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December 17, 2021

Via ECF

The Honorable Loretta A. Preska
United States District Judge
United States District Court, S.D.N.Y.
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007

**Re: *3M Company v. Performance Supply, LLC*; Case No. 1:20-cv-02949-LAP
Update on Status of the Action**

Dear Judge Preska:

We represent Plaintiff 3M Company ("3M") in the above-referenced civil action. Pursuant to this Court's December 9, 2021 Order (Dkt. No. 29), I write to update the Court on the status of the action.

As the Court may recall, it entered a preliminary injunction against Defendant Performance Supply, LLC ("Defendant") on May 4, 2020. *See* Dkt. No. 22. Thereafter, Defendant failed to respond to the Complaint by its May 5, 2020 deadline to do so. *See* Dkt. No. 18. Approximately two weeks later, Defendant's principal, Mr. Ronald Romano, was charged by the United States Attorney for the Southern District of New York in a three-Count criminal Complaint regarding his participation in an alleged "multi-faceted fraud scheme" to sell 3M-branded N95 respirators to government agencies at grossly inflated prices during the COVID-19 global pandemic. I enclose a copy of the Docket from the criminal proceeding for the Court's convenience.

3M is hopeful that the criminal proceeding will help unravel this vast, complex alleged conspiracy to assess whether it should: (i) seek leave to file an Amended Complaint in this action based on the allegations in the criminal Complaint, and/or (ii) obtain a Certificate of Default, and then move for a Default Judgment against Defendant. However, due to the complexity of the multi-defendant criminal proceeding, it appears to be proceeding slower than expected. For example, Mr. Romano recently filed a Motion to Dismiss on October 22, 2021, and retained new defense counsel on November 2, 2021. *See* Enclosure at p. 7.

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To date, no counsel has appeared on behalf of Defendant in this action, nor has Defendant answered the Complaint. 3M is working diligently to see whether newly retained criminal defense counsel for Mr. Romano will appear in this action on behalf of Defendant, and stipulate to a stay during the pendency of the criminal proceeding. Thus far, efforts to reach Mr. Romano's defense counsel have proven unsuccessful. In the meantime, 3M respectfully submits that it should continue deferring to the criminal proceeding before prosecuting its claims further in this action against Mr. Romano's company and/or any additional parties brought to light by the criminal proceeding.

We thank the Court for its time and consideration.

Respectfully submitted,

/s/ Carmine R. Zarlenga
Carmine R. Zarlenga

Enclosure

cc (via USPS):
Performance Supply, LLC
c/o Ronald Romano
3 Westbrook Way
Manalapan, New Jersey 07726

Current on Bloomberg Law as of 2021-12-09 14:43:36

U.S. District Court
Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:20-cr-00585-ALC All Defendants

USA v. Romano

Date Filed: Oct 27, 2020
Status: Electronic Case Format
Assigned to: [Judge Andrew L. Carter, Jr](#)
Lower Court Cases: 1:20-mj-05276-UA

Parties and Attorneys

Defendant (1)	Ronald Romano	
Representation	Mark A. Macron 491 Bard Avenue 2nd FL Staten Island, NY 10005 (718) 889-3582 mark@macronesq.com Mark A. Macron, Esq. LEAD ATTORNEY ATTORNEY TO BE NOTICED Designation: Retained	Todd Blanche <i>Cadwalader Wickersham & Taft LLP</i> 200 Liberty Street New York, NY 10281 (212) 504-6000 Fax: (212) 504-6666 todd.blanche@cwt.com LEAD ATTORNEY ATTORNEY TO BE NOTICED Designation: Retained

Plaintiff	USA	
Representation	Nicholas William Chiuchiolo, United States Attorney's Office, SDNY	Timothy Vincent Capozzi, United States Attorney's Office, SDNY

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Charges

ID	Party Name	Status	Description
1	Ronald Romano	Pending	18:1349.F ATTEMPT AND CONSPIRACY TO COMMIT WIRE FRAUD (1)
1	Ronald Romano	Pending	18:1343.F FRAUD BY WIRE, RADIO, OR TELEVISION (2)
1	Ronald Romano	Pending	18:371.F CONSPIRACY TO VIOLATE THE DEFENSE PRODUCTION ACT (3)
1	Ronald Romano	Complaint	18:371.F -- Conspiracy to Defraud the United States, 18:1343.F -- Fraud by Wire, Radio or Television, 18:1349.F -- Attempt and Conspiracy to Commit mail fraud

Docket Entries

Numbers shown are court assigned numbers.

