19-0619-cr(L), 20-0395-cr(CON)

United States Court of Appeals

for the

Second Circuit

UNITED STATES OF AMERICA,

Appellee,

– v. –

DEVON ARCHER, JASON GALANIS, GARY HIRST, HUGH DUNKERLEY, MICHELLE MORTON, BEVAN COONEY,

Defendants,

JOHN GALANIS, AKA Yanni,

Defendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

APPENDIX
Volume 18 of 18 (Pages A-4937 to A-5198)

PELUSO & TOUGER, LLP
Attorneys for Defendant-Appellant
70 Lafayette Street, 2nd Floor
New York, New York 10013
(212) 608-1234

TABLE OF CONTENTS

Page

she spent so much time on it is because she knows it's pretty bad evidence for her client in terms of his knowledge and intent.

So, remember Cooney got a wire from Thorsdale -- sorry -- from Wealth Assurance for $3.8 million on November 12, 2014. That's bond proceeds. OK? Then he sends it to Camden Escrow.

So back up two slides. And he gets asked: What's that wire for? And he says: It's to open an escrow for a real estate purchase. Remember, you saw the escrow documents, some of the documents this morning from Ms. Notari. He is purporting to buy 1920 Bel Air, Jason Galanis' home. He was not buying a home that Jason Galanis lived in with money from Jason Galanis. That is not what happened. And Ms. Notari this morning said, oh, maybe it was a loan, maybe it was a refi.

Here is Mr. Cooney. This is not Hugh Dunkerley. It's not Jason Galanis. This is defendant Cooney; it's for a real estate purchase.

And then later on what does he say about the same $3.8 million? He said he asked his assistants please send me the wire info on the $3.9 million that came into my account and went out to Camden Escrow for the down payment on 1920 Bel Air. Not for a loan, not for a refi. This was a transaction designed to conceal the fact that bond proceeds were being used, were being misappropriated, were being recycled. And

Bevan Cooney was in the middle of it and he lied about it.

And, you know, Ms. Notari put up this e-mail. This is one of the e-mails she put up this morning as evidence of Cooney's supposed good faith with respect to this transaction.

So, this is from later on, and he says in February of 2016 -- almost a year and a half after the deal -- he says Vanessa, I found this in my file for taxes for last year -- it sound extremely plausible -- Thorsdale loaned me the money for a short period of time. It was a failed real estate transaction. That was the part Ms. Notari was really focused on. The attachment is a document dated January 2015 from Calvert, purporting that Calvert was involved in this transaction, Calvert was the lender.

You guys know full well by now Calvert is a fake company that didn't exist until ten months after this January 17, 2015 letter was supposedly written. And Ms. Notari tried to say -- we will talk more about Calvert in a few minutes -- but Ms. Notari tried to say that Hugh Dunkerley testified that the only people who knew about Calvert were him, Gary Hirst and Jason Galanis. And that's just wrong. You just have to look at the transcript to figure that out. Because what Hugh Dunkerley said he was the only person he spoke to -- he spoke to -- about Calvert were Hirst and Galanis.

Francisco Martin knew Calvert was fake; he knew all about it; he created it. Hugh Dunkerley never spoke to him

about Calvert. OK? Just because Hugh Dunkerley only spoke to Calvert -- about the certainty of Calvert -- doesn't mean --

MR. SCHWARTZ: Objection. Misstates the testimony.

THE COURT: -- doesn't mean other people knew that Calvert was fake.

MR. SCHWARTZ: It misstates the testimony.

THE COURT: Ladies and gentlemen, it's going to be up to you to determine whether the lawyers' arguments are true to the record. And, again, you will be permitted to request any testimony that you'd like read back.

So, I'm going to overrule the objection with that instruction.

MR. SCHWARTZ: Thank you.

MR. QUIGLEY: Now he also lied to City National Bank. Again, I'm not going to spend a lot of time on this. But remember he used the bonds to get a $1.2 million loan from City National Bank; he used the bonds as capital. All right?

Now, the idea here, the defense argument here is that, well, City National really knew he didn't have the bonds because sometime prior to that they put a medallion on his bond certificate so he could transfer it to Bonwick -- which, as we've said before was for net capital to keep Bonwick in business. All right?

Now, this was the testimony of Steve Shapiro, and he says basically Mr. Cooney lied to my face, because the

medallion does not say or does not say the name of the bond; it just has the CUSIP, the serial number. And he meets with Steve Shapiro -- Cooney meets with Steve Shapiro, and he says we're looking to do a $1.2 million loan for you. This is the same day he's getting the bonds' medallion. Cooney agreed. I said we're looking at using the Code Rebel stock as the primary source of repayment. OK. Then he says: Is that OK? Yes. And I said: If something goes wrong with that particular stock, you're going to liquidate the $5 million muni bond, the Wakpamni bond that you hold? Is that correct as well? And he acknowledged in the affirmative as well.

So right at the same time that Cooney unbeknownst to Steve Shapiro is getting Steve Shapiro to transfer his bond out of City National he is telling him that, yeah, if this loan goes south I will use the Wakpamni bond to repay it. That's a lie.

And again Ms. Notari said this morning that the loan, the $1.2 million loan, was based only on Code Rebel? That's Shapiro's testimony. The issuance of the loan was based -- the loan was based both on the Code Rebel shares and the Wakpamni bonds, that is correct.

All right. Real quickly, it's clear that Steve Shapiro understood that the Wakpamni bonds -- or believed falsely, given Mr. Cooney's misstatements -- that the Wakpamni bonds were still in his possession after this time. All right?

Here is Government Exhibit 440; you can look at it in the jury room. He is asking about -- remember, they're trying to repay the loan. He says can we resell the muni bonds? All right? He don't know that the muni bonds have long since dissipated from Mr. Cooney's account.

And just to prove that Mr. Cooney was still pretending to own the Wakpamni bonds, even though he had long since given them up, this was an exhibit that was introduced this morning of supposedly his good balance sheet. All right? Still listing the Wakpamni bonds on his balance sheet as of February 2016.

So, let's talk about -- that's the lies to the banks.

By the way, Ms. Notari accused us of some bad faith here, not putting documents in evidence. All right? She said we hid the ball, we didn't put in Defense Exhibit 3735, which she claimed somehow helped her client. There is a signed version of that in evidence as a Government exhibit.

MS. NOTARI: Objection. Misstates what I said.

MR. QUIGLEY: It's a different document, your Honor.

THE COURT: All right. Overruled. The same instruction I gave you a few minutes ago.

MR. QUIGLEY: Government Exhibit 414 at page 4, already in evidence. So that's wrong.

Let's talk about Calvert. Now, again both defense counsel -- and particularly Ms. Notari -- took the government

to task for this. This is bad evidence for them. She said people do not create false documents; they create them with the intent to pass them to other people. Well, guess who defendant Cooney passed false documents to. He passed false documents in this case to the Securities and Exchange Commission, the SEC, and that fact is undisputed. Right?

Here is Government Exhibit 1271. This is a secured loan agreement supposedly dated from the 2nd of October, 2014, a year before Calvert even existed, and it's signed by Bevan Cooney. Signed by Bevan Cooney.

And there is a stipulation that this exhibit: Government Exhibit 1271 are true and accurate copies of documents produced by to the SEC by Bevan Cooney.

And Ms. Notari gets up here and criticizes Hugh Dunkerley for his creating false documents? But her client submitted this false Calvert document to the SEC. It's powerful evidence that he knew -- and this relates to the bonds -- powerful evidence that he knew that this bond transaction, these bond proceeds, these bonds were a fraud, because he needed to cover it up.

He also submitted Calvert documents to City National, he submitted the same backdated Calvert document, dated again October 2, 2014, a year before Calvert even existed, to City National on February 28, 2016 as a secured loan agreement for the bonds. There is no way he signed this document in 2014.

Calvert didn't exist in 2014.

Now, Devon Archer was a little bit smarter with respect to Calvert. All right? This is an e-mail that Mr. Schwartz talked about yesterday. But he says -- this is November 2015 -- these bonds are to be replaced and returned to Calvert; I wanted to share the below. This is 2015. He is talking about the Wakpamni bonds that he bought a year earlier. Calvert did not exist before October 2015. Devon Archer bought these bonds himself in October 2014. He knows that. You know that. And why is he talking about returning the bonds to Calvert? All right? He says the lender and beneficial owner. Right? Calvert was not the lender and beneficial owner of the bonds. It didn't exist when he bought the bonds. He knows that. And Mr. Schwartz' only response to this is to criticize the government. Yet he wasn't as brazen as Cooney about it, but he tried to use Calvert too to get rid of the bonds and to cover up. Remember, this is during the time period when subpoenas start flying.

Mr. Schwartz talked yesterday a lot about how, hey, you know, the government didn't interview certain witnesses until a few weeks before trial. There is abundant evidence that this investigation began in 2015 -- late 2015 -- when people started getting subpoenas and people started covering things up and started using entities like Calvert, and Archer and Cooney were part of it.

Let's shift topics for a second and talk about Hugh Dunkerley. OK? So there is a lot of testimony Hugh Dunkerley didn't know this, Hugh Dunkerley didn't know that, and that's right, but it doesn't help the defendants. OK? Because I expect Judge Abrams will instruct you it is not necessary for the government to show that a defendant was fully informed as to all details of the conspiracy in order for you to infer knowledge and intent on his part. To have guilty knowledge, a defendant need not have known the full extent of the conspiracy, or all of the activities of all of the conspiracy's participants. And that's some more law. The duration and extent of a defendant's participation has no bearing on the issue of that defendant's guilt. Conspirators can perform separate and distinct acts.

And Hugh Dunkerley got on the witness stand, and even though he may not have understood everything, even though Jason Galanis in August 2014, did he ever tell him, hey, we're stealing the bond proceeds? No, he never told him that because that's not the way it works in the real world; people don't tell each other explicitly they're committing a fraud.

Even though he might not have been fully informed about every detail of the conspiracy and the scheme, he is still guilty. And this law applies to these defendants as well.

I said earlier when I was talking about how Jason

Galanis never met the WLCC, never met the pension funds, in a big conspiracy case like this one, different defendants play different roles.

Let's also talk about Tim Anderson for a second. There is a lot of talk about Tim Anderson about how his involvement is evidence that shows the defendants' good faith. OK?

To be sure, Tim Anderson was involved in this transaction, right, and he was the lawyer, he was the lead lawyer, and he didn't see anything wrong. But there was a lot he didn't know. OK? There is a lot he didn't know, that these defendants -- and particularly Archer and Cooney knew -- john Galanis knew also -- what if anything was your understanding of Burnham Securities' relationship with Hughes Capital Management at the time? They had a working relationship.

You know that Jason Galanis was intimately involved in both Burnham's placement of the bonds and he took over through Michelle Morton Hughes Capital at this time. They had a common ownership. OK? Burnham didn't identify Hughes Capital Management as an advisor who advises funds. The same people who were controlling Burnham from behind the scenes took over Hughes Capital Management.

Now he also spoke to Yanni Galanis.

"Q. Now, at this time in August of 2014, had you heard of an entity called Sovereign Nations Development Corporation?"

Remember this was the entity that Yanni Galanis put $2.3 million into, right?

"A. Never heard of it.

"Q. Did Yanni Galanis mention it to you at that time?

"A. No.

"Q. Or ever?

"A. No.

Did he know about how Archer -- he knew Archer and Cooney eventually bought the second issuance. Did he know how they got involved in it? It was a Burnham client, he was excited it occurred with the first bond issue, he wanted to be supportive.

Did he know that money was coming from Jason Galanis, the money he was using was coming from Jason Galanis? Did he know the money that they were using was coming from the proceeds of the first issuance? Of course not.

"Q. At the time did you have any understanding of where Devon Archer obtained the $15 million to obtain the second issuance of the bonds?

"A. No.

Third issuance:

"Q. Did you have any understanding of who would be the investor or investors in this series of bonds?

"A. Atlantic Asset Management.

"Q. At the time did you have any understanding of who owned

Atlantic Asset Management?

"A. I did not."

But you do. And these defendants do. They knew that two weeks before Atlantic purchased the third tranche of bonds Jason Galanis, Devon Archer had bought them. Right? There is an e-mail on April 2 where they congratulate each other about buying Burnham. Valor will formally provide the money, but these defendants and their partners in crime were in control of that company. You saw that in the full preppy assault on the Connecticut e-mail a few minutes ago.

So Tim Anderson, his view is of limited value because he didn't know the key facts. Nobody came to him and said, hey, Tim, it's a massive fraud, so of course he thought it was legal.

And the other thing is -- this is related -- garbage in, garbage out. Who is Tim Anderson getting his information from? He is getting it from John and Jason Galanis. Do you think they're telling him that they're going to steal the proceeds? That's ridiculous. He said Jason and Yanni told him at the end of July that the buyer wasn't quite there yet. This is for the first tranche. Do you know what that means? They want bought Hughes yet; they were waiting to close the Hughes transaction so they could shove all those $28 million of bonds into Hughes. He's being lied to. Yanni told him WAPC was a BVI subsidiary of Wealth Assurance. That's false too. Garbage

in, garbage out.

Now, shifting topics. You heard a bunch of arguments about how certain defendants have more involved than others, and as we alluded to in our main summation it doesn't matter; you should reject that argument. But it does bring up the fact that with respect to the substantive count, Count Two, a defendant can be found guilty as a principal who committed the crime of securities fraud, or alternatively can be found guilty of something called aiding and abetting if they helped someone else commit the crime or willfully caused the crime.

And I'm not going to go through the law here, because you're hear it from Judge Abrams in a few minutes, but just I alert you to that portion of the charge, that there are multiple ways to be found guilty of Count Two.

Mr. Schwartz talked yesterday -- and Ms. Notari a little bit this morning -- about discretionary and how it's used by these defendants. OK, said it meant assets under management. These defendants know in the context of this case one thing it certainly meant was money they could use on themselves and as their own interests. And discretionary that money was provided via the Wakpamni bonds.

The Government Exhibit 2021 is a perfect example, Archer, Cooney and Galanis are talking about Fondinvest, which they eventually bought using Wakpamni bonds, and Archer says we have discretionary funds in our command soonest.

Galanis says I'm laser focused on summer cash hole and discretionary. I don't need anymore deals until we can pull triggers ourselves.

And how did they get discretionary to buy Fondinvest? Six months later, on April 2015, they issued the third tranche of bonds and turned around and used that money to buy Fondinvest. Look at Exhibit 512, the WAPC bank records. You see the 16 million coming in, and you see it go right back out around and out to a company called New Line Trading, which Dunkerley testified was a special purpose vehicle used to buy Fondinvest.

Now, Mr. Schwartz yesterday -- and Miss Notari this morning -- and even Mr. Touger a little bit -- took a bunch of potshots at the government's investigation. I'm not going to go tit for tat here. We're not focused on hamburger patties, or Marisa Tomei movies, or The Blair Witch Project. We are focused on the evidence in the case. But I want to respond to this just briefly. All right? And I already talked about the documents, how this is a document case, and you know the government's investigation was well under way even in late 2015.

Mr. Schwartz also continued to take some potshots about Agent Kendall, particularly about the $903,000 transfer credit for the second bond issuance interest payments on the summary charts that goes in through Rosemont Seneca Bohai. He

said, oh, that was horrible.

Guess what, the money went into Rosemont Seneca Bohai. The transaction was reversed at Morgan Stanley. Do you know how you know that? Mr. Schwartz's own witness, Mr. Fliegler, the consultant from Duff & Meyers testified about that. And his chart shows that $903,000 going into Rosemont Seneca Bohai. It was internally reversed at Morgan Stanley. There is nothing inappropriate about that. It was there for 11 days, from October 1st to October 12th. There is nothing inappropriate in a chart about showing where the money actually went and when it went there. That's a ridiculous and low thing for Mr. Schwartz to do, particularly since it's consistent with what his own witness said.

Now, another argument Mr. Schwartz made was that Mr. Archer was used and didn't get anything out of this. And that's irrelevant and ridiculous for a couple of reasons. Number one, Mr. Archer was well aware that Jason Galanis wanted to use his profile to his advantage.

Here is Government Exhibit 2211. With Archer's new enterprise -- this is an e-mail that Mr. Archer was on -- having full control over this platform, will lead to us world domination on p/e trades we are looking to do. Aligns the media and political stature Mr. Archer now enjoys with the financial stature. Add the golden smile, and we could be massively effective. Mr. Archer is well aware of what Jason

Galanis wants him for, and he continues to do business. This June 2014, this is early in their relationship; they continue to do business for another 15 months until Jason Galanis' arrest. All right?

Another one. We saw this one already. But, hey, we're going to use Devon's cache to buy an apartment. Again, Mr. Archer is cc'd on the e-mail. No secret that Jason Galanis is using his cache and frankly his office. He says -- Cliff Wolff says, look out, you might be getting some mail from this company.

Here is another one. Again this one is actually in connection with the bonds. June 2014. Jason Galanis, Devon Archer and Bevan Cooney. Archer, the Indians signed ours our engagement. Here is our counsel from Greenberg. May be good for GT to know that you are associated with the insurance company at the right moment. Not necessary but it might be icing on the cake. Flash that golden smile. That's what he's saying, flash those credentials. That is one thing Jason Galanis saw in Devon Archer, but it's not a defense, because Devon Archer was well aware of it; he knew this was how he being used, and he hoped to make out with a big pay day eventually.

And you know this is what he expected to get out of the bonds, a huge pay off from the sale of Burnham. He talked about the presentation. And he was making money already. This

got conveniently got left off their chart from their summary witness. This is the last exhibit the government put in, Wealth Assurance Holdings company -- which Jason Galanis was an advisor -- a company in which all the key players in this case were involved in -- Dunkerley, Galanis, Jason Sugarman -- he gets put on the board of directors of that company and gets $5.3 --

MR. TOUGER: I'm going to object to what Galanis did without designation.

MR. QUIGLEY: Sorry, I will correct that.

Jason Galanis is an advisor, and the board of directors is Devon Archer, Hugh Dunkerley and Jason Sugarman. Dunkerley testified about that.

His stock is worth $5.3 million. You're telling me he didn't expect to get anything out of this? He did it for free? Yeah, it all came crumbling down, but he certainly expected to make a lot of money out of the sale of these companies and out of his involvement with these companies.

And, you know, Mr. Schwartz talked yesterday about how it was implausible -- implausible -- that he would be involved in a fraud because he wouldn't loot Wealth Assurance Holdings, a company that he was a director of.

He has it backwards. He wasn't looting Wealth Assurance Holdings; he was involved in looting the pension funds and the Wakpamni people to get money to build up Wealth

Assurance Holdings. That was the purpose of the fraud, to build up Burnham and Wealth Assurance Holdings. That's what they did, as you saw in the Teneo presentation. So he wasn't involved in looting the company he was the director of. The fraud here involved looting other people, the victims of the scheme.

MR. SCHWARTZ: Your Honor, that misstates my argument. My argument was that the Ballybunion and Valorlife frauds looted the company.

THE COURT: The objection is noted.

