

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. **19-20370** CR-COOKE
18 U.S.C. § 1341
18 U.S.C. § 1343
18 U.S.C. § 1028A(a)(1)
18 U.S.C. § 981(a)(1)(C)
/GOODMAN

UNITED STATES OF AMERICA

vs.

PHILIP RIGHTER,

Defendant.

FILED BY [Signature] D.C.
JUN 20 2019
ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIAMI

INDICTMENT

The Grand Jury charges that:

GENERAL ALLEGATIONS

At all times relevant to this Indictment:

K.H. and The K.H. Foundation

1. K.H. was a deceased American artist. Between 1980 and 1989, K.H. achieved international recognition for his graffiti-like artworks. Paintings and other works of art created by K.H. had considerable market value.

2. The K.H. Foundation owned the international copyright to artworks created by K.H. The K.H. Foundation oversaw the reproduction of K.H. artworks and protected against their unauthorized use. J.G. was the Executive Director of The K.H. Foundation.

3. In 2012, The K.H. Foundation announced that it would disband its authentication committee, which opined on the authenticity of works purportedly by the hand of K.H.

J.M.B. and The Estate of J.M.B.

4. J.M.B. was a deceased American artist. Between 1980 and 1988, J.M.B. achieved international recognition as a graffiti artist and neo-expressionist painter. Paintings and other works of art created by J.M.B. had considerable market value.

5. The Estate of J.M.B. was the heir to the legal rights and interests of J.M.B. The Estate of J.M.B. was administered by G.B., the late artist's father, until 2013. After 2013, The Estate of J.M.B. was administered by the late artist's sisters, J.H. and L.B.

6. In 2012, The Estate of J.M.B. announced that it would disband its authentication committee, which opined on the authenticity of works purportedly by the hand of J.M.B.

Provenance and Authentication of Artworks

7. An artwork's authenticity is an important factor in determining its marketability and value. Authenticity can be demonstrated through the artwork's: (a) provenance, that is, a documented history of its ownership; (b) inclusion in the artist's catalogue raisonné—a comprehensive catalogue of the artist's works; or (c) certification from a qualified authority, such as the artist's estate or foundation.

The Defendant

8. Defendant **PHILIP RIGHTER** was a resident of Los Angeles, California. In or around March 2016, **RIGHTER** claimed, in a lawsuit filed in Los Angeles County Superior Court, to be the owner of 39 original artworks, "5 [of which] have been valued at over \$3,000,000.00". These artworks included artworks purportedly created by K.H. and J.M.B.

Art Gallery # 1

9. Art Gallery # 1 was an art gallery located in Aventura, Florida. Art Gallery # 1 maintained and advertised for sale a collection of artworks certified as authentic by The K.H. Foundation.

10. Individual # 1 owned and operated Art Gallery # 1.

COUNTS 1-5
Wire Fraud
(18 U.S.C. § 1343)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around June 2016, through in or around August 2016, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendant,

PHILIP RIGHTER,

did knowingly and with intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing such scheme and artifice, did transmit and cause to be transmitted by means of wire communication in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds.

PURPOSE OF THE SCHEME AND ARTIFICE

3. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich himself by obtaining and misappropriating money from Individual # 1 and others, by making materially false and fraudulent representations, and by the concealment of material facts,

concerning, among other things, the source and authenticity of certain artworks purportedly created by K.H. and J.M.B.

THE MANNER AND MEANS

The manner and means by which the defendant sought to accomplish the purpose of the scheme and artifice included, among others, the following:

4. **PHILIP RIGHTER** acquired forged and fraudulent artworks through, among other sources, the eBay online marketplace. Some of these forged and fraudulent artworks bore bogus signatures of prominent artists, including K.H. and J.M.B.

5. In order to make the forged and fraudulent artworks appear authentic, **PHILIP RIGHTER** created fraudulent letters certifying their authenticity. These fraudulent letters were purportedly issued by “The Estate of K.H.” and the “Authentication Committee of the Estate of J.M.B.” and bore the names and signatures of legitimate representatives of The K.H. Foundation and The Estate of J.M.B. without those legitimate representatives’ consent or authority.

6. In furtherance of the scheme, **PHILIP RIGHTER** also designed and purchased custom-made embossers bearing the names of K.H. and J.M.B., which **RIGHTER** used to stamp the authentication letters to make them appear legitimate.

7. **PHILIP RIGHTER**, personally and through third-party brokers, offered to sell the forged and fraudulent artworks to prospective buyers, including auction houses, Art Gallery # 1, Individual # 1, and other individuals.

8. **PHILIP RIGHTER**, personally and through third-party brokers, applied for loans by offering the forged and fraudulent artworks as collateral.