Entry #	Filing Date	Description
	May 21, 2020	SEALED ORAL ORDER as to Sealed Defendant 1. (Signed by Magistrate Judge Kevin Nathaniel Fox on 5/21/2020)(jbo) [1:20-mj-05276-UA] (Entered: 05/22/2020)
1	May 26, 2020	COMPLAINT UNSEALED as to Ronald Romano. (vb) [1:20-mj-05276-UA] (Entered: 05/27/2020)
	May 26, 2020	Arrest of Ronald Romano. (vb) [1:20-mj-05276-UA] (Entered: 05/27/2020)
	May 26, 2020	Attorney update in case as to Ronald Romano. Attorney Mark A. Macron for Ronald Romano added. (vb) [1:20-mj-05276-UA] (Entered: 06/26/2020)
3	May 26, 2020	Minute Entry for proceedings held before Magistrate Judge Ona T. Wang:Initial Appearance as to Ronald Romano held on 5/26/2020. AUSA Nicholas Chiuchiolo present for the Government. Defendant present with attorney Mark Macron. Bail set: \$200,000 PRB; Co-signed by 2 FRP's; Travel limits include the SDNY/EDNY/DNJ; Surrender of travel documents and no new applications; Pretrial supervision as

Entry #	Filing Date	Description
		directed; Defendant is not to possess Firearms/Destructive Devices or weapons; Defendant to be released upon own signature; All remaining conditions to be met by 6/1/20. Surrender all firearms and firearms licenses and provide written verification to Pretrial Services; -No contact outside of presence of counsel with co-conspirators and witnesses known to the defendant, including those individuals referenced in the complaint. Preliminary hearing set for 5/26/2020. (vb) [1:20-mj-05276-UA] (Entered: 06/26/2020)
	May 26, 2020	Set/Reset Hearings as to Ronald Romano: Preliminary Hearing set for 6/26/2020 at 10:00 AM before Judge Unassigned. (vb) [1:20-mj-05276-UA] (Entered: 06/26/2020)
4	Jun 25, 2020	ORDER TO CONTINUE IN THE INTEREST OF JUSTICE as to Ronald Romano. Time excluded from 6/25/2020 until 7/27/2020. (Signed by Magistrate Judge Gabriel W. Gorenstein on 6/25/2020) [***Affirmation by AUSA Nicholas Chiuchiolo requesting a 30-day continuance until 7/27/2020 is attached.](jbo) [1:20-mj-05276-UA] (Entered: 06/26/2020)
5	Jul 27, 2020	ORDER TO CONTINUE IN THE INTEREST OF JUSTICE as to Ronald Romano. Time excluded from 7/27/2020 until 8/26/2020. (Signed by Magistrate Judge Sarah L Cave on 7/27/2020) [***Affirmation by AUSA Nicholas Chiuchiolo requesting a 30-day continuance until August 26, 2020 is attached.](jbo) [1:20-mj-05276-UA] (Entered: 07/30/2020)
6	Aug 26, 2020	ORDER TO CONTINUE IN THE INTEREST OF JUSTICE as to Ronald Romano. Time excluded from 8/26/2020 until 9/25/2020. (Signed by Magistrate Judge Debra C. Freeman on 8/26/2020) [***Affirmation by AUSA Nicholas Chiuchiolo requesting a 30-day continuance until September 25, 2020 is attached.](jbo) [1:20-mj-05276-UA] (Entered: 08/26/2020)
7	Sep 25, 2020	ORDER TO CONTINUE IN THE INTEREST OF JUSTICE as to Ronald Romano. Time excluded from 9/28/2020 until 10/26/2020. (Signed by Magistrate Judge Sarah Netburn on 9/25/2020) [***Affirmation by AUSA Nicholas Chiuchiolo requesting a 30-day continuance is attached.](jbo) [1:20-mj-05276-UA] (Entered: 09/28/2020)
8	Oct 26, 2020	ORDER TO CONTINUE IN THE INTEREST OF JUSTICE as to Ronald Romano re: 4 Order to Continue - Interest of Justice,. Time excluded from 10/26/20 until 11/25/20. Application of AUSA Nicholas Chiuchiolo. (Signed by Magistrate Judge Ona T. Wang on 10/26/20)(vb) [1:20-mj-05276-UA] (Entered: 10/26/2020)
9	Oct 27, 2020	INDICTMENT FILED as to Ronald Romano (1) count(s) 1, 2, 3. (jm) (Entered: 10/28/2020)
	Oct 27, 2020	Case Designated ECF as to Ronald Romano. (jm) (Entered: 10/28/2020)
10	Oct 29, 2020	LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Nicholas Chiuchiolo dated October 29, 2020 re: Request for Exclusion of Time . Document filed by USA as to Ronald Romano. (Chiuchiolo, Nicholas) (Entered: 10/29/2020)
11	Oct 30, 2020	NOTICE of Consent to Proceed Telephonically as to Ronald Romano (Macron, Mark) (Entered: 10/30/2020)
12	Oct 30, 2020	CONSENT TO PROCEED BY VIDEO OR TELE CONFERENCE by Ronald Romano. This proceeding was conducted by reliable video or telephone conferencing technology. (Signed by Magistrate Judge Ona T. Wang on 10/30/2020) (bw) (Entered: 10/30/2020)