MR. SCHWARTZ: Thank you.

MR. QUIGLEY: Mr. Schwartz also showed you yesterday a couple of e-mails that he showed Jason Galanis controlling access to Devon Archer. One of them was Defense Exhibit 4179.

You have no idea what this e-mail is about. There is no context for this e-mail. It's similar to the Cooney recording you heard, two guys talking in a bar for three minutes, you have no idea what they're talking about. Even Ms. Notari admitted this morning they were kicking back a few.

But what is interesting about this e-mail is a couple things. Number one, Mr. Schwartz made a point yesterday to say that Gary Hirst and Devon Archer never communicated together, but again although this is not a communication between them, they are both on this communication.

And then Nordgren, Matt Nordgren is the guy that Devon

Archer has a conversation with two weeks later -- this is after his representations to Burnham -- Government Exhibit 2066 -- over at Burnham we have some regulatory issues with JG -- Jason Galanis -- so can't mention his name. So he's clearly aware that Jason Galanis had a lot of bad issues. He continued to do business with him; he continued to do highly suspicious transactions with him; and he claims he was duped. Don't buy it.

Let's talk finally a little bit about John Galanis.

John Galanis -- you have seen a lot of these e-mails already -- but was the driver of this deal. OK? He was sent to Las Vegas. He went to Las Vegas. He met with the WLCC. He met with Tim Anderson. He was the driver of this deal. All right? He sends out -- this is April 2014 -- an e-mail about tribal bonds, and he is listing --

MR. TOUGER: Objection, your Honor. There is no testimony that he was sent to Las Vegas by anybody.

MR. QUIGLEY: I said Yanni Galanis is sending out an e-mail about tribal bonds on April 15, 2014.

THE COURT: All right. And again with respect to the testimony, your recollection controls.

Proceed.

MR. QUIGLEY: Again listing the directors of Wealth Assurance Holdings is Devon Archer, Jason Sugarman, Hugh Dunkerley.

Another e-mail. And again this goes to awareness of who is in the conspiracy. None of these people knew who John Galanis was? Guess what, John Galanis certainly knew who they were, because they were his coconspirators.

Hugh Dunkerley. All right. Burnham Securities, deal's coming together. And here, this idea that Mr. Touger said something like on Monday that John Galanis just put two people together and stepped back. He's the driver of the deal. Here are the documents -- some of the documents that he drafted that you see him sending to Tim Anderson: Source and use of funds, term sheets, annuity contracts, Burnham municipal capital final. Those are all for the first bond issuance. Wakpamni second tranche source and use of funds, proposal for creating the Wakpamni Town Center, WLCC third tranche, soft final. A ton of documents; driver of the deal.

And obviously we know he got $2.3 million out of this. OK? And Mr. Touger on Monday said -- and he said it throughout the trial -- this was a finders fee anticipated by the parties. And what I say to that is this was just a secret payment anticipated by no one. OK?

If you look at Government Exhibit 514, this tells you what was anticipated by the parties. This is a closing statement for the first bonds. OK? You see it's blown up here. All right? There is going to be $24 million -- sorry -- $22 million is going to be used to purchase an annuity, and

then they are going to spend about $500,000 on closing costs. $6,000 to U.S. National Bank, $75,000 to Greenberg Traurig, $250,000 to Burnham. You can read it in the jury room; I'm not going to waste your time. Bottom line there is no $2.3 million fee to John Galanis anywhere on that document, which is what the parties anticipated.

And John Galanis knew that well. Do you know why? Because he had come up with this funding scheme.

This is Government Exhibit 1304, and it's a document John Galanis sends to Steven Haynes, Tim Anderson on June 16 of 2014, and this is source and use of funds version 15. OK? And it lists -- it lists right on here that the closing costs are going to be $500,000, which in fact they actually were. He was the driver of this deal. OK? $500,000. Nowhere in here is there any talk about a $2.3 million payment to John Galanis. All right?

And you know that such a payment would make no sense, OK, because, think about it, they issued roughly $24 or 28 million in bonds; they've got to pay back principal and interest on those bonds over the life of the bonds over ten years. They're not going to go $2.3 million in the hole right off the bat to one person. They're not going to pay one person ten times, five times what anyone else in the transaction was getting. Burnham was getting $250,000; that was the highest fee. They're not going to give John Galanis ten times that.

But the reason you know that it was not anticipated by the parties is because no one knew about it. No one knew about the payment; no one knew about Sovereign Nations. Mr. Raines: "Q. You weren't aware that John Galanis got $2.3 million of the bond proceeds, were you?

"A. No."

How did John Galanis get it? Fake companies, fake documents. He created Sovereign Nations Development Corp. on August 21, 2014. It's not John Galanis creating that company. It's his minnion, Mark McMillan, six days before the bond issuance, right before he creates this company.

All right? Back to Tim Anderson, you saw this before, but he never heard of Sovereign Nations, never heard of Mark McMillan. So it's not a payment anticipated by the parties; it's a secret payment that John Galanis stole. All right?

Hugh Dunkerley. Again don't need to know everything about the conspiracy to be a coconspirator. All right?

"Q. Where was that money supposed to go?

"A. "Sovereign Nations Development.

"Q. Did you have any understanding of what that was?

"A. Nope."

He actually thought it was associated with the tribe. Right? Further evidence of John Galanis' fraudulent intent that he names a company that's designed to help himself to sound like something that's associated with a Native American

tribe, Sovereign Nations Development Corp.

Raycen Raines never mentioned Sovereign Nations Development Corp. And you see what happens, money comes in from the first bond issuance, goes right out to Sovereign Nations. And McMillan told you that; the charts told you that.

How does John Galanis spend that? I mean Mr. Touger made a big deal about private equity investments and all that. John Galanis, whatever else you want to say, did not invest it in private equity. John Galanis is not an private equity investment. This is an investment in John Galanis by John Galanis, stealing the bond proceeds.

Look at all the other steps he took. He sent e-mails to McMillan, to his minnion, using an attorney's e-mail address. McMillan testified about that. Government Exhibit 3400, transcript 2845. He uses Barry Feiner's e-mail address to send e-mails.

Another thing Mr. Touger said was that no further payments -- no further payments made to John Galanis after that $2.3 million.

A couple problems with that argument. Number one, you can't unring a bell. You can't steal money and then say it wasn't me because I didn't get any more. He got $2.3 million. That's not how it works. But moreover it's also wrong, because you saw during the time period of the conspiracy John Galanis got $235,000 --

MR. TOUGER: There is nothing in the record about when those payments were made, none whatsoever. That's a totally false statement.

THE COURT: All right, objection is noted. Please proceed.

MR. QUIGLEY: $235,000 from John Galanis and $237,000 to someone named Chandra Galanis. Who is Chandra Galanis? That's John Galanis' wife. Raycen Raines testified about this. So John Galanis got a further $500,000 from Thorsdale.

This also, by the way -- if the evidence that came in yesterday about Jason Galanis and John Galanis being involved in a prior securities fraud together, if that didn't totally blow up this argument, the idea that this also undercuts any argument that Jason Galanis and John Galanis kept their dealings separate, because here is Thorsdale sending money to John Galanis, Thorsdale. Jason Galanis sending to John Galanis. All right? It's more detail on the Sovereign Nations proceeds.

Now one last argument that Mr. Touger addressed, attempted to blame the victim. Right? And he had a number of references in his closing on Monday to Raycen Raines, how Raycen Raines supposedly got some big payment from Sovereign Nations. OK? Mr. Raines got $5,000. That's Government Exhibit 1513. Mr. Touger I think accused the government of hiding this. He got $5,000. And you know that what happened

here is that members of the Wakpamni Lake Community got money to attend a martial arts camp. OK? What does this show? Nothing. Except that John Galanis was happy to drop some breadcrumbs to string his victims along.

This was like one quarter of one percent of the money that John Galanis got from the WLCC bond proceeds. And Mr. Touger continued to blame the victims by saying that though a $60 million fraud occurred, it's really not a big deal, the tribe had sovereign immunity, the pension funds have a lot of money anyway, no harm, no fall.

It doesn't work. All right? The government, as Ms. Mermelstein said in her closing, the key here is intent to deceive, intent to deceive. It does not matter -- I expect Judge Abrams will give you similar instructions to these in a few minutes, but the government need not show that the defendant acted with intent to cause harm. And no amount of honest belief that the scheme will actually make a profit will excuse any actions or false representations.

And the bottom line is that the victims were harmed. Again, this was in Ms. Mermelstein's closing -- I'm not going to go through it in great detail -- but Raycen Raines testified the prairie is overgrowing, these buildings have never been completed, no realistic possibility that the warehouse could be successful in the future to pay back the $65 million. Broken dreams, crushed hopes, that's how these defendants left the

Wakpamni.

Mr. Touger also tried on Monday through his cross-examination of witnesses, pension funds make towns of money, not a big deal.

This is Mike Smith's testimony. Actually, let's stop. I mean $16.2 million is a lot of money to anyone. Whatever the percentage of the overall assets of a pension fund, that's a ton of money. Think about that. These are school teachers, these are people who are counting on that pension for the rest of their lives. Think of how many school teachers' pensions $16.2 million could pay, much less $60 million. All right?

And he told you about how this was a very significant loss. All right? $16.2 million for the bonds, they had to unwind the GYOF in a rapid fashion. It's not just stand alone because you're investing so you a can accrue money over the lifetime of the members. So, over the lifetime of our members, that $25 million would have grown to an excess of $100 million to be able to pay the benefits to the members. That money is gone, and it's gone because of these defendants and their partners in crime.

John Galanis drove this fraud. He drafted many of the key documents, documents that were the basis of the lies to the WLCC, misrepresentations that made the fraud possible. He then lined his own pockets with $2.35 million the very day after the first set of bonds were issued.

And despite making every attempt to hide his involvement with these transactions, the documentary evidence is perfectly clear and the testimonial evidence is very clear from McMillan what John Galanis was doing here.

Ladies and gentlemen, back at the beginning of this trial about five weeks ago Ms. Tekeei stood up here and said at its core this case is simple: It's about people, and trust, and lies, and choices made by these defendants. That's what the last five weeks have been about. It's been about people, people like the Wakpamni, who are now $60 million in debt that they will never be able to pay back, people like the pension funds who are stuck with millions of dollars in bonds that they will never be able to sell on their books. And, most of all, it's about these defendants and the choices they made, choices that John Galanis made in his initial dealings with the Wakpamni, lying to them about what would happen with the bonds so he could line his own pockets with $2.3 million; choices made by Devon Archer, Bevan Cooney, to cast their lot with Jason Galanis -- who everyone knew had a checkered past. I mean you heard about what would come up on Google when you checked on Jason Galanis. People knew about his SEC bar. They chose to hold themselves out to the Wakpamni as legitimate purchasers of the bonds, even though the money was using, there was no way Jason Galanis could have provided that to them absent the first bond issuance. And they chose to lie, lie

repeatedly, lie in a pattern to banks about those bonds, and about their friend and partner in crime Jason Galanis.

When you go back to the jury room, I ask you to follow the oath that you swore at the beginning of this trial, to decide this case without prejudice, or sympathy, without fear or favor, based on the law and the evidence, and only on the law and the evidence. If you do that, there is only one verdict that you can reach that is consistent with the evidence, and that is that these defendants are guilty as charged. Thank you.

THE COURT: Thank you. So, ladies and gentlemen, we're going to take a short break now, and I am going to instruct you on the law, and that will take us to the end of the day. All right? Thank you.

(Continued on next page)

(Jury not present)

THE COURT: Everyone can be seated. Let me tell you, I would recommend dismissing number 7 and 13 now, putting in number 14 for number 7, and then we would have two alternates, but I'm not going to do it unless you consent.

MR. SCHWARTZ: Can we have a moment?

THE COURT: Of course. I'm not pressuring you. It's just to take the pressure off the jury in terms of deliberation time.

MR. SCHWARTZ: My suggestion, if we agree to that, is that your Honor make those jurors alternates rather than release them, just because next week is a complicated week, and although it's unlikely they will have to be recalled, I am not sure we want to lose them entirely.

MR. QUIGLEY: We would be onboard with that.

MR. SCHWARTZ: But let us talk first. Also I do want to object to one aspect of Mr. Quigley's rebuttal that I do believe requires curative instruction. I showed yesterday in my summation a number of e-mails from Jason Galanis to Mr. Archer and sometimes Mr. Sugarman updating them on the status of the construction. You will recall they were the pictures of the bonded warehouse, and they start during the time the bonds are issued, and they go forward in time all the way up until August of 2015.

The only response that Mr. Quigley gave to that

argument was that I could have crossed Raycen Raines about that and I did not. I could not have crossed Raycen Raines on that. The government from the very first witness in this case has asked your Honor to impose a rule -- which your Honor has -- which is that I can only cross-examine a witness based on e-mails that they were on. And I objected to that at the time, and I objected to that throughout the trial, and I said it was appropriate as long as an e-mail was coming into evidence that I could use it with any witness.

There was never an e-mail with Devon Archer and Raycen Raines. The government would not have permitted me -- your Honor would not have permitted me -- to cross-examine Raycen Raines on those e-mails. So to suggest that I passed up an opportunity -- and that's the only response they have to that argument -- I think is a totally false argument by Mr. Quigley, and it requires the instruction that I did not have the opportunity to cross-examine Mr. Raines about those e-mails.

MS. MERMELSTEIN: None of that is true. There were a wildly unreasonable number of speaking objections during the rebuttal in an effort to give a surrebuttal that were totally inappropriate, and no further instruction is necessary.

What Mr. Schwartz has just characterized about the way this trial proceeded is false. Those are, let's be clear, a hundred percent real pictures of the Pine Ridge Reservation and the buildings. I have been there myself; that is what they

look like. There is no dispute that they are real. I imagine you could find them on Google Maps.

No one would have objected if Mr. Schwartz wanted to show a photo of a warehouse being built to Mr. Raines and say is this the warehouse. No one would have objected. Of course he could do that. And the defendants -- notwithstanding the government's repeated efforts to keep them from trying to impede the government's case -- were free to ask any questions and show any documents they wanted, and they were never stopped from doing that in a manner that was appropriate and consistent with the rules of evidence.

So, Mr. Schwartz could have asked that question, he could have shown that to the witness. There is no dispute that factually those things are correct. And he didn't do it. And there is no real reasonable dispute that in fact those are real e-mails.

So the effort to get an instruction and an effort to get the Court to suggest that there was something improper about the government's rebuttal is not warranted, and it's gamesmanship, and it should be rejected.

MR. SCHWARTZ: I mean the last thing I will say on this is literally from the very first witness, from Tim Anderson, when under our agreed-upon protocol I provided notice of the exhibits that I intended to use with Mr. Anderson, the government put in a letter -- it's on the docket -- and they

said I should not be able to use e-mails that the witness was not on because they're not a percipient witness. They made the argument repeatedly throughout the trial, your Honor sustained those objections, and did not let me use e-mails that an individual was not on.

So, the government can say that I could have done it, but I couldn't have done it. And they could say they wouldn't have objected, but they would have objected.

And to say that I ought to have tried, you know, and made this trial five weeks longer by putting in everything that I wanted to cross someone on rather than respecting the rule that your Honor had set down, I think that's wrong. And I think the argument by Mr. Quigley was false. And the fact that Ms. Mermelstein has been on the Pine Ridge Reservation and knows those to be actual buildings is totally beside the point.

MS. MERMELSTEIN: I'll just note, your Honor, that, one, it's not beside the point, because what Mr. Schwartz is suggesting is that I suggested to the jury that these might be fake, and that is true they might be fake; and the answer is it's not true; they are not fake; that's not a reasonable argument. But more than that, the government permitted the defense counsel to show witnesses the attachments to e-mails when they weren't on the e-mail, just not the cover e-mail. He could have shown the photos to the witness who said he lived on the Pine Ridge Reservation and said "Is this what it looks

like?" Of course he could have. And he decided not to, in order to make an argument to the jury that's factually frankly not correct, and we responded, and that's the end of it.

THE COURT: I am not going to instruct the jury on this point. The objection is noted for the record.

Why don't we take five minutes and then come back. And do let me know, because I want to tell them -- I want to keep those two after and speak to them right after the charge. OK?

MS. MERMELSTEIN: Yes.

MR. SCHWARTZ: Yes.

(Recess)

THE COURT: Do you have an objection to making Mr. Miller and Ms. Sanchez alternates number 3 and 4?

MR. SCHWARTZ: No, assuming those are the names of the jurors that we've about discussing.

THE COURT: Yes. So Juror 7 and Juror 13 would become alternates numbers 3 and 4. And just to be clear, does everyone consent to that?

MR. TOUGER: And Juror 14 would become Juror 7.

THE COURT: Correct. So just to be clear, Mr. Schwartz, do you consent to that?

MR. SCHWARTZ: I consent.

THE COURT: Ms. Notari?

MS. NOTARI: Yes.

THE COURT: Mr. Touger?

MR. TOUGER: Yes.

THE COURT: Does the government consent?

MR. QUIGLEY: No objection, your Honor. Yes.

THE COURT: All right. We will bring them in. Thank you.

(Continued on next page)

(Jury present)

THE COURT: Members of the jury, you have now heard all of the evidence in the case as well as the final arguments of the parties. You have paid careful attention to the evidence, and I'm confident that you will act together with fairness and impartiality to reach a just verdict.

Now it is time for me to instruct you as to the law that governs this case. There are three parts to these instructions. First, I'm going to give you some general instructions about your role, and about how you are to decide the facts of the case. Most of these instructions would apply to just about any trial. Second, I'll give you some specific instructions about the legal rules applicable to this particular case. Third, I will give you some final instructions about procedures.

Listening to these instructions may not be easy. I will tell you know it will probably go to about 5:15 or so. It's important, however, that you listen carefully and concentrate. You will notice that I am reading these instructions from a prepared text. It would be more lively, no doubt, if I just improvised, but it's important that I do not do that. The law is made up of words, and those words are very carefully chosen. So when I tell you the law, it's critical that I use exactly the right words.

(Continued on next page)

You'll have copies of what I am reading in the jury room to consult, so don't worry if you miss a word or two, but for now listen carefully and try and concentrate on what I am saying. Of course, you're free to read along as well.

My duty at this point is to instruct you as to the law. It is your duty to accept these instructions of law and to apply them to the facts as you determine them. With respect to legal matters, you must take the law as I give it to you. If any attorney has stated a legal principle different from any that I state to you in my instructions, it is my instructions that you must follow.

You must not substitute your own notions or opinions of what the law is or ought to be, but nothing I say is evidence. If I commented on the evidence at any time, do not accept my statements in place of your recollection or your interpretation. It is your recollection and interpretation that govern. Also do not draw any inference from any of my rulings. The rulings I made during the trial are no indication of any view on my part. You should not seek to find from my rulings any such view or opinion on my part, nor should you otherwise speculate what I may thing.

At times I may have directed a witness to be responsive to questions, to pause when an objection had been made by counsel or to keep his or her voice up. At times I asked a question myself. Any questions that I asked or

instructions that I gave were intended only to clarify the presentation of evidence.

