
7 motions only if the State and the Court consent to my right to
8 appeal. In the absence of such an agreement, I understand that
9 any substantive or procedural pretrial issue or issues which
10 could have been raised at trial are waived by my plea.

11 6. I understand that the consequences of my plea of
12 guilty are that, as to Count I, I may be imprisoned for a period
13 of one to ten years in the Nevada State Prison and that I am
14 eligible for probation. I may also be fined up to \$10,000.00.

15 I further understand that the consequences of my plea
16 of guilty are that, as to Count II, I may be imprisoned for a
17 period of one to ten years in the Nevada State Prison and that I
18 am eligible for probation. I may also be fined up to \$10,000.00.
19 The sentence on each count may be concurrent or consecutive to
20 each other.

21 7. In exchange for my plea of guilty, the State, my
22 counsel and I have agreed to recommend the following: The State
23 will concur with the recommendation of the Division of Parole and
24 Probation.

25 ///

26 ///



1 8. I understand that, even though the State and I have
2 reached this plea agreement, the State is reserving the right to
3 present arguments, facts, and/or witnesses at sentencing in
4 support of the plea agreement.

5 9. I also agree that I will make full restitution in
6 this matter, as determined by the Court. Where applicable, I
7 additionally understand and agree that I will be responsible for
8 the repayment of any costs incurred by the State or County in
9 securing my return to this jurisdiction.

10 10. I understand that the State is entitled to
11 withdraw from this agreement and proceed with the prosecution of
12 the original charges if I fail to appear at any scheduled
13 proceeding in this matter OR if prior to the date of my
14 sentencing I am arrested in any jurisdiction for a violation of
15 law OR if I have misrepresented my prior criminal history. I
16 represent that I do ~~not~~ have a prior felony criminal record. I
17 understand and agree that the occurrence of any of these acts
18 constitutes a material breach of my plea agreement with the
19 State. I further understand and agree that by the execution of
20 this agreement, I am waiving any right I may have to remand this
21 matter to Justice Court should I later withdraw my plea.

22 11. I understand and agree that pursuant to the terms
23 of the plea agreement stated herein, any counts which are to be
24 dismissed and any other cases charged or uncharged which are
25 either to be dismissed or not pursued by the State, may be
26 considered by the court at the time of my sentencing.



1 12. I understand that the Court is not bound by the
2 agreement of the parties and that the matter of sentencing is to
3 be determined solely by the Court. I have discussed the
4 charge(s), the facts and the possible defenses with my attorney.
5 All of the foregoing rights, waiver of rights, elements, possible
6 penalties, and consequences, have been carefully explained to me
7 by my attorney. I am satisfied with my counsel's advice and
8 representation leading to this resolution of my case. I am aware
9 that if I am not satisfied with my counsel I should advise the
10 Court at this time. I believe that entering my plea is in my
11 best interest and that going to trial is not in my best interest.

12 13. I understand that this plea and resulting
13 conviction may have adverse effects upon my residency in this
14 country if I am not a U. S. Citizen.

15 14. I offer my plea freely, voluntarily, knowingly and
16 with full understanding of all matters set forth in the
17 Information and in this Plea Memorandum. I understand everything
18 contained within this Memorandum.

19 15. My plea of guilty is voluntary, is not the result
20 of any threats, coercion or promises of leniency.

21 ///

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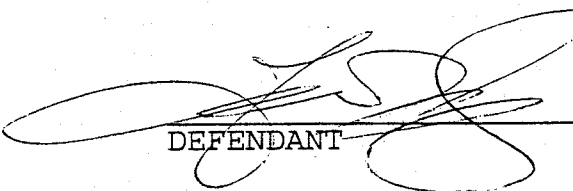
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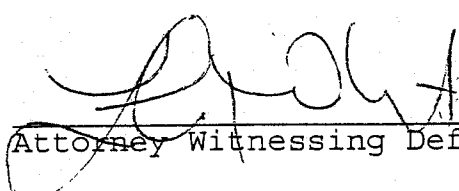


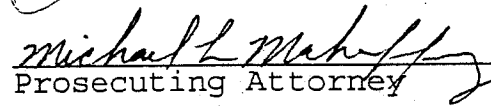
1 16. I am signing this Plea Memorandum voluntarily with
2 advice of counsel, under no duress, coercion, or promises of
3 leniency.

4 DATED this 23rd day of September, 1998.

5
6 
7
8 DEFENDANT

9
10
11 TRANSLATOR/INTERPRETER

12 
13
14 Attorney Witnessing Defendant's Signature

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25
26 Prosecuting Attorney

09152628



DA #159462

RPD 016628-98

'98 SEP 17 P2:24

Case No. CR98-2160

Dept. No. 9

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF WASHOE

* * *

THE STATE OF NEVADA,

Plaintiff,

v.

INFORMATION

FERRILL JOSEPH VOLPICELLI,

Defendant.

RICHARD A. GAMMICK, District Attorney within and for
the County of Washoe, State of Nevada, in the name and by the
authority of the State of Nevada, informs the above entitled
Court that FERRILL JOSEPH VOLPICELLI, the defendant above named,
has committed the crimes of:

COUNT I. BURGLARY, a violation of NRS 205.060, a
felony, in the manner following:

That the said defendant on the 9th day of January A.D.
1998, or thereabout, and before the filing of this Information,
at and within the County of Washoe, State of Nevada, did
willfully and unlawfully enter COMP USA located at 6407 South
Virginia Street, Reno, Washoe County, Nevada, with the intent



1 then and there to commit Uttering a Forged Instrument, a felony,
2 therein.

3 COUNT II. BURGLARY, a violation of NRS 205.060, a
4 felony, in the manner following:

5 That the said defendant on the 9th day of January A.D.
6 1998, or thereabout, and before the filing of this Information,
7 at and within the County of Washoe, State of Nevada, did
8 willfully and unlawfully enter OFFICE DEPOT located at 4819 South
9 Virginia Street, Reno, Washoe County, Nevada, with the intent
10 then and there to commit Uttering a Forged Instrument, a felony,
11 therein.

12
13 All of which is contrary to the form of the Statute in
14 such case made and provided, and against the peace and dignity of
15 the State of Nevada.

16 RICHARD A. GAMMICK
17 District Attorney
18 Washoe County, Nevada

19 By: Michael L. Mahaffey
20 MICHAEL L. MAHAFFEY
21 Deputy District Attorney
22
23
24
25
26



1 The following are the names and addresses of such
2 witnesses as are known to me at the time of the filing of the
3 within Information:
4

5 RENO POLICE DEPARTMENT:

6 DETECTIVE RICHARD BJELKE
7 DETECTIVE SCOTT HOPKINS
8 DETECTIVE CURTISS C. KULL

9 STACEY K. TODD, 2344 Kaska, South Lake Tahoe, California 96150

10 SUZANNE YOUNG, 460 Smithridge Drive, Reno, Nevada

11 BILLIE J. HOBBS, 295 Palace Drive, Reno, Nevada
12
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20 RICHARD A. GAMMICK
21 District Attorney
22 Washoe County, Nevada

23 By Michael L. Mahaffey
24 MICHAEL L. MAHAFFEY
25 Deputy District Attorney
26

PCN 88364812

09152628



CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: 4-23-03
RONALD A. LONGTIN, JR., Clerk of the Second
Judicial District Court, in and for the County
of Washoe, State of Nevada.

By [Signature] Deputy

No. CRO3-1263

State

vs.

Ferrill Volpicelli

Ex. 2

Admitted: 4-1, 2004
RONALD A. LONGTIN, JR., CLERK

3v [Signature]

Deputy

U.S. DISTRICT COURT
DISTRICT OF NEVADA
ENTERED & SERVED
MAY 16 1997
CLERK, U.S. DISTRICT COURT
DEPUTY CLERK
BY _____
FERRILL J. VOLPICELLI

UNITED STATES DISTRICT COURT

District of NEVADA

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: CR-N-96-46-HDM(RAM)

Jerome Polaha (retained)
Defendant's Attorney

THE DEFENDANT:
(Name of Defendant)

☒ pleaded guilty to count(s) 15, 16, 17, and 18
☐ was found guilty on count(s) _____ after a
plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offenses:

Title & Section	Nature of Offense	Date Offense Concluded	Count Number(s)
26 USC 7206(1)	Tax Perjury	7-23-93	15, 16, 17 & 18

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____
and is discharged as to such count(s).