Entry #	Filing Date	Description
13	Oct 30, 2020	ORDER as to Ronald Romano: This Order is entered, pursuant to Federal Rule of Criminal Procedure 5(f), to confirm the Government's disclosure obligations under Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, and to summarize the possible consequences of violating those obligations. SO ORDERED. (Signed by Magistrate Judge Ona T. Wang on 10/30/2020) (See ORDER as set forth) (lnl) (Entered: 10/30/2020)
14	Oct 30, 2020	Minute Entry for proceedings held before Magistrate Judge Ona T. Wang: Arraignment as to Ronald Romano (1) Count 1,2,3 held on 10/30/2020. Defendant present with counsel Mark Macron. AUSA Nick Chiuchiolo present for the government. Defendant arraigned and pleads Not Guilty. The Government is ordered to comply with its disclosure obligation under Brady v. Maryland and its progeny. The possible consequences of violating this obligation will be described in a written order and include dismissal of the charges and sanctioning of any responsible lawyer for the Government. (jbo) (Entered: 11/02/2020)
	Oct 30, 2020	Minute Entry for proceedings held before Magistrate Judge Ona T. Wang: Plea entered by Ronald Romano (1) Count 1,2,3 Not Guilty. (jbo) (Entered: 11/02/2020)
15	Nov 13, 2020	MEMO ENDORSEMENT 10 LETTER MOTION The Government respectfully writes, with the consent of the above-referenced defendants counsel, to request an exclusion of time from Speedy Trial Act calculations. On October 27, 2020, a grand jury in this District returned Indictment 20 Cr. 585 (ALC). Your Honor has scheduled an initial pretrial conference for November 16, 2020, at 10:00 a.m....ENDORSEMENT...The application is GRANTED. Time excluded. SO ORDERED. (Signed by Judge Andrew L. Carter, Jr on 10/29/20) (jw) (Entered: 11/13/2020)
16	Nov 13, 2020	ORDER as to Ronald Romano: This Order is entered, pursuant to Federal Rule of Criminal Procedure 5(f), to confirm the Government's disclosure obligations under Brady v. Maryland, 373 U.S. 83 (1963), and its progeny, and to summarize the possible consequences of violating those obligations. (Signed by Judge Andrew L. Carter, Jr on 11/13/2020) (See ORDER set forth) (ap) (Entered: 11/13/2020)
17	Nov 13, 2020	MEMO ENDORSEMENT as to Ronald Romano on re: 10 LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Nicholas Chiuchiolo dated October 29, 2020 re: Request for Exclusion of Time. ENDORSEMENT: The application is GRANTED. Time excluded. (Signed by Judge Andrew L. Carter, Jr on 10/29/2020) (ap) (Entered: 11/13/2020)
18	Nov 13, 2020	ORDER as to Ronald Romano: Telephone Status Conference set for November 16, 2020 at 10:00 a.m. The parties should contact the Court at 1-888-363-4749 on the date and time specified above and once prompted, should dial access code 3768660. (Signed by Judge Andrew L. Carter, Jr on 11/13/2020) (ap) (Entered: 11/13/2020)
	Nov 16, 2020	Minute Entry for proceedings held before Judge Andrew L. Carter, Jr: Telephone Conference as to Ronald Romano held on 11/16/2020. Defendant Ronald Romano appears with attorney Mark Macron. AUSA Nicholas Chiuchiolo and AUSA Timothy Capozzi for the Government. Telephone Status Conference set for 2/2/21 at 10:00 a.m. Time excluded from 11/16/20 to 2/2/21 in the interest of justice. All bail conditions remain in effect. Court Reporter: Kristen Carannante. See transcript for complete details. (Telephone Status Conference set for 2/2/2021 at 10:00 AM before Judge Andrew L. Carter Jr.) (lnl) (Entered: 11/17/2020)
19	Dec 7, 2020	LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Timothy V. Capozzi