You should draw no inference or conclusion of any kind, favorable or unfavorable, with respect to any witness or any party in the case by reason of any comment, question or instruction of mine, nor should you infer I might have any views as to the credibility of any witness, as to the weight of the evidence, or as to how you should decide any issue that is before you. It is entirely your role.

As members of the jury, you are the sole and exclusive judges of the facts. You pass upon the evidence. You determine the credibility of the witnesses. You resolve such conflicts as there may be in the testimony. You draw whatever reasonable inferences you decide to draw from the facts as you have determined them. You determine the weight of the evidence. This is your sworn duty as you have taken the oath as jurors to determine the facts.

As I mentioned, any opinion I might have regarding the facts is of absolutely no consequence. It is the duty of the attorneys to object when the other side offers testimony or other evidence that the attorney believes is not properly admissible. It is my job to rule on those objections.

Therefore, why an objection was made or why I ruled on it the way I did is not your concern. You should draw no inference or conclusion from the fact an attorney objects to

any evidence, nor should you draw any inference from the fact I might have sustained or overruled an objection.

From time to time the lawyers and I had conferences out of your hearing. The conferences involved procedural and other legal matters, and none of the events related to these conferences should enter into your deliberations at all.

The personalities and conduct of counsel in the courtroom are also not in any way at issue.

Now, I will instruct you on the presumption of innocence and the government's burden of proof in this case. The defendants have pleaded not guilty. By doing so, each defendant denies all of the charges in the indictment. Thus, the government has the burden of proving the charges against each of them individually beyond a reasonable doubt.

A defendant does not have to prove his innocence. On the contrary, each defendant is presumed innocent of all the charges contained in the indictment. This presumption of innocence was in the defendants' favor at the start of trial. It continued in their favor throughout the entire trial. It is in their favor even as I instruct you now and it continues in their favor during the course of your deliberations in the jury room.

The presumption of innocence is removed if, and only if, you, as members of the jury, are unanimously satisfied that the government has sustained its burden of proving the guilt of

a particular defendant as to a particular count of the indictment beyond a reasonable doubt.

The question that naturally comes up is what is a reasonable doubt? The words almost define themselves. It is a doubt founded in reason and arising out of the evidence in the case or the lack of evidence. It is doubt that a reasonable person has after carefully weighing all the evidence.

Reasonable doubt is a doubt that appeals to your reason, your judgment, your experience, your common sense. If, after a fair and impartial consideration of all the evidence, you do not have an abiding conviction of a specific defendant's guilt with respect to a particular count of the indictment -- in sum, if you have such a doubt as would cause you, as prudent persons, to hesitate before acting in matters of importance to yourselves, then you have a reasonable doubt, and in that circumstance it is your duty to acquit that defendant of that count.

On the other hand, if, after a fair and impartial consideration of all the evidence, you do have an abiding belief of a defendant's guilt as to a specific count of the indictment, such a belief as you would be willing to act upon without hesitation in important matters in the personal affairs of your own life, then you have no reasonable doubt, and under such circumstances it is your duty to convict that defendant of that count.

One final word on this subject. Reasonable doubt does not mean beyond all possible doubt. It is practically impossible for a person to be absolutely and completely convinced of any disputed fact which by its nature is not susceptible to mathematical certainty. It follows that the law in a criminal case is that it is sufficient if the guilt of a defendant is established beyond a reasonable doubt, not beyond all possible doubt.

For those of you who have served as jurors in civil cases, it is not a mere preponderance of the evidence standard. The government's burden is heavier than that. The government is not required to prove the essential elements of the offense by any particular number of witnesses. The testimony of a single witness may be sufficient to convince you beyond a reasonable doubt of the existence of the essential elements of the offense you're considering if you believe the witness has truthfully and accurately related what he or she has told you.

Under your oath as jurors, you are not to be swayed by sympathy or prejudice. You are to be guided solely by the evidence in this case, and the crucial, bottom-line question that you must ask yourselves as you sift through the evidence is has the government proven the guilt of any of the defendants as to any of the counts beyond a reasonable doubt?

It is for you alone to decide whether the government has proven the defendant, that a defendant is guilty solely on

the basis of the evidence or lack of evidence and subject to the law as I explain it to you. It must be clear to you that once you let fear or prejudice or bias or sympathy interfere with your thinking, there is a risk that you will not arrive at a true and just verdict.

If you have a reasonable doubt as to a defendant's guilt, you must not hesitate for any reason to find a verdict of acquittal for that defendant. But, on the other hand, if you should find that the government has met its burden of proving a defendant's guilt beyond a reasonable doubt, you should not hesitate, because of sympathy or any other reason, to render a verdict of guilty for that defendant.

The question of possible punishment of the defendants is of no concern to the jury and should not enter into or influence your deliberations. The duty of imposing sentence rests exclusively upon the Court. Your function is to weigh the evidence in the case and to determine whether or not any of the defendants are guilty beyond a reasonable doubt solely upon the basis of such received. Under your oath as jurors, you cannot allow a consideration of the punishment which may be imposed upon a defendant if he is convicted to influence your verdict in any way or in any sense to enter into your deliberations.

Similarly, it would be improper for you to allow any feelings you might have about the nature of the crimes charged

to interfere with your decision-making process. Your verdict must be based exclusively upon the evidence or lack of evidence presented in this courtroom.

In reaching your verdict, you must remember that all parties stand equal before a jury in the Courts of the United States. The fact that the government is a party and the prosecution is brought in the name of the United States does not entitle the government or its witnesses to any greater consideration than that afforded to any other party.

By the same token, you must give the government no less deference. It would also be improper for you to consider, in reaching your decision as to whether the government has sustain its burden of proof, any personal feelings you may have about the defendants' race, religion, national origin, gender, sexual orientation or age. All persons are entitled to the same presumption of innocence and the government has the same burden of proof with respect to all persons. Your verdict must be based solely on the evidence or the lack of evidence.

In determining the facts, you must rely upon your own recollection of the evidence. The evidence in this case is the sworn testimony of the witnesses, the exhibits received in evidence and the stipulations of the parties. Testimony that I have stricken or excluded, however, is not evidence and may not be considered by you in rendering a verdict. Also if certain testimony was received for a limited purpose, you must follow

the limiting instruction I gave you and use the evidence only for the purpose indicated. The only exhibits that are evidence in this case are those that were received in evidence. Exhibits marked for identification, but not admitted, are not evidence, nor are demonstrative aids or materials that were used only to refresh a witness's recollection.

As I told you at the start of this case, statements and arguments by lawyers are not evidence because the lawyers are not witnesses. What they have said to you in their opening statements and in their summations is intended to help you understand the evidence to reach your verdict. However, if your recollection of the facts differs from the lawyers' statements, it is your recollection that controls. For the same reason, you are not to consider a lawyer's questions as evidence. It is the witness's answers that are evidence, not the questions.

Finally on this point, as I have mentioned, any statements that I may have made do not constitute evidence. It is for you alone to decide the weight, if any, to be given to the testimony you have heard and the exhibits you have seen.

Generally there are two types of evidence that you may consider in reaching your verdict. One type of evidence is direct evidence. Direct evidence is testimony by a witness that something he or she knows by virtue of his or her own senses, something he or she has seen, felt, touched or heard.

For example, if a witness testified that when he or she left the house this morning, it was raining, that would be direct evidence about the weather. Circumstantial evidence is evidence from which you may infer the existence of certain facts.

For example, assume when you arrived at the courthouse this morning, the sun was shining and it was a nice day. Assume that the courtroom blinds were drawn and you could not look outside. As you were sitting here, someone walked in with an umbrella which was dripping wet. Then a few minutes later another person entered with a wet raincoat.

Now, because you cannot see outside of the courtroom, you cannot tell whether or not it is raining, so you have no direct evidence of that fact, but on the combination of facts that I've asked you to assume, it would not be unreasonable for you to conclude that it had been raining. That is all there is to circumstantial evidence. You infer on the basis of reason and experience and common sense from one established fact the existence or nonexistence of some other fact.

As you can see, the matter of drawing inferences from facts in evidence is not a matter of guesswork or speculation. An inference is a logical, factual conclusion that you might reasonably draw from other facts that have been proven.

Any material fact such as what a person was thinking or intending can rarely be proved by direct evidence.

Circumstantial evidence is as valuable as direct evidence. The law makes no distinction between direct and circumstantial evidence, but simply requires that before convicting a defendant, the jury must be satisfied of the defendants' guilt beyond a reasonable doubt based on all the evidence or lack of evidence in the case, circumstantial or direct.

There are times when different inferences may be drawn from the evidence. The government asks you to draw one set of inferences. The defendant asked you to draw another. It is for you and you alone to decide what inferences you will draw.

You have had the opportunity to observe the witnesses. It is now your job to decide how believable each witness was in his or her testimony. You are the sole judges of the credibility of each witness and of the importance of his or her testimony. You should carefully scrutinize all of the testimony of each witness, the circumstances under which each witness testified, the impression the witness made when testifying, the relationship of the witness to the controversy and the parties, the witness's bias or impartiality, the reasonableness of the witness's statement, the strength or weakness of the witness's recollection viewed in the light of all other testimony, and any other matter in evidence that may help you decide the truth and the importance of each witness's testimony.

In other words, what you must try to do in deciding

credibility is to size a witness up in light of his or her demeanor, the explanation given and all the other evidence in the case. How did the witness appear? Was the witness candid, frank and forthright, or did the witness seem to be evasive or suspect in some way?

How did the way the witness testified on direct examination compare with how the witness testified on cross-examination?

Was the witness consistent or contradictory?

Did the witness appear to know what he or she was talking about?

Did the witness strike you as someone who was trying to report his or her knowledge accurately?

These are examples of the kinds of common-sense questions you should ask yourself in deciding whether a witness was or was not truthful. In passing upon the credibility of a witness, you may also take into account any inconsistencies or contradictions as to material matters in his or her testimony. If you find that any witness has willfully testified falsely as to any material fact, you have the right to reject the testimony of that witness in its entirety.

On the other hand, even if you find that a witness has testified falsely as to any material fact, you have the right to reject as false that portion of his or her testimony and accept as true any other portion of the testimony. A witness

may be inaccurate, contradictory or even untruthful in some aspects, and yet be truthful and entirely credible in other aspects of his or her testimony.

The ultimate question for you to decide in passing upon the credibility is did the witness tell the truth before you? It is for you to say whether his or her testimony at this trial is truthful in whole or in part.

In evaluating the credibility of witnesses, you should take into account any evidence that the witness who testified may benefit in some way from the outcome in this case. Such an interest in the outcome creates a motive to testify falsely and may sway the witness to testify in a way that advances his or her own interests. Therefore, if you find that any witness whose testimony you are considering may have an interest in the outcome of the trial, then you should bear that factor in mind when evaluating the credibility of his or her testimony and accept it with great care.

This is not to suggest that every witness who has an interest in the outcome of the case will testify falsely. It is for you to decide to what extent, if at all, the witness's interest has affected or colored his or her testimony.

You have heard testimony from a law enforcement official and employees of the government. The fact that a witness may be employed by the federal government as a law enforcement official or employee does not mean that his or her

testimony is necessarily deserving of more or less consideration or greater or lesser weight than that of an ordinary witness. In this context, defense counsel may attack the credibility of such a witness on the ground that his or her testimony may be colored by a personal or professional interest in the outcome of the case. It is your decision, after reviewing all of the evidence, whether to accept the testimony of the law enforcement or government employee witness and to give to that testimony the weight you find it deserves.

You have also heard from a witness who testified that he was involved in criminal conduct and who subsequently pled guilty to his criminal conduct pursuant to what is called a cooperation agreement with the government. This witness has agreed to testify and to cooperate with the government in hope of receiving a reduced sentence. You are instructed that you must not draw any conclusions or inferences of any kind, favorable or unfavorable, about a defendant's guilt from the fact that a prosecution witness pled guilty to similar charges.

The decision of the witness to plead guilty was a personal decision about his own guilt. Experience will tell you that the government frequently must rely on the testimony of cooperating witnesses and other witnesses who have admitted to participating in crimes. The government must take its witnesses as it finds them and frequently must use such testimony in criminal prosecutions because otherwise it would

be difficult or impossible to detect and prosecute wrongdoers.

For these very reasons, the law allows the use of cooperating witness testimony. Because of the possible interest a cooperating witness may have, the cooperating witness's testimony should be scrutinized with care and caution. The fact that a witness is a cooperating witness can be considered by you as bearing upon his credibility. It does not follow, however, that simply because a person has admitted to participating in one or more crimes, he is incapable of giving truthful testimony.

Like the testimony of any other witness, cooperating witness testimony should be given the weight it deserves in light of the facts and circumstances before you, taking into account the witness's demeanor, candor, the strength and accuracy of the witness's recollection, his background and the extent to which his testimony is or is not corroborated by other evidence in the case.

In evaluating the testimony of a cooperating witness, you should ask yourselves whether this cooperating witness would benefit more by lying or by telling the truth. Was his testimony made up in any way because he believed or hoped he would somehow receive favorable treatment by testifying falsely, or did he believe his interests would be best served by testifying truthfully?

If you believe the witness was motivated by hopes of

personal gain, was the motivation one that would cause him to lie or was it one that would cause him to tell the truth? Did this motivation color his testimony?

If you find the testimony was false, you should reject it. If, however, after a cautious and careful examination of the cooperating witness's testimony and demeanor upon the witness stand, you're satisfied the witness told the truth, you should accept it as credible and act upon it accordingly.

As with any witness, let me emphasize that the issue of credibility need not be decided in an all-or-nothing fashion. Even if you find that a witness testified falsely in one part, you still may accept his testimony in other parts or may disregard all of it. That is a determination entirely for you, the jury.

You have heard the testimony of witnesses who have testified under a grant of immunity from the Court. What this means is that the testimony of the witness may not be used against him in any criminal case except a prosecution for perjury, giving a false statement or otherwise failing to comply with the immunity order of the Court.

You are instructed that the government is entitled to call as a witness a person who has been granted immunity by order of the Court. The testimony of a witness who has been granted immunity should be examined closely to determine whether it is colored in a way as to further the witness's own

interests. If you believe the witness's testimony to be true and determine to accept the testimony, you may give it such weight, if any, as you believe it deserves.

You have heard evidence that a witness may have made a statement on an earlier occasion which counsel argues is inconsistent with the witness's trial testimony. Evidence of a prior inconsistent statement is not to be considered by you as affirmative evidence bearing on the defendants' guilt. Evidence of the prior inconsistent statement was placed before you for the more limited purpose of helping you decide whether to believe the trial testimony of the witness who allegedly contradicted himself or herself. If you find that the witness made an earlier statement that conflicts with his or her trial testimony, you may consider that fact in deciding how much of his or her trial testimony, if any, to believe.

In making this determination, you may consider whether the witness purposefully made a false statement or whether it was an innocent mistake, whether the inconsistency concerns an important fact or whether it had to do with a small detail, whether there is a motive to fabricate, whether the witness had an explanation for the inconsistency and whether that explanation appealed to your common sense. It is exclusively your duty, based upon all the evidence and your own good judgment, to determine whether the prior statement was inconsistent and, if so, how much, if any, weight to be given

to the inconsistent statement in determining whether to believe all or part of the witness's testimony.

You have heard testimony from what we call expert witnesses. An expert is someone who, by education or experience, has acquired learning or experience in a science or a specialized area of knowledge. Such a witness is permitted to give his opinions as to relevant matters in which he professes to be an expert and give his reasons for such opinions. Expert testimony is presented to you on the theory that someone who is experienced in the field can assist you in understanding the evidence or in reaching an independent decision on the facts.

Your role in judging credibility applies to experts as well as to other witnesses. You should consider the expert opinions that were received in evidence in this case and give them as much or as little weight as you think they deserve. If you should decide that an opinion of an expert was not based on sufficient evidence or experience or on sufficient data, or if you should conclude the trustworthiness or credibility of an expert was questionable for any reason, or if an opinion of an expert was outweighed, in your judgment, by other evidence in the case, you might disregard that opinion of that expert entirely or in part.

On the other hand, if you find the expert opinion was based on sufficient data, education and experience, and the

other evidence does not give you reason to doubt his conclusions, you would be justified in placing great reliance on his testimony.

Although the defendant is under no obligation to present any testimony, you have heard testimony that Devon Archer has a reputation for honesty and trustworthiness along with all the other evidence you have heard. You may take into consideration what you believe about a defendant's reputation for honesty and trustworthiness when you decide whether the government has proven beyond a reasonable doubt that that defendant committed the crime.

You have heard evidence during the trial some witnesses have discussed the facts of the case and/or their testimony with lawyers. You may consider that fact when you are evaluating a witness's credibility, but I should tell you there is nothing unusual or improper about witnesses meeting with lawyers before testifying so the witness can be aware of subjects he will be questioned about and focus on those subjects and have the opportunity to review relevant exhibits before being questioned about them. Such consultation helps conserve your time and the Court's time. In fact, it would be unusual for a lawyer to call a witness without such consultation. The weight you give to the fact or the nature of the witness's preparation for his testimony and what inferences you draw from such preparation are matters completely within

your discretion.

There are people whose names you heard during the course of this trial but who did not appear here to testify. I instruct you that all parties have an equal opportunity or lack of opportunity to call any of these witnesses. Therefore, you should not draw any inferences or reach any conclusions as to what they would have testified to had they been called. Their absence should not affect your judgment in any way.

You should remember my instruction, however, that the law does not impose on a defendant in a criminal case the burden or duty of calling any witnesses or producing any evidence. You may not draw any inference, favorable or unfavorable, towards the government or any of the defendants from the fact that any person in addition to the defendants is not on trial here. You also may not speculate in any way as to the reason or reasons why other persons are not on trial. Those matters are wholly outside your concern and have no bearing open your function as jurors.

You have also heard about certain individuals who are not on trial here but who have pled guilty to related offenses. As I instructed you with respect to the testimony of the cooperating witness in this case, you may not draw any conclusions or inferences of any kind, favorable or unfavorable, about a defendant's guilt from the fact that another person has pled guilty to similar charges.

You have heard references to certain investigative techniques that were used or not used by the law enforcement authorities in this case. You may consider these facts in deciding whether the government has met its burden of proof because, as I told you, you should look to all of the evidence or lack of evidence in deciding whether any of the defendants are guilty. There is no legal requirement that the government prove its case through any particular means. While you are to consider carefully the evidence presented by the government, you need not speculate as to why certain techniques were used or why others were not used. Law enforcement techniques are not your concern.

There have been a number summary charts and exhibits that were shown to you but not admitted into evidence. At the time that they were shown to you, I had noted this fact to you. For these charts and exhibits were not admitted into evidence, they serve merely as summaries and analyses of testimony and documents in the case and are here to act as visual aids for you. It is the underlying evidence and the weight which you attribute to that which gives value and significance to these charts.

To the extent that the charts conform to what you determine the underlying facts to be, you should accept them. To the extent the charts differ from what you determine the underlying evidence to be, you may reject them.