☒ Count(s) 1 - 14 & 19 - 21 are dismissed on the motion of the United States.
☒ It is ordered that the defendant shall pay a special assessment of \$ 200.00 for count(s)
15, 16, 17 & 18 which shall be due ☒ immediately as follows:

IT IS FURTHER ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

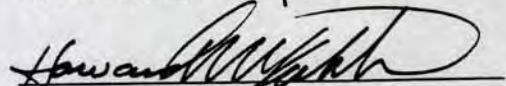
Defendant's Soc. Sec. No.: 572-76-7620

Defendant's Date of Birth: 12-30-55
Defendant's USM No. 31441-048

Defendant's Mailing Address:
2705 Camelot Way
Reno, NV 89509

Defendant's Residence Address:
Same

May 13, 1997
Date of Imposition of Sentence


Signature of Judicial Officer

HOWARD D. MCKIBBEN, U. S. District Judge
Name & Title of Judicial Officer

May 15, 1997
Date

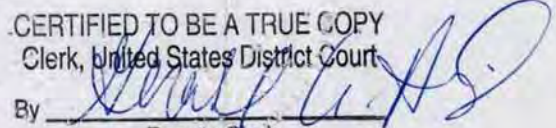
CERTIFIED TO BE A TRUE COPY
Clerk, United States District Court
By 
Deputy Clerk

EXHIBIT
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Defendant: VOLPICELLI, FERRILL J.
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 2 of 5

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of Twenty-two (22) months on each of Counts 15, 16, 17 & 18, said terms of incarceration to run concurrently with one another.

X The court makes the following recommendations to the Bureau of Prisons: Recommend defendant be incarcerated at FPC Nellis, Nevada.

- ☐ The defendant is remanded to the custody of the United States marshal.
- ☐ The defendant shall surrender to the United States marshal for this district.
 - at on
 - ☐ as notified by the United States marshal.
- X The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.
 - X before 12:00 noon on Friday, July 18, 1997.
 - ☐ as notified by the United States marshal.
 - ☐ as notified by the probation office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ at _____

_____ with a certified copy of this judgment.

United States Marshal

By _____
Deputy Marshal



Defendant: VOLPICELLI, FERRILL J.
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 3 of 5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of One (1) year.

While on supervised release, the defendant shall not commit another federal, state, or local crime and shall not illegally possess a controlled substance. (Revocation of supervised release is mandatory for possession of a controlled substance.) The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). If this judgment imposes a restitution obligation, it shall be a condition of supervised release that the defendant pay any such restitution that remains unpaid at the commencement of the term of supervised release. The defendant shall comply with the following additional conditions:

X The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

X The defendant shall pay any fines that remain unpaid during the term of supervised release.

X The defendant shall not possess a firearm or destructive device.

ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

1. Defendant shall submit to the search of his person and any property, residence or automobile under his control by the probation officer, or any other authorized person under the immediate and personal supervision of the probation officer without a search warrant to ensure compliance with all conditions of release.
2. Defendant shall pay any remaining tax obligations during the term of supervised release, as directed by the probation office.
3. Defendant shall participate in and complete a mental health treatment program, which may include outpatient counseling or residential placement, as approved and directed by the probation officer and shall comply with the rules of the treatment program.
4. Defendant shall refrain from incurring any new credit charges, opening additional lines of credit, or negotiating or consummating any financial contracts without the approval of the probation officer.
6. Defendant shall provide the probation officer access to any requested financial information, including personal income taxes, authorization for release of credit information, and any other business financial information in which the defendant has a control or interest.
7. The defendant shall cooperate with and arrange with the Internal Revenue Service to pay all past and present taxes, interest and penalties owed, and shall file timely, accurate, and lawful income tax returns and show proof of same to the probation officer.
8. Defendant is not restricted to the State of Nevada during the period of supervised release.

STANDARD CONDITIONS OF SUPERVISION

While the defendant is on supervised release pursuant to this judgment, the defendant shall not commit another federal, state or local crime. In addition:

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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Defendant: VOLPICELLI, FERRILL J.
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 4 of 5

FINE

The defendant shall pay a fine of \$ 3,000.00 . The fine includes any costs of incarceration and/or supervision.

☐ This amount is the total of the fines imposed on individual counts, as follows:

☐ The court has determined that the defendant does not have the ability to pay interest. It is ordered that:

☐ The interest requirement is waived.

☐ The interest requirement is modified as follows:

This fine plus any interest required shall be paid:

☐ in full immediately.

☐ in full not later than _____.

☐ in equal monthly installments over a period of ___ months . The first payment is due on the date of this judgment. Subsequent payments are due monthly thereafter.

☐ in installments according to the following schedule of payments:

☒ payable during and subsequent to the term of imprisonment. Any remaining balance shall be paid during the term of supervised release upon a schedule to be established by the supervising probation officer.

If the fine is not paid the court may sentence the defendant to any sentence which might have been originally imposed. See 18 U.S.C. § 3614.



Defendant: VOLPICELLI, FERRILL J.
Case Number: CR-N-96-46-HDM(RAM)

Judgment-Page 5 of 5

STATEMENT OF REASONS

☒ The court adopts the factual findings and guideline application in the presentence report.

OR

☐ The court adopts the factual findings and guideline application in the presentence report except (see attachment, if necessary):

Guideline Range Determined by the Court:

Total Offense Level: 13

Criminal History Category: III

Imprisonment Range: 18 to 24 months

Supervised Release Range: - to 1 years

Fine Range: \$ 3,000 to \$ 30,000

☐ Fine is waived or is below the guideline range, because of the defendant's inability to pay.

Restitution: \$ N/A

☐ Full restitution is not ordered for the following reason(s):

☒ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reason(s):

OR

The sentence departs from the guideline range

☐ upon motion of the government, as a result of defendant's substantial assistance.

☐ for the following reason(s):





U.S. Department of Justice

Tax Division

Western Criminal Enforcement Section
P.O. Box 972, Ben Franklin Station
Washington, D.C. 20044

(202) 514-5684

Telefax (202) 514-9623

February 7, 1997

AMENDED MEMORANDUM OF PLEA NEGOTIATION

TO: Howard D. McKibben
United States District Judge

FROM: Kevin M. Kelcourse
Danny N. Roetzel
Trial Attorneys
United States Department of Justice
Tax Division

SUBJECT: United States v. Ferrill J. Volpicelli
Criminal No. N-96-46-HDM (RAM)

FILED

FEB 7 1997

ERK, U.S. DISTRICT COURT
DISTRICT OF NEVADA

I. PLEA NEGOTIATION:

Defendant FERRILL J. VOLPICELLI is charged by Indictment with violations of Title 18, United States Code, Sections 1014 and 1343, and Title 26, United States Code, Section 7206(1). These charges include Wire Fraud, False Bank Loan Statements, and Tax Perjury. The Government and the defendant, FERRILL J. VOLPICELLI, through his attorney, Jerome M. Polaha, have agreed to the following:

1. Defendant FERRILL J. VOLPICELLI will plead guilty to Counts Fifteen, Sixteen, Seventeen, and Eighteen of the Indictment, those each being Tax Perjury, in violation of Title 26, United States Code, Section 7206(1).

2. This plea is made pursuant to Rule 11(e)(1)(A) and (B) of the Federal Rules of Criminal Procedure and is not intended to be binding upon the Court.

3. Base Offense Level - Based upon the tax table (U.S.S.G. §§ 2T1.3, 2T4.1 (1991 edition)), the parties agree that the Base Offense Level concerning this defendant for Tax Perjury would be found in U.S.S.G. §2T1.3 and would carry a Base Offense Level of 11. This amount is determined pursuant to the tax table set out in U.S.S.G. § 2T4.1. Pursuant to the tax table, a tax loss greater than \$40,000 but less than \$70,000 would yield a Base Offense Level of 11.