Entry #	Filing Date	Description
		dated December 7, 2020 re: Entry of protective order . Document filed by USA as to Ronald Romano. (Attachments: # 1 Proposed protective order)(Capozzi, Timothy) (Entered: 12/07/2020)
20	Jan 8, 2021	PROTECTIVE ORDER as to Ronald Romano...regarding procedures to be followed that shall govern the handling of confidential material...(Signed by Judge Andrew L. Carter, Jr on 1/8/2021) (lnl) (Entered: 01/08/2021)
21	Jan 29, 2021	ORDER as to Ronald Romano. The Status Conference set for February 2, 2021 at 10:00 a.m. is converted to a telephone status conference. The parties should contact the Court at 1-888-363-4749 on the date and time specified above and once prompted, should dial access code 3768660. SO ORDERED. (Signed by Judge Andrew L. Carter, Jr. on 1/29/2021)(bw) (Entered: 01/29/2021)
22	Jan 31, 2021	LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Nicholas Chiuchiolo dated 1/31/2021 re: Adjournment and exclusion of time . Document filed by USA as to Ronald Romano. (Chiuchiolo, Nicholas) (Entered: 01/31/2021)
23	Feb 4, 2021	MEMO ENDORSEMENT 22 LETTER MOTION The Government respectfully writes, with the consent of the above-referenced defendant's counsel, to request an adjournment of the status conference, currently scheduled for February 2, 2021 at 10:00 a.m...ENDORSEMENT...The application is granted. Status conference adjourned to 3/15/21 at 10am. Time excluded. SO ORDERED (Signed by Judge Andrew L. Carter, Jr on 2/1/21) (jw) (Entered: 02/04/2021)
24	Feb 9, 2021	ORDER as to Ronald Romano: A Telephone Status Conference is set for March 15, 2021 at 10:00 a.m. The parties should contact the Court at 1-888-363-4749 on the date and time specified above and once prompted, should dial access code 3768660. (Signed by Judge Andrew L. Carter, Jr on 2/9/2021) (ap) (Entered: 02/09/2021)
25	Mar 9, 2021	LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Timothy V. Capozzi dated March 9, 2021 re: Adjournment of conference . Document filed by USA as to Ronald Romano. (Capozzi, Timothy) (Entered: 03/09/2021)
26	Mar 12, 2021	MEMO ENDORSEMENT as to Ronald Romano (1) granting 25 LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Timothy V. Capozzi dated March 9, 2021 re: Adjournment of conference. ENDORSEMENT: The application is GRANTED. The telephone status conference is adjourned to 4/23/21 at 11:30 a.m. Time excluded. (Signed by Judge Andrew L. Carter, Jr on 3/11/2021) (ap) (Entered: 03/12/2021)
27	Apr 16, 2021	LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Nicholas Chiuchiolo dated April 16, 2021 re: Request for adjournment and exclusion of time . Document filed by USA as to Ronald Romano. (Chiuchiolo, Nicholas) (Entered: 04/16/2021)
28	Apr 16, 2021	MEMO ENDORSEMENT as to Ronald Romano granting 27 LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Nicholas Chiuchiolo dated April 16, 2021 re: Request for adjournment and exclusion of time. ENDORSEMENT: The application is GRANTED. The status conference is adjourned to 6/24/21 at 12:30 p.m. Time excluded. So Ordered. (Status Conference set for 6/24/2021 at 12:30 PM before Judge Andrew L. Carter Jr.) (Time excluded from 4/16/2021 until 6/24/2021) (Signed by Judge Andrew L. Carter, Jr on 4/16/2021) (lnl) (Entered: 04/16/2021)
29	Jun 9, 2021	ORDER as to Ronald Romano. The Status Conference set for June 24, 2021 at 12:30 p.m. is converted to a Telephone Status Conference. The parties should contact the Court at 1-888-363-4749 on the date and time specified above and once prompted,