Some of the exhibits that were admitted into evidence were in the form of charts and summaries. For these charts and summaries that were admitted into evidence, you should consider them as you would any other evidence.

In this case, you have also heard evidence in the form of stipulations of fact. A stipulation of fact is an agreement among the parties that a certain fact is true. You must regard such agreed facts as true. It is for you, however, to determine the weight to be given to any stipulated fact.

During the course of the trial we have seen among the exhibits received in evidence some documents that are redacted. "Redacted" means that a portion of the document was taken out. You are to concern yourself only with the part of the item that has been admitted into evidence. You should not speculate any reason why the other part of it has been deleted.

Mr. Galanis, Mr. Archer and Mr. Cooney did not testify in this case. Under our Constitution, a defendant in a criminal case never has any duty to testify or come forward with any evidence. This is because the burden of proof beyond a reasonable doubt remains on the government at all times and the defendant is presumed innocent. A defendant is never required to prove that he is innocent. You may not speculate as to why any defendant did not testify, nor attach any significance to the fact the defendant did not testify. Indeed, you may not draw any inference whatsoever from any

defendant's decision not to take the witness stand.

I will turn now to my instructions to you related to the charges brought against the defendants in this case. The defendants in this case, John Galanis, Devon Archer and Bevan Cooney, are formally charged in what is called an indictment. As I instructed you at the outset of this case, the indictment is merely a charge or accusation. I is not evidence and it cannot be used by you as proof of anything.

As a result, you are to give it no weight in deciding the defendants' guilt or lack of guilt. What matters is the evidence that you heard at this trial. Indeed, as I have previously noted, each defendant is presumed innocent, and it is the government's burden to prove each of the defendants' guilt beyond a reasonable doubt.

Before you begin your deliberations, you will be provided -- I am not going to provide you with a copy of the indictment. Instead, what I am going to do is I am going to summarize the offenses charged in the indictment and then explain in detail the elements of the charged offenses.

To find the defendants guilty, you must find that the government has proven the specific charges in the indictment, not some other crime, beyond a reasonable doubt. If you do not find the government has established beyond a reasonable doubt the specific allegations set forth in the indictment, then you must find the defendants not guilty. All three defendants are

charged in both counts of the indictment.

Count 1 of the indictment charges that from at least on or about March 2014 through in or about April 2016, each of the defendants conspired or agreed with others to commit securities fraud. As I will explain in more detail in a few moments, a conspiracy such as the one charged in Count 1 is a criminal agreement to violate the law.

Count 2 of the indictment charges that from at least in or about March 2014 through in or about April 2016, each of the defendants committed the substantive offense of securities fraud. Later on I will explain to you the differences between a conspiracy count and a substantive count. For now just keep in mind that a conspiracy count is different from a substantive count.

Count 1 charges each of the defendants with participating in a conspiracy to commit securities fraud.

Count 2 charges each of the defendants with a substantive securities fraud.

The indictment alleges that the securities fraud conspiracy charged in Count 1 and the substantive securities fraud offense charged in Count 2 relate to an alleged scheme by each of the defendants to defraud a Native American tribal entity, the Wakpamni Lake Community Corporation, which I will call the WLCC, to issue bonds, which I will call the Wakpamni bonds, based upon false and misleading representations and to

fraudulently cause clients of Atlantic and Hughes to buy certain of those bonds, thereby defrauding those clients as well.

The indictment also alleges that the defendants failed to invest the bond proceeds on the WLCC's behalf in the manner agreed upon and instead misappropriated the bond proceeds for their own use. The defendants deny all of the allegations.

In your role as jurors, you are not to be concerned with the wisdom or policy of any laws the defendants are alleged to have broken. Your verdict must be based on the evidence in this case. Your verdict must not be based upon your personal approval or disapproval of any particular law.

The indictment names three defendants who are on trial together. In reaching a verdict, you must bear in mind that guilt is individual. Your verdict as to each defendant must be determined separately with respect to him, solely on the evidence or lack of evidence presented against him, without with regard to the guilt or innocence of anyone else.

As I just indicated, the indictment contains two counts. Each count charges a different crime. You must consider each count of the indictment separately and you must return a separate verdict as to each defendant on each count. The case on each count stands or falls upon the proof or lack of proof for that count.

I am now going to discuss the counts in the indictment

because some of the instructions as to the substance of the charge in Count 2 will assist you in assessing the conspiracy charge contained in Count 1.

I'll first instruct you on Count 2. Count 2 charges etch of the defendants, John Galanis, Devon Archer and Bevan Cooney, with committing the substantive crime of securities fraud. Specifically Count 2 alleges as follows:

From at least in or about March 2014 through in or about April 2016, in the Southern District of New York and elsewhere, John Galanis, a/k/a Yanni, Bevan Cooney and Devon Archer, the defendants, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce and of the mails, and of the facilities of national securities exchanges, used and employed manipulative and deceptive devices and contrivances in connection with the purchase and sales of securities, in violation of Title 17, Code of Federal Regulations, Section 240, 10b-5, by:

A. Employing devices schemes and artifices to defraud;

B. Making untrue statements of material fact and omitting to state material facts necessary in order to make the statements made in the light of the circumstances under which they were made not misleading; and

C. Engaging in acts, practices and course of business which operated and would operate as a fraud and deceit upon

persons, to wit:

The defendants engaged in a scheme to misappropriate the proceeds of several bond issuances by the WLCC and also caused investor funds to be used to purchase the bonds for which there was no secondary market, through which such bonds could be redeemed without disclosure to those investors of material facts, including the existence of multiple conflicts of interest, and which investments in some cases were outside the investment parameters of the accounts in which they were placed.

The relevant law here is Section 10-b of the Securities Exchange Act of 1934, which is set forth in 15 United States Code Section 78jb. Section 10-b provides in pertinent part, it shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility, of any national securities exchange, to use or employ in connection with the purchase or sale of any security registered on a national securities exchange, or any security not so registered, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the SEC may prescribe as necessary or appropriate in the public interest or for the protection of the investors.

The law also defines the term "security," which is set forth in 15 United States Code Section 78 ca-10, includes any

bond.

Based on its authority under the statute, the SEC has created a number of rules and regulations, one of which is known as Rule 10b-5, is relevant here. Rule 10b-5 reads as follows:

Employment of manipulative and deceptive devices. It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange:

A. To employ any device, scheme or artifice to defraud;

B. To make any untrue statement of a material fact, or to admit omit to state a material fact necessary in order to make the statements made in light of the circumstances under which they were made not misleading; or

C. To engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.

The 1934 Securities Exchange Act was the second of two laws passed by Congress to protect the investing public in the purchase and sale of securities that are publicly distributed. To establish a violation of Section 10-b of the 1934 Securities Exchange Act as charged in Count 2 of the indictment, the

government must prove each of the following elements beyond a reasonable doubt:

First, in connection with the purchase or sale of securities such as bonds, the defendant you are considering did any one or more of the following:

One. Employed a device, scheme or artifice to defraud; or

Two. Made an untrue statement of a material fact or omitted to state a material fact which made what was said under the circumstances misleading; or

Three. Engage in act, practice or course of business that operated or would operate as a fraud or deceit upon a purchase or seller;

Second, that the defendant you are considering acted knowingly, willfully and with the intent to defraud;

Third, that the defendant you are considering knowingly used, or caused to be used, any means or instrumentalities of transportation or communication in interstate commerce or the use of the mails in furtherance of the fraudulent conduct.

I will discuss each element with you in turn. Does anyone want to stand up and stretch?

(Pause)

The first element the government must prove beyond a reasonable doubt is that in connection with the purchase or

sale of securities, the defendant you are considering did any one of the following -- did I read this? I don't think so.

1. Employed a device, scheme or artifice to defraud; or

2. Made an untrue statement of a material fact or omitted to state a material fact, which made what was said under the circumstances misleading; or

3. Engaged in an act, practice or course of business that operated or would operate as a fraud or deceit upon a purchaser or seller.

To prove this element, the government must prove at least one of those three types of unlawful conduct was committed by the defendant you are considering in connection with the purchase or sale of securities, although it does not need to prove all three of them. You must be unanimous as to which type of unlawful conduct, if any, the defendant you are considering committed. Let me now explain some of those terms.

A device, scheme or artifice is merely a plan for the accomplishment of an objective. Fraud is a general term that embraces all of the various means that individuals devise to take advantage of others. It includes all kinds of manipulative and deceptive acts. The fraud or deceit need not relate to the investment value of the securities involved in this case.

Additionally, it is also not necessary that the

defendant you are considering made a profit or that anyone actually suffered a loss for you to find that the government has proven this element beyond a reasonable doubt.

An affirmative misrepresentation is one type of false statement. It is a statement of a fact which is objectively false. To put it in everyday language, an affirmative misrepresentation is a lie. A statement, representation, claim or document is false if it is untrue when made and was then known to be untrue by the person making it or causing it to be made. A representation or statement is fraudulent if it was falsely made with the intention to deceive.

A statement may also be false if it contains half-truths or it conceals material facts in a manner that makes what is said or represented deliberately misleading. The deception need not be premised upon spoken or written words alone. The arrangement of the words or the circumstances in which they are used may convey the false and deceptive appearance.

If there is deception, the manner in which it is accomplished does not matter. You cannot find that the government has proven the first element unless you find that the defendant you are considering participated or agreed to participate in fraudulent conduct that was in connection with a purchase or sale of securities. I instruct you that the Wakpamni bonds are a security within the meaning of federal

law.

The requirement that the fraudulent conduct be in connection with the purchase or sale of securities is satisfied so long as there was some nexus or relation between the allegedly fraudulent conduct and the sale or purchase of securities. Fraudulent conduct may be in connection with the purchase or sale of securities if you find that the alleged fraudulent conduct touched upon a securities transaction.

It is not necessary for you to find that if the defendant you are considering was or would be the actual seller of the securities, it is sufficient that the defendant participated in the scheme or fraudulent conduct that involved the purchase or sale of securities.

By the same token, the government need not prove that the defendant you are considering personally made the misrepresentation or that he omitted the material fact. It is sufficient if the government establishes that the defendant caused the statement to be made or the fact to be omitted.

With regard to the alleged misrepresentations or omissions, you must determine whether the statements were true or false when made, and in the case of alleged omissions, whether the omissions were misleading. If you find that the government established beyond a reasonable doubt that a statement was false, or a statement was omitted, rendering the statements that were made misleading, you must next determine

whether the statement or omission was material under the circumstances.

The word "material" here refers to the nature of the false or misleading statements. We use the word "material" to distinguish between the kinds of statements we care about and those that are of no real importance.

A material fact is one that a reasonable investor would consider important in making his or her investment decision regarding the sale or purchase of securities. That means that if you find a particular statement of fact or omission to have been untruthful or misleading, you must consider whether the government has proven that the statement is material. In other words, you must consider whether the government has proven that the statement or omission was one that would have mattered to a reasonable investor in making such investment decision.

In considering whether a statement or omission was material, I remind you that the standard is what a reasonable investor would have wanted to know in making an investment decision. It does not matter whether the actual investor who purchased or issued the bonds at issue here is sophisticated or inexperienced because the standard is whether an investor who is reasonable would have wanted to know the statement or omission, nor does it matter whether the alleged unlawful conduct was or would have been successful or whether the

defendant you are considering profited or would have profited as a result of the alleged crime. Success is not an element or violation of Section 78jb or Rule 10b-5.

If, however, you find that the defendant you are considering expected to or did profit from the alleged scheme, you may consider that in relation to the element of intent which I will discuss in a moment.

The second element of Count 2 that the government must establish is that the defendant you are considering acted knowingly, willfully and with intent to defraud. "Knowingly" means to act voluntarily and deliberately rather than mistakenly or inadvertently. "Willfully" means to act knowingly and purposefully, with an intent to do something the law forbids; that is to say, with bad purpose, either to disobey or to disregard the law. "Intent to defraud" in the context of the securities laws means to act knowingly and with intent to deceive.

The question of whether a person acted knowingly, willfully and with intent to defraud is a question of fact for you to determine like any other fact question. This question involves one's state of mind. Direct proof of knowledge and fraudulent intent is often not available. It would be a rare case where it could be shown that a person wrote or stated that as of a given time in the past, he committed an act with fraudulent intent. Such direct proof is not required.

The ultimate facts of knowledge and criminal intent, though subjective, may be established by circumstantial evidence based upon a person's outward manifestations, his words, his conduct, his acts, and all the surrounding circumstances disclosed by the evidence and the rational or logical inferences that may be drawn therefrom.

Circumstantial evidence, if believed, is of no less value than direct direct evidence. In either case, the essential elements of the crime charged must be established beyond a reasonable doubt. The government need only prove that the defendant you are considering acted with an intent to deceive, manipulate or defraud. The government need not show that the defendant acted with an intent to cause harm.

What is referred to as drawing inferences from circumstantial evidence is no different from what people normally mean when they say use your common sense. Using your common sense means that when you come to decide whether a defendant possessed or lacked an intent to defraud, you do not limit yourself to what the defendant said, but you also look at what he did and what others did in relation to the defendant and in general everything that occurred. .

On this subject, however, it is important for you to know you may not infer knowledge or intent based solely on a defendant's relationship or association with certain individuals or his position in the corporate entity.

At this point, let me also advise you it since an intention element of the crime charged is intent to defraud, it follows as good faith, as I will define that term, on the part of a defendant is a complete defense to a charge of securities fraud. A person who acts on a belief or opinion honestly held is not punishable under the securities fraud statutes merely because his opinion or belief turns out to be wrong. Therefore, if you find that at all relevant times a defendant acted in good faith, it is your duty to acquit him.

I want to caution you in this regard that the defendant has no burden to establish a defense of good faith. The burden is on the government to prove fraudulent intent beyond a reasonable doubt.

In considering whether or not a defendant acted in good faith, however, you are instructed that a belief by a defendant, if such belief existed, that ultimately everything will work out so that no investors would lose any money, or that particular investments would ultimately be financially advantageous for clients, does not necessarily constitute good faith. No amount of honest belief on the part of the defendant that the scheme will ultimately make a profit for the investors will excuse fraudulent actions or false representations or omissions by him.

As a practical matter, then, to prove this charge against a defendant, the government must establish beyond a

reasonable doubt the defendant knew that his conduct was calculated to deceive and that he nevertheless associated himself with the alleged fraudulent scheme.

The third and final element of Count 2, the substantive securities fraud count, the government must prove beyond a reasonable doubt that the defendant you are considered knowingly used, or caused to be used, the mails or the instrumentalities of interstate commerce in furtherance of the scheme to defraud.

Let me first note that it is unnecessary for the government to prove both the mails or an instrumentality of interstate commerce was used in furtherance of the fraudulent scheme. Only one of the above, either the mails or an instrumentality of interstate commerce, is enough, but you must be unanimous as to at least one.

In considering this element, it is not necessary for you to find that the defendant you are considering was or would have been directly or personally involved in any mailing or the use of an instrumentality of interstate commerce if the conduct alleged would naturally and probably result in the use of the mails or an instrumentality of interstate commerce, this element would be satisfied.

Nor is it necessary that the items sent through the mails or communicated through an instrumentality of interstate commerce did or would contain the fraudulent material or

anything criminal or objectionable. The matter mailed or communicated may be entirely innocent so long as it is in furtherance of the scheme to defraud or fraudulent conduct.

The use of mails or instrumentality in interstate commerce need not be central to the execution of the scheme and may even be incidental to it. All that is required is that the use of the mails or an instrumentality of interstate commerce bear in some relation to the object of the scheme or fraudulent conduct.

In fact, the actual purchase or sale of the security need not be accompanied by the use of the mails or an instrumentality of interstate commerce so long as the mails or instrumentality of interstate commerce are used in furtherance of the scheme and the defendant you are considering was still engaged in actions that are part of a fraudulent scheme when the mails or instrumentalities of interstate commerce were used.

The use of the term "mails" is self-explanatory and includes the United States Mail and Federal Express and other commercial mail couriers. The term "instrumentality of interstate commerce" includes any communications network that involves one or more, more than one state, such as those used to send emails and make phone calls. The wire transferred of money is also sufficient.

The substantive securities fraud charge in Count 2

also charges the defendants with violating 18 United States Code Section 2, the aiding and abetting statute. That is each of the defendants is charged not only as a principal who committed the crime, but also as an aider and abettor in having willfully caused the crime.

As a result, under 18 United States Code Section 2, there are two additional ways the government may establish the defendants' guilt on the substantive count charged in the indictment. One way is called aiding and abetting. The other is called willfully causing a crime, and let me explain each of these.

Aiding and abetting is set forth in Section 2 (a) the statute. That section reads in part as follows:

Whoever commits an offense against the United States, or aids or abets or counsels, commands or induces, procures its commission or procures its commission, is punishable as a principal.

Under the aiding and abetting statute, it is not necessary for the government to show that the defendant himself physically committed the crime with which he is charged in order for you to find the defendant guilty. Thus, even if you do not find beyond a reasonable doubt the defendant himself committed the crime charged, you may under certain circumstances still find that defendant guilty of that crime as an aider or abettor.

A person who aids or abets another to commit an offense is just as guilty of that offense as if he committed it himself. Accordingly, you may find the defendant guilty of a substantive crime if you find beyond a reasonable doubt that the government has proved that another person actually committed the crime and that the defendant aided and abetted that person in the commission of the offense.

As you can see, the first requirement is that another person has committed the crime charged. Obviously, no one can be convicted of aiding and abetting the criminal acts of another if no crime was committed by the other person in the first place. If you do find that a crime was committed, then you must consider whether the defendant willfully aided or abetted the commission of the crime.

In order to aid or abet another to commit a crime, it is necessary that you determine that he willfully, knowingly associated himself in some way with the crime and that he willfully and knowingly would seek by some act to help make the crime succeed. Participation in a crime is willful if action is taken voluntarily or intentionally, or in the case of a failure to act, with a specific intent to fail to do something the law requires to be done; that is to say, with a bad purpose, either to disobey or to disregard the law.

The mere presence of a defendant where a crime is being committed even coupled with knowledge by the defendant

that a crime is being committed, or merely associating with others who were committing a crime, is not sufficient to establish aiding and abetting. One who has no knowledge that a crime is being committed or is about to be committed, but inadvertently does something that aids in the commission of the crime is not an aider or abettor. An aider or abettor must know that the crime is committed and act in a way which is intended to bring about the success of the criminal venture.

In other words, the defendant must willfully facilitate the crime. It is not enough if a defendant's actions may have been the effect of facilitating the crime. There must be proof beyond a reasonable doubt that he specifically intended to facilitate the crime in order for you to find that the government has met this element.

Facilitation does not require extensive participation, but the defendants' participation must occur before the completion of the crime. To determine whether the defendant aided or abetted the commission of the crime with which he is charged, ask yourself these questions:

First, did he participate in the crime charged as something he wished to bring about;

Second, did he associate himself with the criminal venture knowingly and willfully;

Finally, did he seek by his actions to make the criminal venture succeed.