4. Pursuant to U.S.S.G. § 2T1.3(b)(1), the parties agree that defendant VOLPICELLI "failed to report . . . income exceeding \$10,000 in any year from criminal activity." That

CERTIFIED TO BE A TRUE COPY

Clerk, United States District Court

By

Deputy Clerk

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★

criminal activity is wire fraud. Accordingly, defendant VOLPICELLI's offense level would increase to 13.

5. The parties have reached no agreement as to whether, pursuant to U.S.S.G. § 2T1.3(b)(2), defendant VOLPICELLI used "sophisticated means . . . to impede discovery of the nature or extent of the offense." The parties reserve the right to argue their respective positions on this issue at the time of sentencing.

6. Pursuant to 26 U.S.C. § 7206(1), the defendant shall be sentenced to a term of imprisonment which may not exceed three (3) years and may be fined up to \$250,000.

7. The Government agrees not to pursue an increase in offense levels pursuant to U.S.S.G. § 3B1.1(a) through (c) concerning an aggravating role in the offense. The Government agrees not to pursue any increase of offense levels pursuant to the defendant's role in the offense.

8. The parties agree that the Offense Level may be decreased by two (2) levels pursuant to U.S.S.G. § 3E1.1 if the Court finds that the defendant has accepted responsibility for his criminal conduct. The Government agrees not to oppose defendant's request to reduce the Offense Level by two (2) levels pursuant to U.S.S.G. § 3E1.1(a), if: (1) it is determined by the United States Probation Office that the defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct in all proceedings, including his interview with the United States Probation Office; (2) defendant VOLPICELLI cooperates with the Reno Office of the Internal Revenue Service by signing waivers to correct the previously filed Individual Income Tax Returns, Forms 1040, for the years 1989 through 1992, inclusive (including the unreported taxable income set forth in this Memorandum and the civil fraud penalty, which defendant VOLPICELLI agrees is appropriate for each of the years 1989 through 1992) by the date of sentencing; and (3) defendant VOLPICELLI pays by the date of sentencing any additional outstanding individual income taxes reflected as due on the waivers referred to in this paragraph, as well as any interest and fraud penalties related thereto, or enters into a binding agreement to pay said amounts.



9. The parties agree that there are no other facts or circumstances that would allow for any other adjustment to the Offense Level under Chapter 3 of the Sentencing Guidelines.

10. The parties agree that the Offense Level is based upon information concerning these offenses and the defendant as it is known at the present time, and defendant VOLPICELLI understands that the Offense Level could change based upon the investigation by the United States Probation Office and the findings of the District Court at the time of sentencing.

11. The parties agree that the Offense Level and the Criminal History Category (Chapter 4) will be based upon the investigation of the United States Probation Office and the findings of the Court at the time of sentencing. The determination of the Criminal History Category (points) directly affects the possible sentencing range available to the Court. The parties have not made any stipulation concerning the defendant's criminal history. The parties are free to argue the Criminal History Category and criminal history points applicable to the defendant.

12. The parties agree that a period of supervised release pursuant to U.S.S.G. § 5D1.1 is applicable if a sentence of more than one (1) year imprisonment is imposed by the Court. Pursuant to Title 18, United States Code, Section 3559(a)(2), the charged offense is a Class E felony and, therefore, pursuant to U.S.S.G. § 5D1.2(a)(1) and (b), if a term of supervised release is applicable, it shall be ordered for one year.

13. The parties agree that both sides will be free at sentencing to argue the appropriate fine that should be imposed by the Court.

14. The Government will move to dismiss the remaining counts from the Indictment pending against defendant VOLPICELLI (Counts One through Fourteen and Nineteen through Twenty-One) at the time of sentencing. The Court may consider all the relevant facts and circumstances of those offenses under U.S.S.G. § 1B1.3---Relevant Conduct, when deciding the appropriate sentence.

15. The defendant is aware that his sentence will be imposed in accordance with the Federal Sentencing Guidelines and Policy Statements. The defendant is aware that the Court has jurisdiction and authority to impose any sentence within the statutory maximum set for the offense to which the defendant pleads guilty.

16. The defendant is also aware that Title 18, United States Code, Section 3742 gives the defendant a right to appeal



the sentence to be imposed and that other federal laws give the defendant rights to appeal other aspects of his conviction. In exchange for the concessions made by the United States in the instant plea agreement, the defendant knowingly and expressly waives his right to appeal any sentence to be imposed that is within the applicable sentencing guideline range contemplated by the parties in this agreement, further waives his right to appeal the manner in which that sentence was determined on the grounds set forth in Title 18, United States Code, Section 3742, and further waives his right to appeal any sentence. As to his sentence, the defendant reserves only the right to appeal any sentence imposed to the extent, but only to the extent, that the sentence is an upward departure and outside the range established by the applicable sentencing guideline.

II. PENALTY:

Statutory

Tax Perjury

The punishment for violating the provisions of Title 26, United States Code, Section 7206(1) is recited in that Section, which states that for making and subscribing a false return, the defendant shall be sentenced to a term of imprisonment which may not exceed three (3) years, be fined not more than \$250,000, or both for each count to which the defendant pleads guilty. (The fine amount is set forth in Title 18, United States Code, Section 3571.) Pursuant to U.S.S.G. § 5D1.2(b)(3), the Court may order a term of supervised release to follow imprisonment of not more than one year.

Under the provisions of Title 18, United States Code, Section 3013(a)(2)(A), a defendant must be fined a special assessment fine of \$50.00 for every felony conviction. (See United States v. Munos-Flores, 110 S.Ct. 1964 (1990)).

III. SENTENCING GUIDELINES:

Based upon the tax table (U.S.S.G. §§ 2T1.3, 2T4.1), the Base Offense Level concerning this defendant for Tax Perjury would be found in U.S.S.G. § 2T1.3 and would carry a Base Offense Level of 11. This amount is determined pursuant to the tax table set out in U.S.S.G. § 2T4.1. Pursuant to U.S.S.G. § 2T1.3(a), the tax loss is 28% of the amount by which taxable income was understated, which equals \$57,555.31. Pursuant to the tax table, a tax loss of greater than \$40,000 but less than \$70,000 would yield a Base Offense Level of 11.



However, pursuant to U.S.S.G. § 2T1.3(b)(1), the parties agree that defendant VOLPICELLI "failed to report . . . income exceeding \$10,000 in any year from criminal activity." That criminal activity is wire fraud. Accordingly, defendant VOLPICELLI's offense level would increase to 13. Moreover, the parties are free to argue whether, pursuant to U.S.S.G. § 2T1.3(b)(2), defendant VOLPICELLI used "sophisticated means . . . to impede discovery of the nature or extent of the offense." If the Court finds that defendant VOLPICELLI did use "sophisticated means," defendant VOLPICELLI's offense level would increase to 15. If the Court finds that the defendant has accepted responsibility for his criminal conduct and grants the two-level reduction pursuant to U.S.S.G. § 3E1.1, the final offense level would be 11 or 13 (depending on the Court's finding as to "sophisticated means").

If defendant VOLPICELLI does not argue that he did not use "sophisticated means" pursuant to U.S.S.G. § 2T1.3(b)(2), the parties agree that a sentence in the mid-point of the sentencing range is appropriate. However, if defendant VOLPICELLI does argue that he did not use "sophisticated means," the parties are free to argue a sentence anywhere in the sentencing range.

Pursuant to Title 18, United States Code, Section 3551, the Sentencing Reform Act and the Sentencing Guidelines, the possible sentencing range for this offense runs as follows:

Final Offense Level 15

Criminal History Category I - 18-24 months
Criminal History Category II - 21-27 months
Criminal History Category III - 24-30 months

Final Offense Level 13

Criminal History Category I - 12-18 months
Criminal History Category II - 15-21 months
Criminal History Category III - 18-24 months

Final Offense Level 11

Criminal History Category I - 8-14 months
Criminal History Category II - 10-16 months
Criminal History Category III - 12-18 months

Pursuant to U.S.S.G. §§ 5B1.1 and 5C1.1(c), probation and a "split sentence" are both unavailable if the Court concludes that the final offense level is 13 or 15, regardless of defendant VOLPICELLI's Criminal History Category. If the Court concludes that the final offense level is 11, a "split sentence"



(but not probation) would be available if the Court finds that defendant VOLPICELLI's Criminal History Category is I or II, but not if it is III.