Entry #	Filing Date	Description
		should dial access code 3768660. SO ORDERED. (Signed by Judge Andrew L. Carter, Jr. on 6/9/2021)(bw) (Entered: 06/09/2021)
30	Jun 10, 2021	FIRST LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Mark A. Macron dated June 10, 2021 . Document filed by Ronald Romano. (Macron, Mark) (Entered: 06/10/2021)
31	Jun 16, 2021	MEMO ENDORSEMENT as to Ronald Romano (1) granting 30 FIRST LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Mark A. Macron dated June 10, 2021. ENDORSEMENT: The application is GRANTED. So Ordered. (Signed by Judge Andrew L. Carter, Jr on 6/15/2021) (Inl) (Entered: 06/16/2021)
32	Jun 22, 2021	FIRST MOTION to Continue . Document filed by Ronald Romano. (Macron, Mark) (Entered: 06/22/2021)
33	Jun 22, 2021	MEMO ENDORSEMENT as to Ronald Romano (1) granting 32 FIRST MOTION to Continue. ENDORSEMENT: The application is GRANTED. Telephone Status Conference adjourned to 8/24/21 at 12:00 p.m. Time excluded from 6/24/21 to 8/24/21 in the interest of justice. (Signed by Judge Andrew L. Carter, Jr on 6/22/2021) (ap) (Entered: 06/23/2021)
	Jun 22, 2021	Set/Reset Hearings as to Ronald Romano: (Status Conference set for 8/24/2021 at 12:00 PM before Judge Andrew L. Carter Jr.) (ap) (Entered: 06/23/2021)
34	Jul 2, 2021	SECOND LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Mark A. Macron dated July 2, 2021 re: Extend Travel Permission . Document filed by Ronald Romano. (Macron, Mark) (Entered: 07/02/2021)
35	Jul 2, 2021	MEMO ENDORSEMENT as to Ronald Romano (1) granting 34 SECOND LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Mark A. Macron dated July 2, 2021 re: Extend Travel Permission. ENDORSEMENT: The application is GRANTED. So Ordered. (Signed by Judge Andrew L. Carter, Jr on 7/2/2021) (Inl) (Entered: 07/06/2021)
36	Aug 24, 2021	ORDER as to Ronald Romano: A telephone status conference is set for August 24, 2021 at 12:00 p.m. The parties should contact the Court at 1-888-363-4749 on the date and time specified above and once prompted, should dial access code 3768660. (Signed by Judge Andrew L. Carter, Jr on 8/23/2021) (ap) (Entered: 08/24/2021)
	Aug 24, 2021	Minute Entry for proceedings held before Judge Andrew L. Carter, Jr: Telephone Conference as to Ronald Romano held on 8/24/2021. AUSA Nicholas Chiuchiolo for the Government. Defendant Ronald Romano appears with attorney, Mark Macron. Defendant's motion due: 10/25/21; Government's response due: 11/15/21 and, Defendant's reply due: 11/29/21. Telephone Status Conference set for 12/14/21 at 3:30 p.m. Time excluded from 8/24/21 to 12/14/21 in the interest of justice. All bail conditions remain in effect. See transcript for complete details. Court Reporter: Alena Lynch. (jbo) (Entered: 08/24/2021)
37	Sep 16, 2021	LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Mark A. Macron dated 9/16/2021 re: Permission to Travel . Document filed by Ronald Romano. (Macron, Mark) (Entered: 09/16/2021)
38	Sep 16, 2021	MEMO ENDORSEMENT as to Ronald Romano (1) granting 37 LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Mark A. Macron dated 9/16/2021 re: Permission to Travel. ENDORSEMENT: The application is GRANTED. (Signed by

Entry #	Filing Date	Description
		Judge Andrew L. Carter, Jr on 9/16/2021) (ap) (Entered: 09/16/2021)
39	Oct 22, 2021	FIRST MOTION to Dismiss . Document filed by Ronald Romano. (Attachments: # 1 Declaration by Attorney as to facts, # 2 Memo of Law)(Macron, Mark) (Entered: 10/22/2021)
40	Nov 2, 2021	NOTICE OF ATTORNEY APPEARANCE: Todd Blanche appearing for Ronald Romano. Appearance Type: Retained. (Blanche, Todd) (Entered: 11/02/2021)
41	Nov 3, 2021	LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Todd Blanche dated November 3, 2021 re: Briefing Schedule . Document filed by Ronald Romano. (Blanche, Todd) (Entered: 11/03/2021)
42	Nov 8, 2021	MEMO ENDORSEMENT 41 LETTER MOTION addressed to Judge Andrew L. Carter, Jr. from Todd Blanche dated November 3, 2021 re: Briefing Schedule...ENDORSEMENT...The application is granted. Joint Status report due 12/14/21. SO ORDERED. (Signed by Judge Andrew L. Carter, Jr on 11/8/21) (jw) (Entered: 11/08/2021)