If the answer to all three of these questions is yes, then the defendant is and aider and abettor. If, on the other hand, your answer to any of these questions is no, then the defendant is not an aider or abettor.

The second way in which the government can establish the defendants' guilt under 18 United States Code Section 2 is by proving beyond a reasonable doubt that the defendant willfully caused a crime. Section 2 (b) of the aiding and abetting statute which relates to willfully causing a crime reads as follows:

Whoever willfully causes an act to be done which, if directly performed by him or another would be an offense against the United States, shall be guilty of a federal crime.

What does the term "willfully caused" mean? It means that the defendant himself need not have physically committed the crime or supervised or participated in the actual criminal conduct charged in the indictment. It does not mean that the defendant himself need have physically committed the crime or supervised or participated in the actual criminal conduct charged in the indictment. The meaning of the term "willfully caused" can be found in the answers to the following questions:

First, did the defendant you are considering take some action without which the crime would not have occurred?

Second, did the defendant intend that the crime would be actually committed by others?

If you're persuaded beyond a reasonable doubt that the answer to both these questions is yes, then the defendant is guilty of the crime charged just as if the defendant himself had personally committed it.

If the answer to either is no, the defendant you are considering cannot be found guilty of Count 2 under this theory of liability.

(Continued on next page)

Now I will instruct you as to Count One of the indictment, in which each of the defendants -- John Galanis, Devon Archer an Bevan Cooney -- is charged with violating Title 18 United States Code, Section 371. That section provides as follows:

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof, in any manner for any purpose and one or more of such persons do any act to effect the object of the conspiracy, each [is guilty of a federal crime].

Each of the defendants is charged in Count One with participating in a conspiracy to violate the federal statutes that make it unlawful to commit securities fraud. Specifically, Count One charges that each of the defendants agreed to commit securities fraud in connection with the Wakpamni bonds.

The indictment lists the overt acts that are alleged to have been committed in furtherance of the conspiracy charged in Count one.

As I have said, Count one of the indictment charges each defendant with participating in a conspiracy. As I will explain, a conspiracy is kind of a criminal partnership -- an agreement of two or more people to join together to accomplish some unlawful purpose. The essence of the crime of conspiracy is an agreement or understanding to violate other law. If a

conspiracy exists, even if it should fail in its purpose, it is still punishable as a crime.

The crime of conspiracy -- or agreement -- to violate a federal law, as charged in the indictment, is an independent offense. It is separate and distinct from the actual violation of any specific federal law, such as that charged in Count Two that I have just described for you, which the law refers to as "substantive crime."

You may find a defendant guilty of a crime of conspiracy -- in other words, agreeing to commit securities fraud, even if you find that the substantive crime which was the object of the conspiracy -- securities fraud -- was never actually committed. Congress has deemed it appropriate to make conspiracy, standing alone, a separate crime, even if the conspiracy is not successful and no substantive crime is actually committed.

However, you must find that the defendant you are considering not guilty of conspiracy unless the government proves all of the elements of a conspiracy beyond a reasonable doubt and you may consider whether the substantive crime that is the object of the charged conspiracy was actually committed in determining whether the government has met its burden.

To prove a defendant guilty of the conspiracy charged in Count One, the government must prove beyond a reasonable doubt each of the following three elements:

First, the government must prove the existence of the conspiracy charged in Count One of the indictment; that is, the existence of an agreement or understanding to commit the unlawful object of the charged conspiracy, which in this case is securities fraud. The first element then is: Did the conspiracy alleged in the indictment exist? Was there such a conspiracy; and

Second, the government must prove that the defendant you are considering willfully and knowingly became a member of the conspiracy, with intent to further its illegal purposes -- that is, with the intent to commit the object of the charged conspiracy; and

Third, the Government must prove that any one of the conspirators -- not necessarily a defendant, but any one of the parties involved in the conspiracy -- knowingly committed at least one overt act in furtherance of the conspiracy during the life of the conspiracy, in the Southern District of New York.

So let us now separately consider each of these elements.

The first element that the prosecution must prove beyond a reasonable doubt to establish the offense of conspiracy is that two or more persons entered the unlawful agreement charged in the indictment.

The essence of the crime of conspiracy is an unlawful agreement between two or more people to violate the law. The

first element of the crime of conspiracy thus has two parts: An agreement and an illegal object of the conspiracy. I am now going to define both parts of this element to you

To meet its burden of proof on this element, the government must prove that there was an agreement between two or more people. The government is not required to show, however, that two or more people sat down at a table and entered into a solemn fact, orally or in writing, stating that they have formed a conspiracy to violate the law and spelling out all of the details of the plans and the means by which the unlawful project was to be carried out, or that the part that each of the persons who is a party to the conspiracy was going to play. Common sense will tell you that when people in fact undertake to enter into a criminal conspiracy, much is left to unexpressed understanding. Conspirators do not usually reduce their agreements to writing. They do not typically broadcast their plans publicly. By its very nature, a conspiracy is almost always secret in its origin and execution. It is enough if two or more people, in some way or manner, impliedly or tacitly come to an understanding to violate the law. Express language or specific words are not required to indicate assent or agreement to form the conspiracy. You need only find that two or more people entered into the unlawful agreement alleged in the indictment in order to find that a conspiracy existed. It is not enough, however, that the alleged conspirators simply

met, discussed matters of common interest, acted in similar ways or perhaps helped one another out.

In determining whether there has been an unlawful agreement as alleged in Count One, you may judge the proven acts and conduct of the alleged conspirators that were taken to carry out the apparent criminal purpose. The old adage, "actions speak louder than words," is applicable here. Disconnected acts, when taken in connect with one another, can show a conspiracy or an agreement to secure a particular result just as satisfactorily and conclusively as more direct proof.

When people enter into a conspiracy to accomplish an unlawful end, they become agents or partners of one another in carrying out the conspiracy. In determining the factual issues before you, you may take into account any acts done or statements made by any of the alleged coconspirators during the course of the conspiracy, even though such facts or statements may not have been made in the presence of the defendant or may have been made without his knowledge.

Of course, proof concerning the accomplishment of the object of a conspiracy may be the most persuasive evidence that the conspiracy itself existed, but it is not necessary, as I have said, that the conspiracy actually succeeded for you to conclude that it existed. In deciding whether the conspiracy charged in Count One existed, you may consider all of the evidence of the acts, conduct and statements of the alleged

conspirators and the reasonable inferences to be drawn from that evidence.

It is sufficient to establish the existence of the conspiracy if, after considering all of the relevant evidence, you find beyond a reasonable doubt that the mind of at least two alleged conspirators met in an understanding way, and that they agreed, as I have explained, to work together to accomplish the object or objective of the conspiracy charged in Count One.

The second part of the first element relates to the object of the conspiracy. The object of a conspiracy is the illegal goal the coconspirators agreed upon or hope to achieve. As I have mentioned, the object of the conspiracy charged in Count One of the indictment is securities fraud. In order to prove that a defendant is guilty of the conspiracy offense charged in Count One, the government must establish beyond a reasonable doubt that that defendant agreed with others to commit securities fraud.

As I noted, the substantive offense alleged in Count Two of the indictment is charged as the object of the conspiracy. This is permissible. A crime may be punished for its own sake, and it may also be an object of a conspiracy. However, you must consider them separately. A defendant may be guilty of one and not the other, and you may consider whether the defendant committed the substantive count when determining

whether the defendant committed the conspiracy. I ask that you apply the instructions I have already given regarding Count Two in assessing whether the government has proven the object of the conspiracy charged as Count One of the indictment.

If you conclude that the government has proven beyond a reasonable doubt that the conspiracy charged in Count One of the indictment existed, and that the conspiracy had securities fraud as its object, then you must next determine the second question: Whether the defendant you are considering participated in the conspiracy with knowledge of its unlawful purpose and in furtherance of its unlawful objective.

In order to satisfy the second element of Count One, the government must prove beyond a reasonable doubt that a defendant knowingly and willfully entered into the conspiracy with the intention of aiding the accomplishment of its unlawful ends.

An act is done "knowingly" and "willfully" if it is done deliberately and purposely; that is, a defendant's acts must have been the product of that defendant's conscious objective, rather than the product of a mistake or accident, or mere negligence, or some other innocent reason.

To satisfy its burden of proof that a defendant knowingly and willfully became a member of a conspiracy to accomplish an unlawful purpose, the government must prove beyond a reasonable doubt that the defendant knew that he was a

member of an operation or conspiracy to accomplish that unlawful purpose, and that his action of joining such an operation or conspiracy was not due to carelessness, negligence, or mistake.

It is not necessary for the government to show that a defendant was fully informed as to all of the details of the conspiracy in order for you to infer knowledge and intent on his part. To have guilty knowledge, a defendant need not have known the full extent of the conspiracy, or all of the activities of all the conspiracy all of the conspiracy participants. Similarly, it is not necessary for a defendant to have known every other member of the conspiracy. In fact, a defendant may know and have conspired with only one other member of the conspiracy and may still be considered a coconspirator. Nor is it necessary for a defendant to have received any monetary benefit from his participation in the conspiracy, or to have a financial stake in the outcome of the alleged joint venture. It is enough if a defendant participated in the conspiracy unlawfully, knowingly, and willfully, as I have defined those terms.

The duration and extent of the defendant's participation has no bearing on the issue of that defendant's guilt. A defendant need not have joined the conspiracy at the outset. A defendant may have joined the conspiracy at any time in its progress, and a defendant will be held responsible for

all that was done before he joined and all that was done during the conspiracy's existence while he was a member. Each member of a conspiracy may perform separate and distinct acts. Some conspirators may play major roles, while other play minor roles in the scheme, and an equal role is not what the law requires. In fact, even a single act may be sufficient to draw a defendant within the scope of the conspiracy.

It is important for you to note that a defendant's participation in the conspiracy must be established by independent evidence of his own acts and statements and the reasonable inferences that may be drawn from them. I want to caution you, however, that a person's mere association with or relationship to a member of the conspiracy does not make that person a member of the conspiracy, even when that association is coupled with the knowledge that a conspiracy is taking place. The mere fact that a defendant may have met with or knows others who engaged in criminal conduct does not prove that defendant's participation in a conspiracy. Similarly, mere presence at the scene of a crime, even when coupled with knowledge that a crime is taking place, is not sufficient to support a conviction. In other words, knowledge without agreement and participation, is not sufficient. In the context of this case, as I instructed you concerning knowledge and intent with respect to the substantive securities fraud, it is important to remind you that you cannot infer guilt based

solely on the defendant's position in a corporate entity.

Similarly, the fact that a person, without knowledge that a crime is being committed, merely happens to act in a way that furthers either of the alleged purposes or objectives of the conspiracy, does not make that person a conspirator. What is necessary is that the defendant joined in the conspiracy with knowledge of its unlawful purposes and with an intent to aid in the accomplishment of one or more of its unlawful objectives.

In sum, the government must prove beyond a reasonable doubt that the defendant you are considering, with an understanding of the essential unlawful character of the conspiracy, that is, to commit securities fraud, intentionally engaged, advised or assisted in it for the purposes of furthering that illegal undertaking.

Once a conspiracy is formed, it is presumed to continue until either its objective is accomplished or there is some affirmative act of termination by the members. So too, once a person is found to be a member of a conspiracy, he is presumed to continue as a member in the conspiracy until a conspiracy is terminated or achieves its objective, unless it is shown by some affirmative proof that the person withdrew and disassociated himself from it.

The third element --

Are you all OK? It's late in the day, and it's a

little warm in here. Does anybody want to stand and stretch or keep going?

OK. The third and final element of the conspiracy to commit securities fraud charged in Count One of the indictment is the requirement of an overt act. To sustain its burden of proof with respect to the conspiracy charged in the indictment, the government must show beyond a reasonable doubt that at least one overt act was committed in furtherance of that conspiracy by at least one of the coconspirators -- not necessarily a defendant -- in the Southern District of New York.

The purpose of the overt act requirement is clear. There must have been something more than mere agreement; some overt step or action must have been taken by at least one of the conspirators in furtherance of that conspiracy.

The overt acts are set forth in the indictment. The indictment alleges the following overt acts:

1. In approximately March 2014, John Galanis, a/k/a "Yanni," the defendant, met with employees of and advisors to the WLCC at a Native American economic development conference in Las Vegas, Nevada.

2. On or about July 21, 2014, Michelle Morton sent a text message to Jason Galanis stating, "should know how $ [sic] we can proceed with bonds soon getting information. Jason Galanis responded, "I'm confident you will figure it out."

3. On or about August 8, 2014, Hugh Dunkerley signed an agreement pursuant to which he bound the broker dealer at which he was employed to serve as the placement agent for the issue witness of bonds by the WLCC.

4. On or about August 22, 2014, Gary Hirst sent an e-mail containing trade tickets signed by him authorizing the purchase of certain bonds issued by the WLCC on behalf of certain clients of Hughes.

5. On or about October 1, 2014, Devon Archer, the defendant, called the transfer of $15 million from a brokerage account located in New York, New York for the purchase of $15 million of bonds issued by the WLCC, which bonds were also held, for a period of time, in the brokerage account located in New York, New York.

6. On or about October 9, 2014, Bevan Cooney, the defendant, caused the transfer of $5 million from an account in his name for the purchase of $5 million bonds issued by the WLCC

For the government to satisfy the overt act requirement, it is not necessary for the government to prove all of the overt acts alleged in the indictment. And you may find that overt acts were committed which were not alleged in the indictment. The only requirement is that one of the members of the conspiracy -- not necessarily a defendant in this case -- has taken some step or action in furtherance of

the conspiracy during the life of that conspiracy.

Let me put it colloquially. The overt act element is a requirement of the agreement went beyond the mere talking stage, the mere agreement stage. The requirement of an overt act is a requirement that some action be taken during the life of the conspiracy by one of the coconspirators to further that conspiracy.

You are further instructed that the overt act need not have been committed at precisely the time alleged in the indictment. It is sufficient if you are convinced beyond a reasonable doubt that it occurred at or about the time and place stated, as long as it occurred while the conspiracy was still in existence.

You should bear in mind that the overt act, standing alone, may be an innocent, lawful act.

But an apparently innocent act may shed its harmless character if it is a step in carrying out, promoting, aiding or assisting the conspiratorial scheme. You are therefore instructed that the overt act does not have to be an act which in and of itself is criminal or constitutes an object of the conspiracy.

Finally, you must find that an overt act was committed in the Southern District of New York. The Southern District of New York encompasses the following counties: New York County, (i.e., Manhattan), the Bronx, Westchester, Rockland, Putnam,

Dutchess, Orange and Sullivan Counties. Anything that occurs in any of those places occurs in the Southern District of New York.

You will recall that I have admitted into evidence against the defendants the acts and statements of others because these acts and statements were committed or made by persons who, the government charges, were also coconspirators of the defendants.

The reason for allowing this evidence to be received against the defendants has to do in part with the nature of the crime of conspiracy. A conspiracy is often referred to as a partnership in crime: As in other types of partnerships, when people enter into a conspiracy to accomplish an unlawful end, each and every member becomes an agent for the other conspirators in carrying out the conspiracy.

Therefore, the reasonably foreseeable acts or statements of any member of the conspiracy, committed in furtherance of the common purpose of the conspiracy, are deemed, under the law, to be the acts or statements of all of the members, and all of the members are responsible for each acts or statements

If you find beyond a reasonable doubt that the defendant was a member of the conspiracy charged in the indictment, only reasonably foreseeable acts done, or statements made, in furtherance of the conspiracy by a person

found by you to have been a member of the same conspiracy may be considered against that defendant. This is so even if such acts were committed or such statements were made in that defendant's absence, and without his knowledge.

However, before you may consider the acts or statements of a coconspirator in deciding the guilt of a defendant, you must first determine that the acts were committed or statements were made during the existence, and in furtherance, of the unlawful scheme. If the acts were done and the statements were made by someone whom you do not find to have been a member of the conspiracy, or if they were not made in furtherance of the conspiracy, they may not be considered by you in deciding whether a defendant is guilty or not guilty.

I have instructed you that the defendants, in various respects, must have acted knowingly in order to be convicted. This is true with respect to the objects of the conspiracy charged in Count One, as well as the substantive crime charged in Count Two. In determining whether a defendant acted knowingly with respect to the objectives of the conspiracy or the substantive crime, you may consider whether that defendant deliberately closed his eyes to what otherwise would have been obvious to him.

This is what the phrase "conscious avoidance" refers to. As I told you before, acts done knowingly must be a product of a person's conscious intention. They cannot be the

result of carelessness, negligence or foolishness. But a person may not intentionally remain ignorant of a fact that is material and important to his conduct in order to escape the consequences of criminal law. We refer to this notion of intentionally blinding yourself to what is staring you in the face as conscious avoidance. An argument by the government of conscious avoidance is not a substitute for proof of knowledge; it is simply another factor that you, the jury, may consider in deciding what a defendant knew.

Therefore, if you find beyond a reasonable doubt that the defendant you are considering was aware that there was a high probability that a material fact was so, but that the defendant deliberately and consciously avoided confirming this fact, such as by purposely closing his eyes to it, or intentionally failing to investigate it, then you may treat this deliberate avoidance of positive knowledge as the equivalent of knowledge. However, guilty knowledge may not be established by demonstrating that the defendant was merely negligent, foolish or mistaken. Moreover, if you find that the defendant actually believed that the material fact was true, he may not be convicted. It is entirely up to you whether you find the defendant deliberately closed his eyes and any inferences to be drawn from the evidence on this issue.

With respect to the conspiracy charged in Count One, you must also keep in mind that there is an important

difference between intentionally participating in the conspiracy, on the one hand, and knowing the specific object or objects of the conspiracy, on the other. You may consider conscious avoidance in deciding whether a defendant knew the objective or objectives of a conspiracy; that is, whether a defendant reasonably believed that there was a high probability that a goal of the conspiracy was to commit the crimes charged as objects of that conspiracy and deliberately avoided confirming that fact but participating in the conspiracy anyway. But conscious avoidance cannot be used as a substitute for finding that the defendant intentionally joined the conspiracy in the first place. It is logically impossible for a person to intend and agree to join a conspiracy if he does not know actually know it exists, and that is the distinction I am drawing. Similarly, with respect to the substantive securities fraud charged in Count Two, conscious avoidance can go only to knowledge and cannot be used as a substitute for finding that the defendant you are considering acted willfully or with an intent to defraud.

In sum, if you find that the defendant you are considering believed there was a high probability that a material fact was so and that the defendant deliberately and consciously avoided learning the truth of that material fact, you may find that the defendant acted knowingly with respect to that fact. However, if you find that the defendant actually

believed the fact was not so, then you may not find that he acted knowingly with respect to that fact. You must judge from all the circumstances and all the proof whether the government did or did not satisfy its burden of proof beyond a reasonable doubt.

The government has offered evidence tending to show that on another occasion, John Galanis engaged in conduct similar to the charges in the indictment.