Pursuant to U.S.S.G. § 5D1.1(a), if a term of imprisonment of more than one year is imposed, a term of supervised release following imprisonment is required. Under Title 18, United States Code, Section 3559(a)(2), the offense charged in Counts Fifteen through Eighteen of the Indictment are Class E felonies, and, therefore, pursuant to U.S.S.G. § 5D1.2(a)(1) and (b), if a term of supervised release is applicable, it shall be ordered for a period of one year.

Depending upon the Court's finding of the appropriate Offense Level, the Court is required to impose a fine. Pursuant to U.S.S.G. § 5E1.2, a possible fine can be imposed within a range depending upon the Court's finding of the applicable sentencing guideline range. At offense level 15, the maximum allowable fine is \$40,000 with a minimum fine of \$4,000; at offense level 13, the maximum allowable fine is \$30,000 with a minimum fine of \$3,000; and at offense level 11, the maximum allowable fine is \$20,000 with a minimum fine of \$2,000.

In addition to the fine mentioned above, U.S.S.G. § 5E1.2(i) requires the Court to impose an additional fine amount that is at least sufficient to pay the costs to the Government of any imprisonment, probation or supervised release ordered. However, U.S.S.G. § 5E1.2(f) allows the Court to lower or waive any fine or impose an alternative sanction, such as community service, if a defendant establishes that he or she does not have the ability to pay a fine.

Title 18, United States Code, Section 3663 and U.S.S.G. § 5E1.1 permit restitution if deemed appropriate by the Court.

Pursuant to Title 18, United States Code, Section 3013(a)(2)(A) and U.S.S.G. § 5E1.3, the Court is required to impose a special assessment in the amount of \$50.00 for each felony conviction. This special assessment shall be collected in the same manner that fines are collected in criminal cases.

IV. ESSENTIAL ELEMENTS OF THE OFFENSE:

Before a verdict of guilty may be reached, the Government would have to prove beyond a reasonable doubt each of the following essential elements of the offense as follows:



Tax Perjury

- First: That the defendant made and subscribed a return, statement, or other document that was false as to a material matter;
- Second: That the return, statement, or other document contained a written declaration that it was made under penalty of perjury;
- Third: That the defendant did not believe the return, statement, or other document to be true and correct as to every material matter; and
- Fourth: That the defendant falsely subscribed to the return, statement, or other document with the specific intention to violate the law.

V. FACTS TO SUPPORT A PLEA OF GUILTY:

During the calendar years 1987 through at least 1993, defendant VOLPICELLI resided in Reno, Nevada. During this period, VOLPICELLI devised and carried out a scheme to defraud various stores (including, but not limited to, Target Stores and Mervyn's stores) by, among other things, purchasing various items with credit cards and then using multiple copies of the credit card receipts multiple times to return additional items in exchange for refunds. The additional returned items had been previously purchased by VOLPICELLI at a price less than the price indicated on the receipts he used to return the items. These refunds were made in the form of credits to various credit cards.

Specifically, VOLPICELLI carried out this fraud at least in part by purchasing an item at a store (the "original item"), using one of the numerous credit cards he or his wife had obtained from various credit card issuers. After purchasing the original item, VOLPICELLI made copies of the receipt he received from the store, at least in part by using a small, hand-held copy machine. VOLPICELLI then returned the original item for a full refund, which he knew would be posted as a credit to one of his or his wife's credit card accounts.

VOLPICELLI subsequently obtained the same item as the original item on several occasions from one or more stores for less than the full price (the "multiple items"). VOLPICELLI obtained the multiple items using different methods, including, but not limited to, using one of two UPC label machines to create new UPC labels for lower-priced items, which he then placed over the original code on the items' packaging. VOLPICELLI then



purchased those items at the lower price when the cashier at the store scanned the false UPC code on those items. Using the copies of the receipt he had made previously when he purchased the original item or claiming that he had lost the original receipt, VOLPICELLI returned the multiple items (however they were obtained) for a refund of the full price, which VOLPICELLI knew he had not paid and which amount he knew would be credited to one of his or his wife's credit card accounts.

As a result of this fraud, VOLPICELLI accumulated substantial credit card credit balances to which he knew he was not entitled. From calendar years 1989 through 1992 alone, VOLPICELLI obtained credit card credits on numerous separate credit card accounts totalling over \$800,000. VOLPICELLI then used these credit card balances like a debit card for various purposes.

VOLPICELLI used these credit balances to, among other things, (1) purchase personal items and (2) pay the mortgage on both his personal residence and a rental property through the use of checks drawn on the credit card accounts. These credit balances constituted taxable income to VOLPICELLI, which he failed to report on his Forms 1040 (Individual Income Tax Return) for tax years 1989, 1990, 1991, and 1992. The amount of taxable income VOLPICELLI failed to report for criminal purposes, which takes into account any potential deductions for expenses incurred in carrying out the fraud, is as follows:

<u>Tax Year</u>	<u>Unreported Taxable Income</u>
1989	\$ 28,136.74
1990	49,038.80
1991	67,884.05
1992	<u>60,495.10</u>
TOTAL	<u>\$205,554.69</u>

On or about July 11, 1990, in the District of Nevada, VOLPICELLI did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1989, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service. VOLPICELLI did not believe this return to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the fraud discussed above or to report the taxable income he derived from that fraud, despite the fact that he knew he was required to report the taxable income derived from the fraud.



On or about August 1, 1991, in the District of Nevada, VOLPICELLI did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1990, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service. VOLPICELLI did not believe this return to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the fraud discussed above or to report the taxable income he derived from that fraud, despite the fact that he knew he was required to report the taxable income derived from the fraud.

On or about August 11, 1992, in the District of Nevada, VOLPICELLI did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1991, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service. VOLPICELLI did not believe this return to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the fraud discussed above or to report the taxable income he derived from that fraud, despite the fact that he knew he was required to report the taxable income derived from the fraud.

On or about July 23, 1993, in the District of Nevada, VOLPICELLI did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1992, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service. VOLPICELLI did not believe this return to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the fraud discussed above or to report the taxable income he derived from that fraud, despite the fact that he knew he was required to report the taxable income derived from the fraud.

VI. STATEMENT OF THE DEFENDANT:

I, FERRILL J. VOLPICELLI, hereby acknowledge that I have thoroughly read and reviewed this Memorandum with my attorney and agree it completely and accurately states both the negotiation between myself, my attorney and the United States and the facts supporting my plea of guilty. I have discussed the contents of this Memorandum with my attorney and he has explained them to my satisfaction. I understand that the contents of this Memorandum constitute the entire agreement between myself and the Government. The Government has not promised me anything not mentioned in this Memorandum.



My attorney has not promised me anything not mentioned in this Memorandum either, and, in particular, my attorney has not promised that I will get any specific sentence. I understand that any discussions with my attorney about the possible sentence I might receive from the Court are just predictions and are not binding on the Court. I know that I cannot withdraw my guilty plea because my attorney's sentencing predictions turn out wrong.

My attorney has also explained to me my constitutional rights, including my right to a jury trial, to confront my accusers, to call witnesses on my own behalf, and my right to remain silent. He has further explained to me that I have to waive these rights, that is, give them up, in order to have my guilty plea accepted by the Court.

I know that if the Government makes a non-binding recommendation as to what type of sentence I should receive, the Court does not have to follow that recommendation. I also understand that I cannot withdraw my guilty plea because the Court decides not to follow a non-binding sentencing recommendation of the Government.

I further understand that the matter of sentencing is entirely up to the Court. Any stipulations or agreements between myself, my attorney, and the Government are not binding upon the Court. I know that the Court will decide my sentence based upon the facts of this case, the applicable statutes and the Sentencing Guidelines. I fully understand that my sentence could be anywhere within the range set forth in Section II of this Memorandum.

I know that the maximum possible penalty provided by law for the violation of Title 26, United States Code, Section 7206(1), as alleged in the Indictment, is a \$250,000 fine and three (3) years imprisonment, or both, plus the costs of prosecution.

I understand that a term of supervised release may be added to any prison sentence imposed; that if the supervised release term is violated, I can be returned to prison for the remainder of my sentence and the full length of the supervised release term.