9. As part of the scheme, **PHILIP RIGHTER** told prospective buyers, lenders, and third-party brokers that he had acquired the artworks in or around 2006 as part of an inheritance from **RIGHTER's** grandmother. In truth, and as **RIGHTER** well knew, he acquired no such inheritance.

10. In an attempt to legitimize the forged and fraudulent artworks, **PHILIP RIGHTER** also told prospective buyers, lenders, and third-party brokers that he had donated a number of artworks by prominent artists, including K.H., to a university in the State of New York.

11. During the course of the scheme, **PHILIP RIGHTER** communicated with prospective buyers, lenders, and third-party brokers via telephone and email. **RIGHTER** further caused a shipment of forged and fraudulent artworks to be sent to Individual # 1, a prospective buyer, via Federal Express.

USE OF THE WIRES

12. On or about the dates specified as to each count below, in the Southern District of Florida, and elsewhere, the defendant, **PHILIP RIGHTER**, for the purpose of executing, and in furtherance of, the aforesaid scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, did knowingly transmit and cause to be transmitted, directly and indirectly, by means of wire communications in interstate and foreign commerce, certain writings, signs, signals, pictures, and sounds, as more specifically described below:

COUNT	APPROX. DATE	DESCRIPTION OF WIRE COMMUNICATION
1	August 1, 2016	Email from PHILIP RIGHTER in California, to Individual # 1 in South Florida, in which RIGHTER falsely claimed he had loaned artworks by K.H. to a university in the State of New York
2	August 2, 2016	Email from PHILIP RIGHTER in California, to Individual # 1 in South Florida, in which RIGHTER offered to sell forged and fraudulent artworks, purportedly by J.M.B., to Individual # 1
3	August 2, 2016	Telephone call from Individual # 1 in South Florida, to PHILIP RIGHTER in California, during which RIGHTER falsely claimed ownership of artworks by K.H. and J.M.B.
4	August 12, 2016	Email from PHILIP RIGHTER in California, to Individual # 1 in South Florida, in which RIGHTER sent a price list for artworks purportedly by K.H. and J.M.B. and payment instructions directing Individual # 1 to make payment of \$1,056,000 to RIGHTER
5	August 12, 2016	Email from PHILIP RIGHTER in California, to Individual # 1 in South Florida, in which RIGHTER sent bank wire instructions to Individual # 1, directing Individual # 1 to send a bank wire payment to RIGHTER's Capital One 360 bank account ending in 2692

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS 6-7
Mail Fraud
(18 U.S.C. § 1341)

1. The General Allegations section of this Indictment is re-alleged and incorporated by reference as though fully set forth herein.

2. From in or around June 2016, through in or around August 2016, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendant,

PHILIP RIGHTER,

did knowingly and with intent to defraud, devise and intend to devise a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses,

representations, and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing such scheme and artifice, and attempting to do so, did knowingly cause to be delivered certain mail matter by Federal Express, a private and commercial interstate carrier, according to the directions thereon, in violation of Title 18, United States Code, Section 1341.

PURPOSE OF THE SCHEME AND ARTIFICE

3. It was the purpose of the scheme and artifice for the defendant to unlawfully enrich himself by obtaining and misappropriating money from Individual # 1 and others, by making materially false and fraudulent representations, and by the concealment of material facts, concerning, among other things, the source and authenticity of certain artworks purportedly created by K.H. and J.M.B.

THE MANNER AND MEANS

4. The Manner and Means section of Counts 1 through 5 of this Indictment is alleged and incorporated by reference herein as a description of the manner and means by which the defendant sought to accomplish the scheme and artifice.

USE OF THE MAILS

5. On or about the dates specified as to each count below, the defendant, **PHILIP RIGHTER**, for the purpose of executing, and in furtherance of, the aforesaid scheme and artifice to defraud and to obtain money and property from others by means of materially false and fraudulent pretenses, representations, and promises, and attempting to do so, did knowingly cause to be delivered, directly and indirectly, by Federal Express, a private and commercial interstate carrier, according to the directions thereon, the items identified below in each count:

COUNT	APPROX. DATE	DESCRIPTION OF MAILING
6	August 10, 2016	Forged and fraudulent K.H. artworks, and letters certifying their authenticity, mailed by a packing and shipping company via Federal Express in Los Angeles, California, to a storage facility in Miami, Florida
7	August 10, 2016	Forged and fraudulent J.M.B. artworks, and letters certifying their authenticity, mailed by a packing and shipping company via Federal Express in Los Angeles, California, to a storage facility in Miami, Florida

In violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS 8-9
Aggravated Identity Theft
(18 U.S.C. § 1028A)

On or about the dates specified as to each count below, in Miami-Dade and Broward Counties, in the Southern District of Florida, and elsewhere, the defendant,