In that connection, let me remind you that John Galanis is not on trial for committing acts not alleged in the indictment. Accordingly, you may not consider this evidence of similar acts as a substitute for proof that John Galanis committed the crimes charged. Nor may you consider this evidence as proof that John Galanis has a criminal personality or bad character. The evidence of the other similar acts was admitted for a much more limited purpose, and you may consider it only for that limited purpose.

If you determine that John Galanis committed the acts charged in the indictment and the similar acts as well, then you may, but you need not draw, an inference that in doing the acts charged in the indictment, John Galanis acted knowingly and intentionally and not because of some mistake, accident or some other reasons.

Evidence of similar acts may not be considered by you for any other purpose. Specifically, you may not use this

evidence to conclude that because John Galanis committed the other act or acts he must also have committed the acts charged in the indictment. Nor may you consider this evidence in any way against Mr. Archer or Mr. Cooney.

As we have proceeded through the indictment, you have noticed that it refers to a range of dates. I instruct you that it does not matter if a specific event alleged to have occurred on or about a certain date or month, but the testimony indicates that in fact it was a different date or month. The law requires only a substantial similarity between the dates and the months alleged in the indictment and the dates and months established by the evidence.

Now, in addition to dealing with the claims of each of the offenses, you must also consider the issue of venue as to each offense, namely, whether any act in furtherance of the unlawful activity occurred within the Southern District of New York. As I previously instructed you, the Southern District of New York encompasses the following counties: New York County, (i.e. Manhattan), the Bronx, Westchester, Rockland, Putnam, Dutchess, Orange and Sullivan Counties. Anything that occurs in any of those places occurs in the Southern District of New York.

It is sufficient to satisfy the venue requirement if any act by anyone in furtherance of the crime charged occurred within the Southern District of New York. To satisfy this

venue requirement only, the government need not meet the burden of proof beyond a reasonable doubt. It need not meet that standard on the venue requirement and the venue requirement only. The government meets its burden of proof if it establishes by a preponderance of the evidence -- simply tips the scale in its favor -- that an act in furtherance of the crime occurred within the Southern District of New York. A preponderance of the evidence means that something is more likely than not.

So now I'm going to go through the last section of the jury charge, and that deals with the deliberations of the jury.

So, ladies and gentlemen of the jury, that concludes the substantive portion of my instructions to you. You are about to go into the jury room and begin your deliberations. More than likely you will begin them tomorrow morning. I will back all of the exhibits to the jury room, but feel free to ask for any items as well, including any exhibits you may have trouble locating, and those that are not in hard copy, such as audio or video recording, which we can replay for you in the courtroom. If you want any of the testimony read back, you may also request that. Please remember that it is not always easy to locate what you might want, so be as specific as you possibly can in requesting exhibits or portions of the testimony. If you want any further explanations of the law as I have explained it to you, you may also request that.

Your requests for exhibits or testimony -- in fact any communications with the Court -- should be made to me in writing, signed, dated, and timed by a foreperson that you will choose, and given to one of the court security officers. I will respond to any questions or requests you have as promptly as possible, either in writing or by having you return to the courtroom so I can speak to you in person. In any communication, please don't tell me or anyone else how the jury stands on any issue until after a unanimous verdict is reached and announced in open court by your foreperson.

If any of have you taken notes during the course of this trial, I want to emphasize to you as you are about to begin your deliberations that notes are simply an aid to your memory. Notes that any of you may have made may not be given any greater weight or influence than the recollections or impressions of other jurors, whether from notes or memory, with respect to the evidence presented or what conclusions, if any, should be drawn from such evidence. All jurors' recollections are equal. If you can't agree on what you remember the testimony was, you can ask to have the transcript read back.

Although during your deliberations you may discuss the case with your fellow jurors, you must not communicate with or provide any information to anyone else by any means. You may not thus use any electronic devices or media, such as telephone, cell phone, smart phone, iPhone, BlackBerry, or

computer, the Internet, or any Internet service, or any text or instant messaging service, or any Internet chat room, blog, or website, such as Facebook, Snap Chat, YouTube or Twitter, to communicate with anyone any information about this case or to conduct any research about this case until I accept your verdict.

Momentarily, you will retire to decide the case. Your function is to weigh the evidence in this case and to determine the guilt or lack of guilt of each defendant with respect to each count charged in the indictment. You must base your verdict solely on the evidence or lack of evidence and these instructions as to the law, and you are obligated on your oath as jurors to follow the law as I instruct you, whether you agree or disagree with the particular law in question.

It is your duty as jurors to consult with one another and to deliberate with a view toward reaching an agreement. Each of you must decide the case for himself or herself, but you should do so only after a consideration of the case with your fellow jurors, and you should not hesitate to change an opinion when convinced that it is erroneous. Discuss and weigh your respective opinions dispassionately, without regard to sympathy, and without regard to prejudice or favor for either party, and adopt that conclusion which in your good conscience appears to be in accordance with the truth. You are not to discuss the case until all jurors are present. So if you get

there in the morning, you can't start talking about it until everybody is there. Nine or ten or even 11 jurors together is only a gathering of individuals. Only when all jurors are present do you constitute a jury, and only then may you deliberate.

The verdict must represent the considered judgment of each juror. In order to return a verdict, it is necessary that each juror agree to the verdict. Your verdict must be unanimous. However, you are not bound to surrender your honest convictions concerning the effect or weight of the evidence for the mere purpose of returning a verdict or solely because of the opinion of other jurors. Each of you must make your own decision about the proper outcome of this case based on your consideration of the evidence and your discussions with your fellow jurors. No juror should surrender his or her conscientious beliefs solely for the purpose of returning a unanimous verdict.

Remember at all times, you are not partisans. You are judges, judges of the facts. Your sole interest is to seek the truth from the evidence in the case.

If you are divided, do not report how the vote stands and, if you have reached a verdict, do not report what it is until you are asked in open court.

I referred a moment ago to a foreperson. You should by your own vote select one of you to sit as a foreperson. The

foreperson doesn't have any more power or authority than any other juror, and his or her vote doesn't count for any more than any other juror's vote or opinion. The foreperson is merely your spokesperson to the court. He or she will send out any notes, and sign them and date them and time then. And when the jury has reached a verdict, he or she will notify the court security officer or marshal that the jury has reached a verdict, and you will come into open court and give the verdict.

After you have reached a verdict, you will fill out a form that will be given to you, a verdict form. You will sign it and date it, and advise the marshal or court security officer outside your door that you are ready to return to the courtroom. The verdict form lists the questions that you must resolve based on the evidence and the instructions that I have given you. When the form is complete, it will be marked as a court exhibit.

I will stress that each of you must be in agreement with the verdict which is announced in open court. Once your verdict is announced by your foreperson in open court and officially recorded, it cannot ordinarily be revoked.

So, at this time, the first 12 jurors first thing in the morning will begin their deliberations in the case. In light of the scheduling conflicts, however, Juror 7, that's Mr. Miller, and alternate number 1, so it's Juror 13,

Ms. Sanchez, I understand that you are both going to be away all of next week, and you are not available on Friday, so we're actually going to make you alternates numbers 3 and 4. And Mr. Grippi, you are going to become Juror 7. All right? Is that clear to everyone?

So for the alternates, you won't deliberate at this time, but the alternates are not quite excused. While the jury conducts its deliberations, you don't have to come to court, but you should give Ms. Cavale your phone numbers where you can be reached, because it is possible and it sometimes happens that one or more of you could be needed to deliberate if one of the 12 jurors is unable to continue. Ms. Cavale will call you when deliberations are completed so that you know that you are completely finished.

Between now and then, you must continue to observe all the restrictions I have instructed you on throughout the trial. That is, you must not discuss this case with anyone, including your fellow alternate jurors, the other jurors, any other people involved in the trial, members of your family, friends, coworkers, anyone else. And until a verdict is reached, as I have already instructed, you may not communicate with anyone about the case in any way. If anyone approaches you and tried to talk to you about the case, please report that to me through Ms. Cavale immediately.

Do not listen to or watch or read any news reports

concerning this trial if there were to be any; don't do any research on the Internet or otherwise; don't visit any of the places mentioned during the trial or conduct any investigation of your own, including on social media. The reason for this of course is that should you be asked to participate in reaching a verdict in this case, the only information you will be allowed to consider is what you learned in this courtroom during this trial.

I'm sorry to the alternate jurors, you will likely miss the experience of deliberating with the jury but the law provides for a jury of 12 persons in this case. So before the rest of the jury retires to the jury room, if you have any clothing or objects that you want to pick up, and you're going to be asked to withdraw without discussing the case. You can say your goodbyes to your fellow jurors, and I'm going to come thank you personally as well.

So, members of the jury, that concludes my instructions to you. Remember that your verdict must be rendered without fear, without favor, and without prejudice or sympathy. I am sure that if you listen to the views of your fellow jurors and apply your own common sense, you will reach a fair verdict.

Right now I'm just going to ask you to stay seated or stand and stretch for one minute while I speak to the lawyers. And then we will swear in the marshal and excuse you for the

night.

(Continued on next page)

(At the side bar)

THE COURT: Is there anything that needs to be corrected, anything additional?

MR. QUIGLEY: Just the language about the indictment going back.

THE COURT: But I think I corrected that on the fly, so I don't think I need to fix that. I don't think I need to reprint everything, do you?

MR. SCHWARTZ: No.

THE COURT: All right. So I'm going to send the jury to deliberate.

MS. MERMELSTEIN: How will we know what time they're coming tomorrow?

THE COURT: I'm going to ask them to send us a note today and tell us what schedule they would like to set.

(Continued on next page)

(In open court)

THE COURT: So, as I said, momentarily I'm going to send you into the jury room to begin your deliberations. And I will send in the jury charge. I will send in one copy of the verdict form. We will be sending all of the exhibits back, as I mentioned.

I will note that Ms. Cavale has been dealing with you during the course of the trial. During your deliberations, however, you will not have any contact with her. Any contact with the court must be made through the marshal or court security officer by note, by written note. So, we will now swear in the marshal to protect you during the course of these deliberations.

(Marshal sworn)

THE COURT: I'm going to excuse you for the evening. I'm going to just walk back and thank the alternate jurors -- to the extent I don't see you in the future -- thank you for your time.

The one thing I'm going to ask you to do before you leave tonight is just agree on a schedule going forward just for purposes of today and tomorrow. I assume you want to go home now, but just let me know what time you plan to be here in the morning so that we can be sure to be here as well.

And then I'm going to ask you to do the same thing tomorrow if there is a particular time, if you want to sit

until five, or six, or earlier, just send us a note and let us know so that we know what your schedule is going to be. OK? And with that, thank you for your patience, and you are directed to begin your deliberations.

(Jury retires for the evening)

(Trial adjourned to June 28, 2018 at 9:00 a.m.)

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF NEW YORK
------------------------------x

UNITED STATES OF AMERICA,

v. 16 Cr. 371 (RA)

JOHN GALANIS, et al.,

Defendants.

------------------------------x

New York, N.Y.
June 28, 2018
9:30 a.m.

Before:

HON. RONNIE ABRAMS,

District Judge

APPEARANCES

ROBERT KHUZAMI,
Acting United States Attorney for the
Southern District of New York
BY: BRENDAN F. QUIGLEY,
REBECCA G. MERMELSTEIN,
NEGAR TEKEEI,
Assistant United States Attorneys

PELUSO & TOUGER
Attorneys for Defendant John Galanis
BY: DAVID TOUGER

BOIES, SCHILLER & FLEXNER LLP (NYC)
Attorneys for Defendant Devon Archer
BY: MATTHEW LANE SCHWARTZ
LAURA HARRIS
CRAIG WENNER

A-5044

Appearances (Cont'd)

PAULA J. NOTARI
Attorney for Defendant Bevan Cooney
- and -
O'NEILL and HASSEN
Attorneys for Defendant Bevan Cooney
BY: ABRAHAM JABIR ABEGAZ-HASSEN

Also present: Kendall Jackson, Paralegal
Ellie Sheinwald, Paralegal
Eric Wissman, Paralegal
Special Agent Shannon Bienick, FBI

(In open court; time noted 12:15 p.m.)

THE COURT: Does anyone want to see the note? It just says "We've reached a verdict." I'll mark it Court Exhibit 4. We have marked the jury questionnaire and the drafts of the charge as the other exhibits.

(Jury present)

THE COURT: Good morning, all. You can be seated.

Mr. Foreperson, I'm just going to ask you to hand the verdict form to Ms. Cavale, and then I'm going to give it back to you.

Thank you.

THE COURT: All right. So we're going to go through this together. Could you please stand.

With respect to Count One, conspiracy to commit securities fraud, with respect to John Galanis, did you find him not guilty or guilty?

FOREPERSON: Guilty, your Honor.

THE COURT: And with respect to Bevan Archer, not guilty or guilty?

FOREPERSON: Guilty, your Honor.

THE COURT: With respect to Bevan Cooney, not guilty or guilty?

FOREPERSON: Guilty, your Honor.

THE COURT: And with respect to Count Two, the securities fraud count, for John Galanis, did you find him not

guilty or guilty?

FOREPERSON: Guilty, your Honor.

THE COURT: With respect to Devon Archer, not guilty or guilty?

FOREPERSON: Guilty, your Honor.

THE COURT: And with respect to Bevan Cooney, not guilty or guilty?

FOREPERSON: Guilty.

THE COURT: Thank you. You may all be seated.

I'm going to take back that form, please, and just see the lawyers at sidebar.

(Continued on next page)

(At the sidebar)

THE COURT: Here is the form. Do you want me to poll the jury?

MR. SCHWARTZ: Yes, please.

THE COURT: Otherwise, can I excuse them at this time?

MR. SCHWARTZ: Yes.

MR. TOUGER: Yes.

(Continued on next page)

(In open court)

DEPUTY CLERK: Juror 1, is this your verdict?

JUROR 1: Yes.

DEPUTY CLERK: Juror 2, is this your verdict?

JUROR 2: Yes.

DEPUTY CLERK: Juror 3, is this your verdict?

JUROR 3: Yes.

DEPUTY CLERK: Juror 4, is this your verdict?

JUROR 4: Yes.

DEPUTY CLERK: Juror 5, is this your verdict?

JUROR 5: Yes.

DEPUTY CLERK: Juror 6, is this your verdict?

JUROR 6: Yes.

DEPUTY CLERK: Juror 7, is this your verdict?

JUROR 7: Yes.

DEPUTY CLERK: Juror 8, is this your verdict?

JUROR 8: Yes.

DEPUTY CLERK: Juror 9, is this your verdict?

JUROR 9: Yes.

DEPUTY CLERK: Juror 10, is this your verdict?

JUROR 10: Yes.

DEPUTY CLERK: Juror 11, is this your verdict?

JUROR 11: Yes.

DEPUTY CLERK: Juror 12, is this your verdict?

JUROR 12: Yes.

THE COURT: All right. I want to thank you all for your service. You have performed one of the highest, noblest obligations of citizenship. You have acted as finders of fact. I know it's been a huge imposition on all of you personally, but you were punctual and attentive, and I want to thank you for your time and commitment to this service.

When you leave the courtroom, you are free to go home, and in a moment I'm going to excuse you as jurors.

When I excuse you, you are no longer subject to any of my orders. You are no longer under any orders not to talk about the case. Just the same, you are under absolutely no obligation to talk about the case. It's entirely up to you whether you would or would not like to discuss the case.

So, now I'm going to excuse you as jurors. I am going to come thank you personally, but your jury service is complete, and I'm going to ask everyone in courtroom to stand out of respect for all of you.

THE COURT: All right. Everyone can be seated.

(Jury dismissed)

THE COURT: What would you propose in terms of a motion schedule? And if you need time to think about it, you can think about it and let me know, but I just wanted to set the schedule for the motion.

MR. SCHWARTZ: Sure. Does it make sense for all of us to confer and propose something jointly?

THE COURT: Sure. Why don't do you that. Anything else we need to discuss today?

MS. MERMELSTEIN: No, your Honor.

MR. SCHWARTZ: No, your Honor.

THE COURT: OK. Thank you.

MR. TOUGER: Would you mind if we came back with you?

THE COURT: You know what, let me ask them if they're OK with it, and if they are, you are welcome to speak to them.

(Trial concluded)

A-5051

PELUSO & TOUGER, LLP
ATTORNEYS AT LAW
70 LAFAYETTE STREET
NEW YORK, NEW YORK 10013

TELEPHONE: (212) 608-1234
FACSIMILE: (212) 513-1989

February 2, 2017

Honorable P. Kevin Castel
U.S. District Court, Southern District
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, New York 10007-1312

Re: United States v. Galanis et al., No. 15 Cr. 643 (PKC)

Dear Judge Castel:

I am writing on behalf of John Galanis relative to his sentencing, which is currently calendared for February 16, 2017 at 3:00PM. The Court is well aware of the facts of this case as it presided over a trial of one of Mr. Galanis' co-defendants so there is no need to review the facts of the case at this time. Although other defendants might argue otherwise the evidence clearly demonstrates that Mr. Galanis was involved in a conspiracy conceived and managed by his eldest son to wrongfully and illegally manipulate the stock of a publically held company to the benefit of the co-conspirators in general with the bulk of the profits going to Jason Galanis. John Galanis' involvement in this scheme raises at least one important question whose answer I believe sets the stage for what the appropriate sentence in this matter should be.

The question is quite simply why would a man who has been twice punished already in his life with jail time, the last sentence causing him to spend 17 years behind bars, finally get out of jail and get involved in criminal conduct again. At first blush I am sure the Court and the prosecution must be saying he deserves the highest penalty the Guidelines allow because of the audacity he demonstrated by committing criminal acts again.

However, nothing in life is as black and white as it may seem and my 32 years practicing criminal law has certainly taught me time again that most actions in life fall into a very grey area between black and white. I have known John Galanis for over one year now and I believe I have gotten to know him quite well and when he says in his letter to the Court that he never intended to commit any criminal acts again after his release from jail, I can tell you I have no reason to doubt the veracity of that statement. I am quite sure that he fully intended to live out his remaining years with his wife, who stood by him for all those years while he was incarcerated and enjoy the benefits of a free lifestyle and most of all enjoy being a grandfather. However, I have also learned that John Galanis is fiercely loyal and feels an unyielding need to repay in kind and to help those who have helped him or helped those close to him in his life.

This Court through its knowledge of this case has also learned of the tumultuous relationship John Galanis has had with his two eldest children, Jason and Derek. And, there is no denying the fact that John Galanis' relationship with his eldest son, Jason has been one of the most tumultuous. There have obviously been times when they got a long and times when they have not. That having been said Jason did support his mother and brothers when John went to jail and stepped in in many other ways to be a father to his brothers. No matter what else has gone on over the years between Jason and John, John Galanis has always felt an undying respect admiration and debt to Jason for that. Accordingly, when his son came to him, his son who left college and took up the support of the entire family when he went to jail. The son who supported his brothers' educations and made sure everyone was provided for even though he was merely 18 when his father went to jail. When this son came to him and asked him for help to arrange a deal he was working on, he had to help him and there was no reason why he wouldn't because he had no reason to believe the deal involved criminal conduct or was anything but above aboard. There were lawyers, accountants and financial advisors working on the deal that he respected and knew quite well, who were never involved in criminal activity before, so why wouldn't he help. The help on this project led to Mr. Galanis being asked to do the same on the Gerova deal, which brings us before the Court.