Additionally, I know the Court is required to impose an assessment in the amount of \$50.00 for each count to which I am pleading guilty.

I understand that if I knowingly violate any local, state or federal law between now and the time of my sentencing, such offense may constitute a violation of this plea agreement.



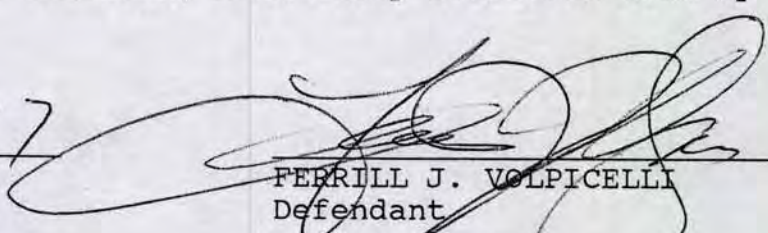
February 7, 1997
Page 11

I also understand that the Court will decide whether a violation of the plea agreement has occurred. If the Court finds that I have breached this agreement by violating any law, I understand that the Court may relieve the government of all obligations and commitments in this plea agreement while leaving intact my plea of "Guilty".

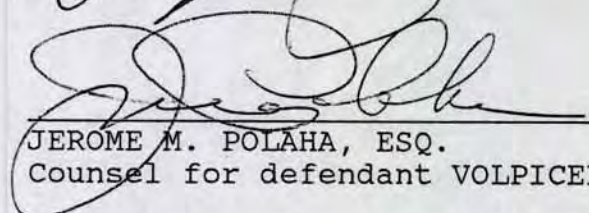
I am pleading guilty freely, voluntarily and knowingly because I am guilty and for no other reason. I have not been pressured or induced by any other defendant or lawyer to enter this plea. I was not under the influence of any drugs, medication or intoxicants when the decision to enter the plea was made, and I am not now under the influence of any drugs, medication or intoxicants.

Finally, I understand that the decision to plead guilty or go to trial is mine alone. As stated above, I have discussed this case fully with my attorney and received legal advice about what is the best course of action that I should take. My decision after receiving this advice is to plead guilty under this agreement. In addition, I am fully satisfied with my attorney.

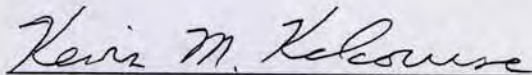
Date: 2-7-97


FERRILL J. VOLPICELLI
Defendant

Date: 2-7-97


JEROME M. POLAHA, ESQ.
Counsel for defendant VOLPICELLI

Presented and approved on behalf of the United States:



KEVIN M. KELCOURSE
DANNY N. ROETZEL
Trial Attorneys
United States Department of Justice
Tax Division

V11.53



DATE

DOCUMENT NO.

To

Docket No.

Out

10/17/2024 1:30pm (see court of the parties)

MASTER DOCKET - MULTIPLE DEFENDANT CASE
PROCEEDINGS DOCKET FOR SINGLE DEFENDANT

PAGE

OF

V. PROCEEDINGS

VI EXCLUDABLE DELAY

Start Date

End Date

To

From

Days

For identifying
periods of excluded
delay, per 18
U.S.C. 3605 (b) (3) (B)(ii)
(see below for
instructions on
how to use)

A. Cause of Delay
For excluded delay,
the court must
specify the cause of
delay (e.g., 18
U.S.C. 3605 (b) (3) (B)(ii))
(10000)

§ 3605 (b) (3) (B)(ii)
18 U.S.C. 3605 (b) (3) (B)(ii)
C. Statute and provisions
applicable to the
excluded delay (e.g.,
18 U.S.C. 3605 (b) (3) (B)(ii))
D. Excludable delay
per 18 U.S.C. 3605 (b) (3) (B)(ii)
E. Period of exclusion
from the proceedings
per 18 U.S.C. 3605 (b) (3) (B)(ii)
F. Total excluded delay
per 18 U.S.C. 3605 (b) (3) (B)(ii)
G. Total excluded delay
per 18 U.S.C. 3605 (b) (3) (B)(ii)
H. Total excluded delay
per 18 U.S.C. 3605 (b) (3) (B)(ii)

G. Excludable delay
per 18 U.S.C. 3605 (b) (3) (B)(ii)
H. Total excluded delay
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I. Total excluded delay
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Y. Total excluded delay
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Z. Total excluded delay
per 18 U.S.C. 3605 (b) (3) (B)(ii)

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UNITED STATES DISTRICT COURT
CRIMINAL DOCKET
U.S. vs

FERRILL J. VOLPICELLI

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USA VS. FERRILL J. VOLPICELLI

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PAGE 3
V. EXCLUDABLE DELAY

UNITED STATES
CRIMINAL DOCS
AQ 256A
57
DATE

DATE	PROCEEDINGS (continued)	DATE	TIME	LOCATION	STATUS	REMARKS
9/25/96	12 STIPULATION/ORDER: (HDM) ORD Disc ext cll 10/5/96. Im Excl'd: 18:3161(h)(8) (A) & (B). Cps.Dist. (AT) blg. *mld-9/26/96.	11/13/98	11/13/98	11/13/98	11/13/98	11/13/98
11/5/96	13 ORDER: (HDM) ORD VOLPICELLI J/T set & cnsl to subp with for 12/2/96, 8:30am w/cal call set 11/25/96, 8am. cps dist (AT) wj	1/20/98	1/20/98	1/20/98	1/20/98	1/20/98
--	14 ORDER: (HDM) ORD VOLPICELLI jury instructs due 5 days bef trial. cps dist (AT) wj	1/13/98	1/13/98	1/13/98	1/13/98	1/13/98
11/19/96	15 STIPULATION/ORDER re VOLPICELLI: (HDM) ORD trial date 11/26/96, contd for prd of 60 days. cps dist (AT) wj 3161(h)(8)(A)&(B)(1)(iv)	1/20/98	1/20/98	1/20/98	1/20/98	1/20/98
--	16 MINUTE ORDER re VOLPICELLI: (HDM) ORD trial reset 1/28/97, 8:30am. cps dist (AT) wj	1/20/98	1/20/98	1/20/98	1/20/98	1/20/98
1/8/97	17 MINUTE ORDER re VOLPICELLI: (HDM) ORD cal call set 1/17/97, 8:45 am. Hrng is telphon; cnsl hv been teleph notif. cps dist (AT) wj	1/20/98	1/20/98	1/20/98	1/20/98	1/20/98
1/15/97	18 MINUTES/CALLANDER CALL/STATUS CONFERENCE re VOLPICELLI: (HDM) ORD trial 1/28/97 vac & reset 2/10/97, 8:30am. FUR ORD chng of plea set 2/7/97, 9:15am. (C/R Kathryn French) cps dist (AT) wj	4/29/99	4/29/99	4/29/99	4/29/99	4/29/99
2/3/97	19 MEMORANDUM of Plea negotiation re VOLPICELLI. wj	5/5/99	5/5/99	5/5/99	5/5/99	5/5/99
2/4/97	-- SUB to HDM # 19 (AT) wj	5/20/99	5/20/99	5/20/99	5/20/99	5/20/99
2/7/97	20 MINUTES/CHANGE OF PLEA re VOLPICELLI: (HDM) D plds G Cts 15,16,17,18 & crt acpts trms plea agrmt & G plea to SSI; ORD impo of sentence as to Cts abv set 5/13/97, 8am; trial set 2/10/97 vac; D remans on bond pend impo of sentc; (C/R Kathryn French) cps dist (AT) wj	5/24/99	5/24/99	5/24/99	5/24/99	5/24/99
--	21 AMENDED MEMO of plea negotiation re VOLPICELLI. wj	9/21/00	9/21/00	9/21/00	9/21/00	9/21/00
5/13/97	22 MINUTES/IMPO of sentencing re VOLPICELLI dtd 5/13/97. (HDM) sentnc impsd on Cts 15-18; ORD Cts 1-14 & 19-21 are dsmsd. FUR ORD D sh rmn on bond subj to all estblshd cdnts of rels pend self-surr as dsngtd USBOP on 7/18/97, 12noon; (C/R Kathryn French) cps dist (AT) wj	9/26/00	9/26/00	9/26/00	9/26/00	9/26/00
5/15/97	23 JUDGMENT re VOLPICELLI dtd 5/13/97: (HDM) D pld G Cts 15-18; ORD USBOP 22 mos to each ct to rn cnrcntly; Crt rcmnds incar at PFC Nellis, NV; D sh self surr 7/18/97, 12noon; 1 Yr sprsd rels; \$3000 fine; \$200 specs assmt due immed; Cts 1-14&19-21 dsmsd mtn US. (EOD 5/16/97) cps dist (AT) wj	10/11/00	10/11/00	10/11/00	10/11/00	10/11/00