PHILIP RIGHTER,

during and in relation to a felony violation of Title 18, United States Code, Section 1341, that is, mail fraud, as charged in Counts 6 and 7, did knowingly transfer, possess, and use, without lawful authority, a means of identification of another person, as set forth in each count below:

COUNT	APPROX. DATE	MEANS OF IDENTIFICATION
8	August 4, 2016	Name and signature of J.G., as it appears on a fraudulent authentication letter bearing Identification Number 011659A59
9	August 4, 2016	Name and signature of G.B., as it appears on a fraudulent authentication letter bearing Transaction Number 60423

In violation of Title 18, United States Code, Sections 1028A(a)(1) and 2.

FORFEITURE
(18 U.S.C. § 981(a)(1)(C))

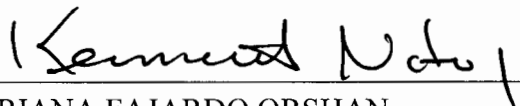
1. The allegations of this Indictment are realleged and by this reference are fully incorporated herein for the purpose of alleging forfeiture to the United States of certain property in which the defendant, **PHILIP RIGHTER**, has an interest.

2. Upon conviction of a violation of Title 18, United States Code, Sections 1341 or 1343, as alleged in this Indictment, the defendant, **PHILIP RIGHTER**, shall forfeit to the United States any property, real or personal, which constitutes or is derived from proceeds traceable to such violation, pursuant to Title 18, United States Code, Section 981(a)(1)(C).

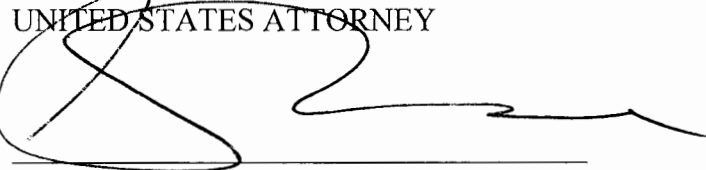
All pursuant to Title 18, United States Code, Section 981(a)(1)(C), as made applicable by Title 28, United States Code, Section 2461(c), and the procedures set forth in Title 21 United States Code, Section 853.

A TRUE BILL

~~FOREPERSON~~ W



ARIANA FAJARDO ORSHAN
UNITED STATES ATTORNEY



CHRISTOPHER B. BROWNE
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. _____

v.
PHILIP RIGHTER,

CERTIFICATE OF TRIAL ATTORNEY*

Defendant.

Superseding Case Information:

Court Division: (Select One)

X Miami _____ Key West
_____ FTL _____ WPB _____ FTP

New Defendant(s) Yes _____ No _____
Number of New Defendants _____
Total number of counts _____

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) No
List language and/or dialect _____
- This case will take 3 days for the parties to try.
- Please check appropriate category and type of offense listed below:

(Check only one)	(Check only one)
I 0 to 5 days <u> X </u>	Petty _____
II 6 to 10 days _____	Minor _____
III 11 to 20 days _____	Misdem. _____
IV 21 to 60 days _____	Felony <u> X </u>
V 61 days and over _____	

6. Has this case been previously filed in this District Court? (Yes or No) No

If yes: Judge: Case No. _____

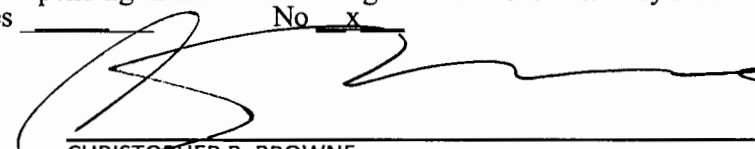
(Attach copy of dispositive order)
Has a complaint been filed in this matter? (Yes or No) No

If yes: Magistrate Case No. _____

Related Miscellaneous numbers: _____
Defendant(s) in federal custody as of _____
Defendant(s) in state custody as of _____

Rule 20 from the District of _____
Is this a potential death penalty case? (Yes or No) No

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? Yes _____ No X



CHRISTOPHER B. BROWNE
ASSISTANT UNITED STATES ATTORNEY
FLORIDA BAR NO. 91337

*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: PHILIP RIGHTER

Case No: _____

Counts #: 1-5

Wire Fraud

Title 18, United States Code, Section 1343

* Max. Penalty: Twenty (20) years' imprisonment as to each count

Counts #: 6-7

Mail Fraud

Title 18, United States Code, Section 1341

*Max. Penalty: Twenty (20) years' imprisonment as to each count

Counts #: 8-9

Aggravated Identity Theft

Title 18, United States Code, Section 1028A(a)(1)

*Max. Penalty: Two (2) years' imprisonment consecutive to any other sentence

***Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**