This Court has heard many arguments as to who was in charge of this conspiracy and where the genesis of this conspiracy lies. The facts point to only one party, Jason Galanis and later Gary Hirst. John Galanis was not involved in the beginning and was not an active participant, all the evidence points in this direction. Yes, others can argue that John was behind the scenes pulling the strings on his puppet Jason Galanis but the facts and the Court's knowledge of Jason Galanis' personality dispute such theories.[1] Jason Galanis has spent years running from his father and his father's reputation and now after years of acting on his own, negotiating business deal after business deal without his father, walking on his own two feet, he was going to become a pawn for his father. Logic and the facts do not support such a story. Logic and the facts demonstrate that Jason Galanis was the genesis of this deal. He was the one who gained control of Gerova, who manipulated the Board and convinced others to join him. When Jason needed other players to finish the deal and turn it into the profit making enterprise it turned out to be, he turned to his father who had the right contacts to recruit these necessary players, such as Barry Feiner for help. And, unfortunately for everyone involved John Galanis agreed to get involved. John Galanis

---

[1] There are countless emails between Jason Galanis and James Taglieferi and others that clearly establish Jason's role in this offense and support the theory that he Jason was in charge. John Galanis only argues this point because others have forewarned him that Jason was going to argue at his own sentencing that John was the one in charge. Due to this knowledge John Galanis felt he had no choice but to put forward a limited argument that does not support Jason's theory. As a father he certainly feels that he should sacrifice his own well being for that of his children as he did for Jared. But, in this instance Jason's arguments are not the truth and are just self-serving and vindictive so others have convinced him to stand up for himself.

let his own character faults get in the way of making the right decision not to get involved and not let Jason move forward and not act in his other son's name. Instead out of his deep-rooted sense of loyalty and repayment of a long outstanding debt he listened to his son and moved forward with him.

There is proof of this in the record besides the paper trail relative to this investigation. At this time Jason Galanis was cooperating with law enforcement officials in California and was informing the authorities about his actions regarding Gerova. Nowhere in the debriefing notes are there any statements by Jason Galanis that his father was the genesis of the idea and in charge. If it were indeed true that Jason Galanis was only acting as his father's surrogate why wouldn't Jason Galanis have informed law enforcement of this during his proffer sessions.

This cooperation was also important to John Galanis and his decision to get involved in the Gerova deal because he knew that Jason was cooperating with United States Attorney's Office and Jason was telling him that Jason had informed the Government of the Gerova deal. Jason told him that law enforcement officials had expressed no misgivings about what was occurring[2]. His son's attorney corroborated this information to Mr. Galanis. John Galanis was meeting with his son's lawyers routinely and was being debriefed about the sessions with the Government officials. His son's lawyer confirmed to him that Jason was freely speaking about the Gerova deal among others and the Government had expressed no misgivings about the deal. So based on this knowledge and Mr. Galanis' knowledge of the other individuals involved in the deal, Mr. Galanis agreed to get involved as his son asked. However, after getting involved John Galanis learned the truth behind the deal, which in turn led him to standing before your Honor for sentencing on the criminal acts he committed. Did he ultimately commit those acts with knowledge that what he was doing was wrong and criminal, yes. Should he have told his son that he did not want to get involved in this scheme and tried to talk him out of getting involved, yes. Should he certainly not have acted as a stand in for another one of his sons thus, putting him in criminal jeopardy, of course. But when I say he just couldn't refuse Jason's requests, I mean he just couldn't. He felt such an unpayable debt to Jason Galanis for all he had done for him and his family, that he found himself doing as asked even though deep down he knew it would only lead him back into jail.

This explanation is not offered as an excuse for his conduct it is only offered to give the Court an answer to the question in its mind as to why John Galanis is before the Court for sentencing. He is not in this position because, as I am sure the prosecution will argue, he has an insatiable need to commit criminal acts and is a criminal at heart who is always going to be a danger to the community and thus created the Gerova deal and sought out his son's help. No, he stands before you because in the end he was just a fiercely loyal father

---

[2] This is confirmed by counsel's review of Jason Galanis' debriefing notes from his proffer sessions.

who owed a debt to his son and he allowed that emotion to override every other proper emotion in his head.

I am sure the Court's response is that Mr. Galanis should have known better and stopped his son in his tracks as soon as he got any inkling that the financial transaction was questionable and there is no argument with that sentiment, that was unquestionably the right thing to do but unfortunately, for all involved, Mr. Galanis was unable to make that Solomonic decision and now all involved are suffering the severe consequences for theirs and his actions.

I am sure the other defendants in this case are attempting to lay the blame for their actions at John Galanis' feet and he is an easy target based on his past record but the truth, the evidence and logic discount those other defendants' arguments. John Galanis has not run from his actions in this case and has taken responsibility for them. He even went so far as to meet with the Government in an attempt to take responsibility for his son Jared's involvement in this case. The Government even adjusted its position on Jared Galanis based in part on the statements John Galanis made to them. In John Galanis' mind Jared did not participate in this conspiracy and all the evidence that points to Jared should actually point to him. If John Galanis were willing to stick his neck out for one son why wouldn't he if it were possible do it for Jason? The reason is that the evidence and the truth do not allow John Galanis to take responsibility for Jason's actions. The truth and the evidence do allow John Galanis to do that for Jared and he did. Historically, there is also proof that John Galanis will take responsibility for the actions of others even if the results are to his detriment. As the Court is well aware John Galanis testified for many days in his 1988 case and during that testimony he took responsibility for his actions and informed the jury of the lack of responsibility of two of his co-defendants who were in fact acquitted by the jury. John Galanis takes responsibility for his actions and does not falsely attempt to pass it off to others.

This is a most difficult and unique sentencing to argue before the Court due to the Galanis family dynamic and the competing interests involved and is even more complicated due to Mr. Galanis' age and prior actions. But in the end this Court has the difficult task of deciding upon on the rightful sentence in this matter. Because of his age and health any sentence this Court decides upon in this matter could in reality be a life sentence but that does negate the seriousness of the crime and the ramifications crimes such as this have on our financial system. There are many competing interests here. In the end though every judge has two aspects to their pronouncements of sentence justice and mercy. Our theologians have asked a question for ages, does God pray and if God does pray, what does God pray for? The answer among some is yes, God does pray and the prayer is that the Divine penchant for mercy should outweigh the Divine's desire for justice. Here, Mr. Galanis has the same most respectful request that this Court temper its rightful desire for punishment with a little mercy. Both as it decides what is the right sentence and finally if the Court is going to allow Mr. Galanis the ability to self report in 7 weeks to serve his sentence at his designated facility.

Regarding sentencing, as the Court is well aware every sentence calculation must begin with a Guideline calculation. In this matter the stipulated Guideline range according to the plea agreement is 97-121 months. The defendant has accepted this Guideline range and agrees that if the Guidelines are going to be accepted by this Court this is the range the Court has before it. Mr. Galanis would most respectfully suggest that when this Court considers all of the factors present in this case that a sentence of five years serves the ends of justice. The Guideline recommendation of 97-121 takes into consideration all of the negative factors pertaining to Mr. Galanis. The Guideline calculation takes into consideration his prior conflicts with the law, the seriousness of the crime, the amount of money that was stolen and attempted to be stolen and the fact that the scheme involved 10 or more victims. What the Guidelines fail to account for or take into consideration are the individual characteristics of Mr. Galanis and his case. The Guidelines merely rest on a cold calculation of numbers and this is highly improper in this day and age. The defense respectfully asks that the Court only consider the Guidelines as starting point and when it considers all of the factors herein decide that these factors point to a below Guideline sentence. There is no factor that can be established herein that point to a higher sentence than the Guidelines. The worst factors established is the fact that Mr. Galanis committed a criminal act and his prior criminal history which is already taken into consideration by the Guidelines beyond those factors Mr. Galanis has no negative factors, only positive ones. Thus according to the Supreme Court and the sentencing factors outlined by Congress in § 3553 (a) it is respectfully submitted that Mr. Galanis should receive a below Guidelines sentence.

It is the defendant's position that once the Court considers all the relevant factors in this matter that a sentence of five years for Mr. Galanis would satisfy the Court's mandate to "to impose a sentence sufficient, but not greater than necessary' to accomplish the goals of sentencing," as stated in Kimbrough v. United States, 128 S.Ct 558, 571, 169 L.Ed 481 (2007). This phrase is euphemistically referred to as the "parsimony clause," it is in reality a manner of codifying the constitutional doctrine of the least restrictive alternative. "Parsimony in the use of punishment is favored. The sentence imposed should therefore be the least severe sanction necessary to achieve the purposes for which it is imposed ..." See, American Bar Association, Standards For Criminal Justice, Chapter 18, "Sentencing Alternatives and Procedures", 18-3.2(a)(iii) (1993). Thus, it is most respectfully suggested that a five-year sentence is severe enough in this instance to promote respect for the law, punishment and rehabilitation.

The first issue substantiating a below Guideline sentence is the fact that Mr. Galanis is by the Guidelines a criminal history level III. While it is true as the Probation Report points out that he has 6 criminal history points thus placing him in criminal history level III, it is the defendant's position that this Court should reduce his criminal history category to level II because the 6 points overstates his criminal history. As the probation report notes Mr. Galanis has received three points for his conviction in New York County in 1988. As the Probation Report also states Mr. Galanis received three points for his conviction after trial

A-5056

in this Court before Judge Brieant in 1988. It is the defendant's position that since the conduct in both cases arose out of the same conduct that he should not now be punished by double counting the three points. Both cases arose out of Mr. Galanis' related white-collar swindles at the time. Support for this position comes from a very credible source, the very Court that sentenced Mr. Galanis in 1988. In a post trial motion decision Judge Brieant stated the following:

> On February 17, 1989, Mr. Galanis voluntarily withdrew his appeal to the United States Court of Appeals for the Second Circuit, and at or about that time entered into a plea with New York State prosecutors by which he received a concurrent state sentence for criminal conduct arising out of essentially the same swindles which provided the basis for his federal prosecution. This Court has previously expressed its opinion, and continues to believe, that the crimes for which Mr. Galanis pleaded guilty in New York State "probably should not have been prosecuted separately." See Report on Committed Offender, Form AO-235, dated July 31, 1990.

The decision by Judge Brieant is attached as Ex. A (See pg. 2-3) and is particularly relevant because Judge Brieant knew Mr. Galanis' character and conduct best. Having presided over a 13-week trial wherein the conduct of Mr. Galanis was related in great detail and the Court heard Mr. Galanis testify for multiple weeks. The Court felt and continued to feel that Mr. Galanis was being doubled punished for the same conduct. This Court most respectfully should not perpetuate this wrong by once again double punishing Mr. Galanis for the same criminal conduct. It violates his constitutional rights against double jeopardy and due process. Accordingly this Court should begin its Guideline Calculation by finding Mr. Galanis to be in Criminal History Category II not III. This correction of a wrong done to Mr. Galanis is even more important in this instance because Mr. Galanis ended up serving a much longer sentence for his conviction in 1988 that Judge Brieant ever conceived of or wanted him to. When Judge Brieant sentenced Mr. Galanis to 27 years in jail the Court was under the impression that Mr. Galanis would serve at most 4 and one-third years in jail.

> While one-third of that sentence would have been 9 years, at the time of sentence this Court's Probation Department advised the Court, the prosecutor, and the attorneys for the defendant, that the applicable Parole Commission guidelines for this Old Law sentence indicating the actual amount of time to be served before parole -- would range from 40 to 52 months.

See, decision attached as Exhibit A pg.2.

The Court continued at pg. 5, "However, on July 31, 1990, at the request of the defendant, this Court completed an AO-235 Form, noted supra, recommending that Mr. Galanis serve the length of time indicated within the Guidelines, subject to the discretion of the Commission."

However, due to the discretion of the Parole Commission Mr. Galanis in fact served a total of 17 years in jail for his convictions in 1988, an amount of time well beyond the Court's recommendations or expectations. This is supported by later statement of the Court wherein it stated in the decision attached as Ex. A pg. 8 the following:

> The actual time the parole Commission proposes to be served by him (Mr. Galanis) does seem somewhat harsh even in light of the magnitude of money involved in these several unrelated frauds, for which he was convicted.

The Trial Court clearly estimated that Mr. Galanis would serve less than five years when it issued its sentence of 27 years so it can unequivocally be stated that it certainly would have felt 17 years, over three times as much would be will beyond its expectations or desires. The last 6 of those years were spent in New York State custody after he was paroled from Federal custody due to the separate charges being improperly brought. Thus, it is clear that Mr. Galanis was punished much more severely than the Sentencing Court had intended or felt was justified by Mr. Galanis' actions[3] and to now further use the conviction in New York State Court to increase Mr. Galanis' current incarceration would be piling on the injustice once again.

Judge Brieant's words ring very powerfully when one considers what Mr. Galanis was deprived of during the extra 12 years he spent in jail. Judge Brieant knew Mr. Galanis and he knew the case against him and he wished Mr. Galanis to serve 4 to 5 years in jail for those crimes yet Mr. Galanis served 17. He missed watching his four children grow up, he missed spending time with his wife, it can be said that he missed the best years of his life. But even more than what he missed is what his family went through due to the extra years of incarceration. His eldest son felt the need to support the family, which he did. But beyond the need to support the family Jason felt the need as his mother wrote to vindicate the family name. It was all this hard work by Jason and the undying loyalty he felt to his family that led directly to Mr. Galanis being unable to say no to Jason and stop him which in turn as previously stated led Mr. Galanis to standing before you for sentencing all these years later. Because it can very credibly be argued that if Mr. Galanis had not been wrongfully charged in both jurisdictions (not our words, Judge Brieant's) and had been incarcerated for the period Judge Brieant intended, not only would Mr. Galanis not be standing before this Court for sentence, neither would his other children. Yes, no one forced Jason Galanis or any one else to get involved in criminal activity and they should and will be punished for their actions but to now punish John Galanis again by adding extra years to his sentence because of the unjust way he was punished back in 1988 is unwarranted, unreasonable and excessive. And, violates the "parsimony clause".

---

[3] "We cannot equate this case with that of a large drug dealer, many of whom are released in fewer than 15 years; or with that of the violent criminal, despite the absurd comparison of Mr. Galanis to a murderer, by the Acting Regional Administrator of the Parole Commission." Ex. A page 7.

Next, Title 18 U.S.C. § 3553(a) requires sentencing judges consider the relevant § 3553(a) factors, including: (1) the nature and circumstances of the offense; (2) the history and characteristics of the defendant; (3) the need for the sentence imposed to reflect the seriousness of the offense, promote respect for the law, and provide just punishment for the offense; (4) to afford adequate deterrence to criminal conduct; (5) to protect the public from further crimes of the defendant; (6) to provide the defendant with needed rehabilitative or other treatment; and (7) the need to avoid unwarranted disparities in sentencing. I have addressed the most relevant § 3553(a) factors below.

The Nature and Circumstances of the Offense

The offense herein as the Court is well aware involves some of the defendants gaining control of a substantial percentage of the traded shares of a publicly held company. Then Jason Galanis arranged for the sale of those shares and had John Galanis execute the agreed transactions. There was no violence or threat of violence involved in this action. The actions Mr. Galanis took and those of his co-defendants are quite serious and are detrimental to society in general because it undermines the trust the general public can have in the financial institutions of this country. However, the seriousness of the crime and the magnitude of the crime have already been taken into account by the Guidelines and thus do not require an above Guideline sentence.

The History and Characteristics of the Defendant

Mr. Galanis is a 73 year old man who has spent great swaths of his life in jail being punished for his financial crimes, there is no denying that. However, not only has he been punished for his prior actions, he has been punished rather severely as has previously been described. As the Court has become aware over the last few months Mr. Galanis is not a healthy man by anyone's estimations and certainly not by the doctors who have treated him. He suffers from a multitude of ailments that make his life expectancy quite tenuous. The average American male is now estimated to live to 79 years old and Mr. Galanis' health does not put him in the average category. Whatever sentence this Court gives Mr. Galanis it is in all likelihood going to turn out to be a life sentence. Mr. Galanis knows full well that his chances of ever walking out of jail again are very slim. The defendant's request for a five-year sentence allows him the chance of dying outside of jail and in the company of his loved ones. A Guideline sentence would very likely mean he would die in a prison hospital. Mr. Galanis also realizes that the fact that he will be incarcerated shortly due to his knowing and voluntary actions certainly means that his life will be shorter than it would have been if he weren't going to jail. Because he knows that the medical care he will get in prison will not be close to the quality care he has been receiving and that this lack of adequate medical attention to his various ailments, diseases and afflictions will certainly shorten his life span. But, he accepts that because he knows he brought that upon himself by his actions herein. His only respectful and merciful request is that this Court deviate

A-5059

from the Guideline suggested sentence so that he may have the possibility to die in a bed surrounded by his family not prison bars.

His medical conditions are not contrived or artificially asserted they are real and serious as the attached records indicate. The Court was gracious enough to postpone his sentence so that he could receive the medical treatment he needed to obviate certain of his conditions and for that Mr. Galanis is very appreciative and thanks the Court for its patience. Once again Mr. Galanis respectfully asks this Court to exercise its power of mercy and sentence him to five years.

A 60-Month Jail Sentence Will Reflect the Seriousness of the Offense, Promote Respect for the Law, Provide Just Punishment, Protect the Public, and Deter Mr. Galanis and Others

Mr. Galanis certainly understands the seriousness of the offenses he committed. He knows what he did was a grave offense not only against the law but also against society. Even if the Court grants Mr. Galanis' respectful sentencing request he will be serving a relatively long prison sentence especially considering his advanced age. While Mr. Galanis is certainly guilty of acting within the charged conspiracy he was not in charge of the conspiracy nor did he command others to take action. As the Court is well aware from the Hirst Trial this conspiracy originated with Jason Galanis. Jason Galanis and Gary Hirst (who Mr. John Galanis had never met prior to seeing him in Court after their arrest) were in charge. John Galanis was one of the workers in the conspiracy but at no point was he a leader or in a command position.

Support for this theory is found by how the profits of the conspiracy were divided. The Government's evidence at the trial of Mr. Hirst demonstrated that out of the approximately $19,500,000 netted from the scheme $576,000 went to the Galanis Family Trust which was shared amongst five Galanis family members including John Galanis. Further funds to John Galanis were derived from Little Giggles, which the Government acknowledges was for the benefit of Jason Galanis. Therefore, out of all the funds derived from the sale of Gerova shares, which are the subject of this indictment John Galanis, received approximately $250,000. However others in the scheme received much more: Gary Hirst received $2,600,000; Albert Hallac $1,000,000 and Ymer Shahini $310,000 with the large part of the balance going to entities associated with or controlled by Jason Galanis and in no manner by John Galanis. (Hirst trial transcript page 1,260 and PSR page 14). Thus, it is clear who were the major actors in the conspiracy and who wasn't by the amount of money received by each. Jason Galanis and Gary Hirst were the ones in charge and others followed in behind them. Mr. Galanis' sentence should most respectfully take into account his role in the conspiracy. Mr. Galanis is guilty and his actions are serious in nature but he was a minor actor in this conspiracy and his sentence should reflect that. Mr. Galanis has not shirked from taking responsibility for his actions. He has admitted his conduct and even spoken with the Government so that the actions of others in the conspiracy can be rightfully attributed because he respects this Court and the law.