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DATE | Document No. | PROCEEDINGS (continued) | V. EXCLUDABLE DELAY (a) | (b) | (c) |

7/2/97	24	MOTION to delay surrender obo VOLPICELLI. wj	
7/3/97	--	Sub to HDM # 24 (A)T wj	
7/7/97	25	ORDER re VOLPICELLI: (HDM) ORD D mtn #24 granted. D self surr by 8/18/97 to fed institute. cps dist (AT) wj	
8/12/97	26	MOTION to delay surrender obo VOLPICELLI. wj	
8/12/97	--	SUB to HDM #26 (AT) wj	
8/13/97	27	ORDER re VOLPICELLI: (HDM) ORD D unopposd Mtn #26 to modify self surr granted. D sh surr on 10/17/97 cps dist (AT) wj	
8/27/97	28	MOTION to rels grand jury information obo Govt re VOLPICELLI. wj	
8/28/97	--	SUB to HDM #28 (AT) wj	
8/29/97	29	ORDER re VOLPICELLI: (HDM) ORD Govt unopposd mtn #28 is granted. cps dist (AT) wj	
10/15/97	30	MOTION to delay surrender (3rd/Req) obo D, VOLPICELLI. (m) (AT) blg.	
--	--	SUB to HDM: Item #30. (AT) blg.	
10/16/97	31	ORDER: (HDM) ORD D may hv cll 11/28/97 in wh to surrender to fed instructn to wh he is assigned. There will be no fur extensions. cps.Dist. (AT) blg. *mld-10/16/97.	
10/20/97	32	ORDER: (HDM) ORD errata to correct dt of sur fm 11/28/97 to 12/1/97 grntd. D, VOLPICELLI sh sur on 12/1/97. Cps.Dist. (AT) blg. *mld-10/21/97.	
11/21/97	33	MOTION to delay surrender (4th Req) obo VOLPICELLI (A)T wj	
11/24/97	--	SUB to HDM #33. (A)T wj	
11/24/97	34	ORDER re VOLPICELLI: (HDM) ORD D may hv to and incl 1/15/98. to self surr to fed inst he is assignd. FOR ORD th will be no fur extn grntd. cps dist (AT) wj	
1/12/98	35	PETITION/ORDER re VOLPICELLI: (DMH) OR B/W be issd re vol cntnl rels purs 18USC3148(b). cps dist (AT) wj	
--	--	WARRANT issd USM re VOLPICELLI. wj	

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Cont page 8

Interval (per Section 11) | Start Date | End Date | Ltr. Total | Code Days

V. EXCLUDABLE DELAY

DATE	Document No.	PROCEEDINGS (continued)	(a)	(b)	(c)	(d)
1/13/98	36	MINUTES/INITIAL APPEARANCE/REVOCATION PROCEEDINGS dtd 1/13/98 re VOLPICELLI: (PHA) Crt advs prts Ord extending dt d self surr 1/15/98, (#34) revoked . ORD cdnts of rels imposed 7/15/96 are hereby revoked. PUR ORD D remanded CUSM bgn syng sentence imposed 5/13/97. (Tape 98-3/4) E&S 1/14/98 cps dist (AT) wj				
1/13/98	37	ORDER re VOLPICELLI: (HDM) ORD D self surr en 1/15/98 (#34) revoked. cps dist (AT) wj				
1/20/98	38	MINUTES/TELEPHONIC STATUS CONFERENCE dtd 1/15/98 re VOLPICELLI: (HDM) ORD D remanded CUSM for trnfr to dsngnd institute. (C/R Margaret Griener) cps dist (AT) wj				
--	39	WARRANT w/USM rtn re VOLPICELLI arr 1/12/98. wj				
2/20/98	40	JUDGMENT w/USM rtn re VOLPICELLI dlvr'd 2/5/98 to FCI SAF, Safford AZ. wj				
4/29/99	41	X MOTION for order to return seized property and to account obo VOLPICELLI. (m) (AT) wj (Pro Se) <i>1/3 dkted 44</i>				
4/30/99	--	SUB to HDM Item #41 (AT) wj				
5/5/99	42	ORDER re VOLPICELLI: (HDM) ORD the US sh rspnd to the Mtn to rtnr seized property (#41) on or bef 6/1/99. cps dist wj (AT)				
5/20/99	43	RESPONSE to doc (#41) obo Govt. (m) (AT) wj				
5/21/99	--	SUB to HDM Item #41 (AT) wj				
5/24/99	44	ORDER re VOLPICELLI (HDM) ORD the D's mtn for return of seized property is denied without prej to renew with the police department in las Vegas and Murray City, UT, and with the California Department of Justice. cps dist wj (AT) EOD 5/25/99				
9/21/00	45	PETITION for modification of spvsd rels obo VOLPICELLI. (m) (AT) wj (cpy USA 9/22/00)				
--	46	REQUEST for IFP re doc #45 obo VOLPICELLI. wj (AT) <i>granted 47</i>				
9/22/00	--	SUB to HDM Item #45 and 46 (AT) wj				
9/26/00	47	ORDER re VOLPICELLI (HDM) ORD D's req to proceed IFP granted. Govt sh rspn to D's pet for modif of spvsd rels on or bef 10/15/00. cps dist wj (AT)				
10/11/00	48	RESPONSE to petn for modif (#45) obo GVT. (m) (AT) blg				



U.S. DISTRICT COURT
DISTRICT OF NEVADA
FILED

JUL 10 1996

CLERK, U.S. DISTRICT COURT

BY DEPUTY

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

-oOo-

UNITED STATES OF AMERICA,

Plaintiff,

v.

FERRILL J. VOLPICELLI,

Defendant.

CRIMINAL INDICTMENT

CR- CR-N-96-00046-HDM (RAM)

WIRE FRAUD (18 U.S.C.
Section 1343); TAX PERJURY
(26 U.S.C. SECTION
7206(1)); FALSE BANK LOAN
STATEMENTS (18 U.S.C.
Section 1014)

THE GRAND JURY CHARGES THAT:

INTRODUCTORY ALLEGATIONS

1. During the calendar years 1987 through at least 1993,
defendant FERRILL J. VOLPICELLI ("VOLPICELLI") resided in Reno,
Nevada, and was married to LORI VOLPICELLI.

2. During this period, VOLPICELLI was a real estate broker
and insurance salesman. In addition, VOLPICELLI devised and
carried out a scheme to defraud various stores (including, but not

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Clerk, United States District Court

By
Deputy Clerk

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1 limited to, Target Stores and Mervyn's stores) by, among other
2 things, purchasing various items with credit cards and then using
3 the credit card receipts (or copies thereof) multiple times to
4 return additional items in exchange for refunds (hereafter referred
5 to as the "credit card scheme"). These refunds were made in the
6 form of credits to various credit cards.

7 3. As a result of this scheme, VOLPICELLI accumulated
8 substantial credit card credit balances to which he was not
9 entitled. From calendar years 1989 through 1992 alone, VOLPICELLI
10 obtained credit card credits on numerous separate credit card
11 accounts totalling over \$800,000.

12 4. VOLPICELLI used these credit balances to (1) purchase
13 personal items and (2) pay the mortgage on both his personal
14 residence and a rental property through the use of checks drawn on
15 the credit card accounts.

16 SCHEME TO DEFRAUD

17 5. Beginning at least as early as January 22, 1987, and
18 continuing until at least April 6, 1993, in the District of Nevada
19 and elsewhere, VOLPICELLI did knowingly devise and intend to devise
20 a scheme or artifice to defraud and to obtain money from various
21 stores in the form of credits on various credit cards held by
22 himself or his wife, Lori Volpicelli, by means of false and
23 fraudulent pretenses, representations and promises, the concealment
24 of material facts, and other means (hereafter referred to as the
25 "scheme").

26 METHOD AND MEANS OF THE ILLEGAL SCHEME

27 6. It was part of the scheme that, on several occasions,
28 VOLPICELLI purchased an item at a store (the "original item"),



1 using one of the numerous credit cards he or his wife had obtained
2 from various credit card issuers. After purchasing the original
3 item, VOLPICELLI made copies of the receipt he received from the
4 store, at least in part by using a small, hand-held copy machine.
5 VOLPICELLI then returned the original item for a full refund, which
6 he knew would be posted as a credit to one of his or his wife's
7 credit card accounts.

8 7. It was further part of the scheme that VOLPICELLI
9 traveled to numerous stores in order to make thousands of purchases
10 and returns discussed in the preceding paragraph, including stores
11 located in Arizona, California, Nevada, Utah, and Washington, and,
12 as a result, obtained credit card credits totalling over \$800,000
13 during calendar years 1989 through 1992 alone.

14 8. It was further part of the scheme that VOLPICELLI used
15 his own name as well as several different names other than his own
16 when making the returns and obtaining the fraudulent credit card
17 credits discussed in the preceding paragraphs.

18 9. It was further part of the scheme that VOLPICELLI
19 obtained two machines used to make uniform product code ("UPC")
20 labels. The first machine was seized by the Murray City, Utah
21 police department after VOLPICELLI fled from security personnel at
22 a Shopko store in Murray City and abandoned his rental car in which
23 he had left the machine and other items. He obtained the second
24 machine after the first machine was seized.

25 10. It further was part of the scheme that VOLPICELLI
26 subsequently obtained the same item as the original item on several
27 occasions from one or more stores for less than the full price (the
28 "multiple items"). VOLPICELLI obtained the multiple items using



1 different methods, including, but not limited to, using one of two
2 UPC label machines to create new UPC labels for lower-priced items,
3 which he then placed over the original code on the items'
4 packaging. VOLPICELLI then purchased those items at the lower
5 price when the cashier at the store scanned the false UPC code on
6 those items.

7 11. It further was part of the scheme that, using the copies
8 of the receipt he had made previously when he purchased the
9 original item or claiming that he had lost the original receipt,
10 VOLPICELLI returned the multiple items (however they were obtained)
11 for a refund of the full price, which VOLPICELLI knew he had not
12 paid and which amount he knew would be credited to one of his or
13 his wife's credit card accounts.

14 12. It further was part of the scheme that VOLPICELLI
15 returned the multiple items knowing full well that the stores, in
16 order to provide VOLPICELLI with the credit he sought, would
17 communicate in interstate commerce by means of wire communication
18 as a direct result of his actions.

19 COUNTS ONE THROUGH TWELVE

20 WIRE FRAUD

21 13. The Grand Jury repeats and realleges each and every
22 allegation contained in paragraphs 1 through 12 of the Indictment.

23 14. For the purpose of executing the scheme to defraud and to
24 obtain money in the form of credits on various credit cards held by
25 himself or Lori Volpicelli, on or about the dates set forth below,
26 within the District of Nevada and elsewhere, by means of false or
27 fraudulent pretenses, representations, or promises, VOLPICELLI did
28 knowingly cause to be transmitted by means of wire communication in



interstate commerce certain signs, signals and sounds between the Target Store locations listed below and Minneapolis, Minnesota as a result of his purchase or return of various items, with the corresponding receipt number, as follows:

COUNT

DATE

DESCRIPTION

Golf Clubs, Receipt No. 0369

1. January 21, 1992 Returned set of golf clubs to Target Store T-263 in Las Vegas, Nevada, obtaining a credit in the amount of \$213.99 on Visa account number 4128400355173.

Tents, Receipt No. 0100

2. March 14, 1992 Purchased a "two room tent" and a "Greatland two room tent" for a total price of \$588.48 at Target Store T-262 in Reno, Nevada, using Visa account number 4128400355173.

3. March 14, 1992 Returned a "two room tent" and a "Greatland two room tent" at Target Store T-262 in Reno, Nevada, obtaining a credit in the amount of \$588.48 on Visa account number 4128400355173.

4. April 9, 1992 Returned a "Greatland two room tent" to Target Store T-263 in Las Vegas, Nevada, obtaining a credit in the amount of \$267.49 on Visa account number 4128400355173.

Golf Clubs, Receipt No. 1150

5. April 20, 1992 Purchased a set of "Black Diamond Irons" and a golf set for \$427.98 at Target Store T-261 in Sparks, Nevada, using Visa account number 4317344210045698.

6. April 20, 1992 Returned a set of "Black Diamond Irons" and a golf set for \$427.98 at Target Store T-261 in Sparks, Nevada, using Visa account number 4317344210045698.

Sunbeam Stand Mixer, Receipt No. 4484



- 1 7. December 22, 1992 Returned a "Sunbeam Stand Mixer" to
2 Target Store T-265 in Las Vegas,
3 Nevada, obtaining a credit in the
4 amount of \$107.74 on Master Card
5 account number 5472330108229435.

6 Sunbeam Stand Mixer, Receipt No. 9661

- 7 8. December 22, 1992 Returned a "Sunbeam Stand Mixer" to
8 Target Store T-265 in Las Vegas,
9 Nevada, obtaining a credit in the
10 amount of \$107.74 on Discover
11 account number 6011009737000443.

12 Vacuum Cleaner, Receipt No. 8795

- 13 9. January 14, 1993 Returned a "Hoover Legacy Vacuum" to
14 Target Store T-263 in Las Vegas,
15 Nevada, obtaining a credit in the
16 amount of \$192.59 on Visa account
17 number 4800120216070755.

18 Telephone, Receipt No. 3108

- 19 10. December 23, 1992 Returned an "AT&T 5500 Telephone" to
20 Target Store T-680 in Henderson,
21 Nevada, obtaining a credit in the
22 amount of \$171.19 on Master Card
23 account number 5424180271573179.

- 24 11. January 15, 1993 Returned an "AT&T 5500 Telephone" to
25 Target Store T-680 in Henderson,
26 Nevada, obtaining a credit in the
27 amount of \$173.19 on Master Card
28 account number 5424180271573179.

12. March 1, 1993 Returned an "AT&T 5500 Telephone" to
Target Store T-263 in Las Vegas,
Nevada, obtaining a credit in the
amount of \$173.19 on Master Card
account number 5424180271573179.

All in violation of Title 18, United States Code, Section 1343.

COUNT THIRTEEN

WIRE FRAUD

15. The Grand Jury repeats and realleges each and every
allegation contained in paragraphs 1 through 12 of the Indictment.

16. For the purpose of executing the scheme to defraud and to
obtain money in the form of credits on various credit cards held by



1 himself or Lori Volpicelli, on or about November 21, 1992, within
2 the District of Nevada, by means of false or fraudulent pretenses,
3 representations, or promises, VOLPICELLI did knowingly cause to be
4 transmitted by means of wire communication in interstate commerce
5 certain signs, signals and sounds between Reno, Nevada and
6 California for the purpose of purchasing two gold chains from the
7 Mervyn's store # 167 in Mira Mesa, California.

8 In violation of Title 18, United States Code, Section 1343.

9 **COUNT FOURTEEN**

10 **WIRE FRAUD**

11 17. The Grand Jury repeats and realleges each and every
12 allegation contained in paragraphs 1 through 12 of the Indictment.

13 18. For the purpose of executing the scheme to defraud and to
14 obtain money in the form of credits on various credit cards held by
15 himself or Lori Volpicelli, on or about December 22, 1992, within
16 the District of Nevada, VOLPICELLI did knowingly cause to be
17 transmitted by means of wire communication in interstate commerce
18 certain signs, signals and sounds between San Mateo, California and
19 Nevada, relating to the purchase of two gold chains from the
20 Mervyn's store # 59 in Cupertino, California, using Visa account
21 number 4737000080773.

22 In violation of Title 18, United States Code, Section 1343.

23 **COUNT FIFTEEN**

24 **TAX PERJURY**

25 19. The Grand Jury repeats and realleges each and every
26 allegation contained in paragraphs 1 through 4 of the Indictment.

27 20. On or about July 11, 1990, in the District of Nevada,
28 VOLPICELLI, a resident of Reno, Nevada, did willfully make and



1 subscribe a joint U.S. Individual Income Tax Return, for the
2 calendar year 1989, which was verified by a written declaration
3 that it was made under the penalties of perjury and which was filed
4 with the Internal Revenue Service, which said income tax return he
5 did not believe to be true and correct as to every material matter
6 in that the said return failed to disclose that he was engaged in
7 the operation of a business activity (i.e., the credit card scheme)
8 from which he derived gross receipts or sales and incurred
9 deductions or to report the income derived therefrom, whereas, as
10 he then and there well knew and believed, he was required to
11 disclose the operation of this business activity, the gross
12 receipts or sales derived therefrom, and the deductions he incurred
13 or to report the income derived therefrom.

14 In violation of Title 26, United States Code, Section 7206(1).

15 **COUNT SIXTEEN**

16 **TAX PERJURY**

17 21. The Grand Jury repeats and realleges each and every
18 allegation contained in paragraphs 1 through 4 of the Indictment.

19 22. On or about August 1, 1991, in the District of Nevada,
20 VOLPICELLI, a resident of Reno, Nevada, did willfully make and
21 subscribe a joint U.S. Individual Income Tax Return, for the
22 calendar year 1990, which was verified by a written declaration
23 that it was made under the penalties of perjury and which was filed
24 with the Internal Revenue Service, which said income tax return he
25 did not believe to be true and correct as to every material matter
26 in that the said return failed to disclose that he was engaged in
27 the operation of a business activity (i.e., the credit card scheme)
28 from which he derived gross receipts or sales and incurred



1 deductions or to report the income derived therefrom, whereas, as
2 he then and there well knew and believed, he was required to
3 disclose the operation of this business activity, the gross
4 receipts or sales derived therefrom, and the deductions he incurred
5 or to report the income derived therefrom.

6 In violation of Title 26, United States Code, Section 7206(1).

7 **COUNT SEVENTEEN**

8 **TAX PERJURY**

9 23. The Grand Jury repeats and realleges each and every
10 allegation contained in paragraphs 1 through 4 of the Indictment.

11 24. On or about August 11, 1992, in the District of Nevada,
12 VOLPICELLI, a resident of Reno, Nevada, did willfully make and
13 subscribe a joint U.S. Individual Income Tax Return, for the
14 calendar year 1991, which was verified by a written declaration
15 that it was made under the penalties of perjury and which was filed
16 with the Internal Revenue Service, which said income tax return he
17 did not believe to be true and correct as to every material matter
18 in that the said return failed to disclose that he was engaged in
19 the operation of a business activity (i.e., the credit card scheme)
20 from which he derived gross receipts or sales and incurred
21 deductions or to report the income derived therefrom, whereas, as
22 he then and there well knew and believed, he was required to
23 disclose the operation of this business activity, the gross
24 receipts or sales derived therefrom, and the deductions he incurred
25 or to report the income derived therefrom.

26 In violation of Title 26, United States Code, Section
27 7206(1).
28



COUNT EIGHTEEN

TAX PERJURY

25. The Grand Jury repeats and realleges each and every allegation contained in paragraphs 1 through 4 of the Indictment.

26. On or about July 23, 1993, in the District of Nevada, VOLPICELLI, a resident of Reno, Nevada, did willfully make and subscribe a joint U.S. Individual Income Tax Return, for the calendar year 1992, which was verified by a written declaration that it was made under the penalties of perjury and which was filed with the Internal Revenue Service, which said income tax return he did not believe to be true and correct as to every material matter in that the said return failed to disclose that he was engaged in the operation of a business activity (i.e., the credit card scheme) from which he derived gross receipts or sales and incurred deductions or to report the income derived therefrom, whereas, as he then and there well knew and believed, he was required to disclose the operation of this business activity, the gross receipts or sales derived therefrom, and the deductions he incurred or to report the income derived therefrom.

In violation of Title 26, United States Code, Section 7206(1).

COUNT NINETEEN

FALSE BANK LOAN STATEMENT

27. The Grand Jury repeats and realleges each and every allegation contained in paragraphs 1 through 4 of the Indictment.

28. On or about February 2, 1993, in the District of Nevada, VOLPICELLI knowingly made a material false statement and report for the purpose of influencing the action of Great Basin Federal Credit Union, a Federal Credit Union, upon an application for credit in



1 that VOLPICELLI submitted a loan application which falsely stated
2 that VOLPICELLI was an employee of Conner & Conner, Inc. ("Conner")
3 and that his income from that employment was \$7,000 per month, when
4 in truth and in fact, as VOLPICELLI well knew, he was not an
5 employee of Conner and his income from that employment was not
6 \$7,000 per month.

7 In violation of Title 18, United States Code, Section 1014.

8 COUNT TWENTY

9 **FALSE BANK LOAN STATEMENT**

10 29. The Grand Jury repeats and realleges each and every
11 allegation contained in paragraphs 1 through 4 of the Indictment.

12 30. On or about February 20, 1993, in the District of Nevada,
13 VOLPICELLI knowingly made a material false statement and report for
14 the purpose of influencing the action of World Savings & Loan
15 Association, an institution the accounts of which are insured by
16 the Federal Deposit Insurance Corporation, upon a residential loan
17 application in that VOLPICELLI submitted a loan application which
18 falsely stated that VOLPICELLI was an employee of Conner & Conner,
19 Inc. ("Conner") and that his monthly income from that employment
20 was \$7,000. In addition, VOLPICELLI submitted two false Forms W-2,
21 one each for 1991 and 1992 which falsely stated that he was paid
22 \$81,600 and \$84,000, respectively, by Conner, from which federal
23 income tax of \$14,300 and \$16,900, respectively, was purportedly
24 withheld. In truth and in fact, as VOLPICELLI well knew, he was
25 not an employee of Conner, his income from that employment was not
26 \$7,000 per month, Conner did not pay him \$81,600 in 1991 or \$84,000
27 in 1992, and no federal income tax was withheld from any amounts
28 VOLPICELLI received from Conner in 1991 and 1992.



1 In violation of Title 18, United States Code, Section 1014.

2 **COUNT TWENTY-ONE**

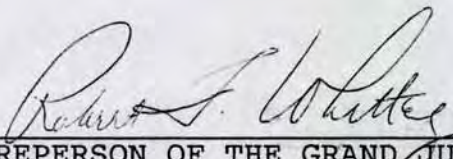
3 **FALSE BANK LOAN STATEMENT**

4 31. The Grand Jury repeats and realleges each and every
5 allegation contained in paragraphs 1 through 4 of the Indictment.

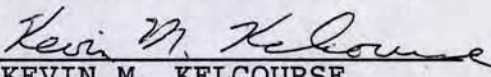
6 32. On or about October 8, 1990, in the District of Nevada,
7 VOLPICELLI knowingly made a material false statement and report for
8 the purpose of influencing the action of Pioneer Citizens Bank of
9 Nevada, an institution the accounts of which are insured by the
10 Federal Deposit Insurance Corporation, upon a credit application
11 for an auto loan in that VOLPICELLI submitted a credit application
12 which falsely stated that VOLPICELLI was an employee of Conner &
13 Conner, Inc. ("Conner") and that his monthly gross income and net
14 income from that employment was \$6,500 and \$5,900, respectively,
15 when in truth and in fact, as VOLPICELLI well knew, he was not an
16 employee of Conner and his gross income and net income from that
17 employment was not \$6,500 and \$5,900, respectively, per month.

18 In violation of Title 18, United States Code, Section 1014.

19
20 **A TRUE BILL:**

21 
22 **FOREPERSON OF THE GRAND JURY**

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24 United States Attorney

25 
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of America



No. CR03-1263

State

vs.

Ferrill Volpicelli

Ex. 3

Admitted: 4-1, 20 04

RONALD A. LONGTIN, JR., CLERK

3v *R. Bantlett*

Deputy

V11.73