Mr. Galanis will not be a threat to the public upon his release from jail. Mr. Galanis will be close to 80 years old if and when he is released from custody. I am sure he will have no desire to commit any crimes and realistically he will have no ability to do so. Let us be honest the Galanis name is forever tainted and I am sure no one in the financial world will ever deal in any capacity with him again. His son Jason will in all likelihood still be incarcerated and his other children will have just begun to start their own lives over again. Society will have nothing to fear from John Galanis.

The Court must also consider both specific and general deterrence in deciding on just sentence in this matter. Regarding specific deterrence I am sure the Government will argue and the Court might be thinking that if a 27-year sentence in which he actually served 17 years did not deter Mr. Galanis from committing criminal acts why would any sentence given by this Court deter Mr. Galanis from committing any further criminal conduct. I believe I have dealt with this issue earlier in this letter and explained to the Court why Mr. Galanis got involved in the charged criminal conduct. Thus, I believe general deterrence is a much more important aspect of this case than specific deterrence.

What sentence can this Court give Mr. Galanis that will make other similarly situated men and women think twice about committing a financial crime. Firstly, I do not believe that a five year sentence to a 73 year old man who was a minor actor in a charged financial crime and who only received a small portion of the profits of that scheme will be seen by anyone as a slap on the wrist or a minor sentence. Secondly, the public will see that the major players who were involved in this conspiracy received much higher sentences and that will act to deter many.

Finally as it pertains to general deterrence experts have conducted many studies and they have routinely found that there is **no** empirical relationship between sentence length and specific or general deterrence. In all categories of crime from white collar to drug offenses, from violent crimes to larcenies severe sentences have proven not to deter crime. The studies have shown however that lengthy sentences do increase the rate of recidivism. See, Lynne M. Vieraltis et. al., *The Criminogenic Effects of Imprisonment: Evidence from State Panel Data 1974-2002,* 6 Criminology & Pub. Pol'y 589, 591-93 (2007), U.S. Sent'g Comm'n Staff Discussion Paper, *Sentencing Options under the Guidelines* 18-19 (Nov.1996), available at http://www.ussc.gov/SIMPLE/sentopt.htm, Miles D. Harer, *Do Guideline Sentences for Low Risk Drug Traffickers Achieve Their Stated Purposes?*, 7 Fed. Sent. Rep 22 (1994).

Indeed, while many believe that the higher the sentence, the greater the effect in deterring others, the scientific research shows no relationship between sentence length and deterrence. The general research finding is that "deterrence works," in the sense that there is less crime with a criminal justice system than there would be without one. But the question for this Court is "marginal deterrence," *i.e.*, whether any particular quantum of

punishment results in increased deterrence and thus decreased crime. Here the findings are uniformly negative: there is no evidence that increases in sentence length reduces crime through deterrence. Current empirical research on general deterrence shows that while **certainty** of punishment has a deterrent effect, "increases in severity of punishments **do not** yield significant (if any) marginal deterrent effects. . . . Three National Academy of Science panels, all appointed by Republican presidents, reached that conclusion, as has every major survey of the evidence." Michael Tonry, *Purposes and Functions of Sentencing*, 34 Crime and Justice: A Review of Research 28-29 (2006)

In fact that "general deterrence" is not considered by people considering committing crimes is best demonstrated by the studies done of people charged with white-collar crimes as Mr. Galanis is herein. For purposes of argument it can be rationally presumed that the white-collar criminal is the most rational of criminal offenders. That if any criminal offenders were going to consider all of the pluses and minuses of committing a criminal act, a white collar criminal would be most likely to indulge in that type of thinking. However, the studies show that there is no difference in the deterrence factor between probation and imprisonment for white-collar offenders. That is, offenders given terms of probation were no more or less likely to reoffend than those given prison sentences. See, David Weisburd et.al., *Specific Deterrence in a Sample of Offenders Convicted of White Collar Crimes,* 33 Criminology 587 (1995).

The reason for this is that potential criminals are not generally aware of penalties for their prospective crimes, do not believe they will be apprehended and convicted, and simply do not consider sentence consequences in the way one might expect of rational decision makers. Tonry, *Purposes and Functions of Sentencing, supra*, at 28-29. A recent review of this issue concluded: "There is generally no significant association between perceptions of punishment levels and actual levels . . . implying that increases in punishment levels do not routinely reduce crime through general deterrence mechanisms." Gary Kleck, et al, *The Missing Link in General Deterrence Theory*, 43 Criminology 623 (2005).

The Commission itself has found that "[t]here is no correlation between recidivism and guidelines' offense level. Whether an offender has a low or high guideline offense level, recidivism rates are similar. While surprising at first glance, this finding should be expected. The Guidelines' offense level is not intended or designed to predict recidivism." See USSC, Measuring Recidivism at http://www.ussc.gov/publicat/Recidivism_General.pdf. State law enforcement officials at the Commission's recent hearing confirmed the research results. The late Chief of the Miami Police Department, John Timoney testified that the deterrent effect of the federal system is not its high sentences but the certainty that there will be punishment.

The Courts have also begun to take into consideration the lack of effect of "general deterrence". In United States v. Beiermann, 599 F. Supp. 2d 1087, 1103-04 (N.D. Iowa 2009) the Sentencing Court after reviewing empirical evidence regarding the continuing

increase in the number of drug and child pornography offenders despite the war on each and stiff federal sentences, concluded that "there is not a sliver of evidence in this sentencing record remotely supporting the notion that harsher punishment would reduce the flow of child pornography on the Internet. . . . This does not mean that [the defendant] should not receive a lengthy sentence for his criminal conduct, but it does mean that the sentence should not be longer simply to satisfy an objective that, while laudable, is not being achieved according to any empirical or other evidence in this case or, for that matter, empirical evidence in any other case or source that I am aware of." This Court in considering what sentence Mr. Galanis should receive for his conduct must of course consider "general deterrence" but based on the above studies it is respectfully submitted that this Court should consider "specific deterrence" to a greater degree than "general deterrence".

A 60 month Jail Sentence would allow the BOP to Provide the Defendant with Needed Rehabilitative or Other Treatment

The Court should be made aware during the period of the conspiracy Mr. Galanis' medical issues began to take hold of the clarity of his thinking. As confirmed by numerous MRI's taken while in prison his spinal problems were severe and debilitating. Surgery was advised while incarcerated, however, the procedures used at the time had a higher risk than those that have evolved. Because of the risk associated with the surgeries Mr. Galanis decided to wait until he was released. As with many others having similar medical issues the pain associated with this condition was managed with opiate substitutes. The heaviest use being during and after the period of the conspiracy. I make note of this condition so the Court can take it into account on sentencing and recommend an appropriate drug treatment program during incarceration. The Probation Department did not mention this drug use in the PSR because it was not illegal. Mr. Galanis had a legal prescription for the narcotics used but that does not discount the fact that Mr. Galanis was using the narcotics heavily during the pendency of the charged conspiracy and up until his arrest in this matter.

A 60 Month Jail Sentence In This Matter Would Not Present The Court With Unwarranted Disparities In Sentencing

While it is true that if the Court does sentence Mr. Galanis to a term of 60 months it might well be one of the lower sentences given in this matter. However, all members of a conspiracy should not necessarily be punished the same. Members who were more active, who recruited members of the conspiracy and who profited more should be punished relatively higher than those who did not do any of those things or who were less active or profited less. The sentence that this Court gave Jared Galanis was a just sentence based on his role in the conspiracy. John Galanis deserves substantially more than Jared because he was obviously more involved and profited more. However along the same vein this Court must consider the sentence James Tagliaferi received after he was found guilty after his

A-5063

trial. Mr. Tagliaferi's wrongs included the Gerova scheme and numerous others and he never took responsibility for his wrongs to his clients and he was sentenced to 72 months. While one can certainly argue that Mr. Tagliaferi and John Galanis were on the same level in the Gerova matter, a lower sentence is justifiably given to John Galanis because he accepted his responsibility and Mr. Tagliaferi's criminal acts included other schemes beyond Gerova and involved much larger amounts of financial loss. John Galanis deserves substantially less than Jason Galanis and other members of the conspiracy because they were more involved and profited substantially more.

The Court for many reasons should discount the Probation Department's Guideline calculation and sentence recommendation in their report. First, the PSR uses a Guideline calculation that is different than the Government stipulated to in the plea agreement in this matter. It is the Government who brought these charges. It is the Government who investigated these charges. It is the Government that has intimate knowledge of the charges and each defendants' involvement in the overall conspiracy. Thus, the Government's own Guideline calculation should be given great deference by this Court, as they obviously know this case best and were and still is in the best position to decide what the proper Guideline range is for Mr. John Galanis.

Second, the PSR seems to make some general conclusions to the detriment of Mr. Galanis without stating any facts to support the conclusion stated. As an example the PSR states at pg. 45 that Mr. Galanis has "showed a penchant for lavish living." Yet does not demonstrate one aspect of this lavish living to support the conclusion. In fact Mr. Galanis has not and does not live a lavish lifestyle. He does not live in a fancy expensive house, in fact he lives with his younger son and his family, wherein his wife and he baby sit for their young child so both his son and daughter-in-law can work outside of the home. Mr. Galanis has not taken any lavish vacations. He does not wear expensive clothing nor does his wife. All of the aforementioned lifestyle issues can be confirmed by the regularly conducted home visits conducted as a condition of bail by the of SDCA Pre-Trial Services unit. Their social security benefits and their son Jesse are currently supporting Mr. John Galanis and his wife. There is no lavish lifestyle. There is not one fact that the Probation Department can or does point to support this claim, yet they use it to determine that Mr. Galanis deserves a mid Guideline sentence. There has been no evidence produced by the Probation Department or the Government at the Hirst trial or in the Discovery that John Galanis lived a lavish lifestyle.

The PSR also states at pg. 45 that Jason Galanis must have learned "much of his understanding of how to create and establish fraud schemes within the financial industry from the defendant." The only evidence to support this statement must have come from Jason Galanis because there is no evidence in the record to support this theory. There is no doubt that Jason and his father's relationship has had major swings in an attitude. But Jason has always portrayed himself as an honest businessman who tried to be anything else but his father. Jason has also stated that for the first 18 years of his life he had no idea that his father was committing criminal frauds thus, no lessons could be learned during that

time period. Therefore if the Probation Department's statements were to be true Jason must have learned from his father during his father's incarceration and that is highly doubtful as Jason has been very clear that he wanted to cleanse the family name and thus he would not have listened even if his father had tried to teach him. Finally, there is not only no evidence in the record of this case to support that theory the actual evidence disputes it entirely. The evidence is that Jason Galanis and later Gary Hirst created and then coordinated this scheme and that John Galanis was only asked to participate in a supporting role. There is no evidence to demonstrate that John Galanis advised, taught or instigated Jason Galanis to begin this transaction. The Probation Department has not pointed to one piece of evidence to support this claim and in fact there is none, in the thousands of communications between the conspirators collected by the Government. This Court has heard other arguments from other defendants in this case but Mr. Galanis will rest on the voluminous amount of evidence in this case that supports his argument.

The PSR seems to argue that Mr. John Galanis is a criminal by nature and in his heart and that he has no ability to live a law-abiding life. The counter to this argument can be found from a very credible source, the Honorable Charles Brieant of this Court. The Court stated in reply to the Government's request to enhance Mr. Galanis' sentence for perjury at trial that that it felt after listening to John Galanis testify for weeks that the Court felt that John Galanis believed in the legality of the various schemes for which he had been convicted. The same can be true for the charges herein. As previously stated John Galanis did not get involved in the charged conspiracy knowing what he was doing was criminal in nature. It wasn't until he was already involved that he realized the criminal nature of the conspiracy and yes, he did not withdraw from the conspiracy but again this was not because he felt a need to commit criminal conduct but was based in a misplaced loyalty to his eldest son.

The object of this letter and all the attachments is to give this Court some insight into how and why Mr. Galanis finds himself before your Honor awaiting the pronouncement of sentence and what sentence given the varied sentencing options the Court has at its disposal best accomplishes the goals of a Sentencing Court. It is the defendant's position that after considering all of the relevant factors of Mr. Galanis' situation, the law as it is today and the empirical studies done in this area that a 60-month jail sentence would be reasonable herein. This sentence would meet the Court's statutory responsibility "to 'impose a sentence sufficient, but not greater than necessary' to accomplish the goals of sentencing," as stated in Kimbrough v. United States, 128 S.Ct 558, 571, 169 L.Ed 481 (2007). It is the defendant's position that the Guideline recommendation of 97 - 121 months[4] fails to take into consideration the individual characteristics of Mr. Galanis and his case, the law as it currently stands and the empirical studies that have been conducted in this area. This is not only improper in this day and age but violates the dictates of the Supreme Court. As articulated by the district court in United States v. Coughlin, No.6 Cr. 20005, 2008 WL 313099 (W.D. Ark Feb.1, 2008) on remand after the Supreme Court's

[4] 87- 108 if the Court adopts Mr. Galanis' argument to consider him a Criminal History Level II instead of a Criminal History Level III.

A-5065

decision in Gall: " [B]ased on the unique facts of a particular case, austere adherence to the averages and generalities of the Guidelines can be unjust and contrary to reason.... No chart of numbers will ever fully contemplate, quantify and cipher the endless variations of the human experience. While it might provide a normalizing force in sentencing, we cannot, with a system of points and categories, reduce justice to a universal formula."

Finally, Mr. Galanis would most respectfully request that this Court allow him to self-surrender to the institution that the BOP selects for him. As the Court is will aware Mr. Galanis has had two surgeries in the past few months in order to save his ability to walk in the future. Those surgeries have been successful to this point. However, for the surgeries to remain successful and not allow his condition to deteriorate he must keep to the rehabilitation program that his doctors have established for him. If not it is highly probable that he will lose his ability to walk. (See Ex. B letter from Dr. Ross) The Court was very generous in allowing Mr. Galanis' sentence to be adjourned to February 16th so that the initial stages of his rehabilitation could be taken care of. However, all of this advancement will in all likelihood be for naught if this Court does not allow him to self-surrender. There is no doubt that ultimately the BOP will be able to place Mr. Galanis in an institution that can meet his medical needs and Mr. Galanis has no intention of asking this Court for any longer than the normal time to self report. But there is also no doubt that the MCC nor the MDC does not have the medical capability or the housing capability to meet his medical needs. Also, the travel from New York City to his ultimate destination will be a long and arduous trip and will very likely have a catastrophic effect on his health. The trip from New York to his designated facility will most likely entail stays in local jails and other prisons that have no capability to take care of Mr. Galanis' various medical ailments because he will only be staying in each one for short terms. In the 7 weeks it usually takes the BOP to designate an individual Mr. Galanis will have completed much of his rehabilitation program and be ready and able to report to his designated facility. The impact of the failure of his rehabilitation at this point on his life and his ability to navigate his prison facility hardly needs amplification. This is not to mention the actual daily pain he will once again be living through. It is only recently due to the surgeries this Court mercifully allowed him to have that Mr. Galanis knows what it is to live life without being in severe pain with every step he took. For years now he felt that pain and now it is gone. Most respectfully Mr. Galanis is only asking for seven weeks so that it remains gone and he can serve his sentence pain free. Mr. Galanis is not asking for any extended adjournment of his report date. He is merely respectfully asking that the Court allow him to self-report.

Mr. Galanis is not a flight risk. As this Court I am sure remembers, Mr. Galanis was allowed to travel from California to New York after his arrest on the new charges now pending before the Honorable Ronnie Abrams. Mr. Galanis was given no assurances by counsel either here in New York or in California that this Court would release him once he made his appearance in New York. Neither did Pre-Trial Services or any one else. Furthermore, before he appeared in New York his son, this Court had already remanded his son, Jason Galanis due to the new charges. Thus, Mr. Galanis certainly knew there was a very good chance he could be remanded by this Court once he arrived in New York. Mr. Galanis as has

A-5066

been historically proven appeared before this Court for the ordered bail hearing on time. This Court at that bail hearing allowed him to remain free on bail. The situation will be no different once Mr. Galanis is sentenced. Mr. Galanis is under no false hopes about the sentence he is going to receive from this Court. He knows he is going to jail and not for just a year or two. He knows he is going to jail conceivably for the rest of his life. If he wanted to leave the jurisdiction of this Court he certainly could have at any point over the past few months but he has not. What he has done is fulfill every requirement asked of him by Pre-Trial Services and made every court appearance in this Court. He has never been a flight risk and is not one now.

There is also historical proof that Mr. Galanis is not a flight risk under these circumstances. In 1988 after Mr. Galanis was convicted in the Southern District of New York he was allowed by the Court to remain free on bail pending sentence. Mr. Galanis appeared for sentencing and despite his being sentenced to 27 years was allowed to remain free on bail pending appeal. Mr. Galanis remained free until he voluntarily withdrew his appeal and appeared voluntarily and on time at his designated facility. Thus, Mr. Galanis has proven that he is not a flight risk even after being sentenced to multiple decades in prison. It is with this proven history both in the cases now pending and in his past that Mr. Galanis most respectfully requests that he be allowed to self-report in 7 weeks so that his medical conditions can heal adequately so that his ability to walk will not be threatened. Once again Mr. Galanis has no intention of asking this Court for any further adjournments of his reporting date.

Thank you very much for your consideration of this matter.[5]

Respectfully,

David Touger

cc.: Brian Blais, AUSA
Rebecca Mermelstein, AUSA
Aimee Hector, AUSA
Johnny Kim, US Probation Officer

[5] It is the defendant's respectful request that he be allowed to file this letter under seal because it contains both private medical information about the defendant and comments on the cooperation with authorities by his son, Jason Galanis.

A-5067

On Aug 11, 2014, at 6:08 AM, Peter Shannon <petermshannon@yahoo.com> wrote:

Dear Yanni,

It was about two years ago that I got an introduction to a man named Chief Bills. This intro came from a business associate of mine and was made with the idea that we could figure out how to work with this tribe. Chief Bills wanted help getting his tribe a piece of these TED Bonds that the Government had set up for Native American Tribes. John Heniff and I started work on learning something about these bonds. Chief Bills was not someone we wanted to work with,but the bonds made a lot of sense. My Father then got us an introduction to the Ogala Sioux Tribe and Raycen Raines. After many calls with Raycen we set out to try and get a Letter of Allocation for 217million in TED Bonds. We filled out forms, we looked and talked with business groups about finding projects, and we started working with Marie Sullivan from the Treasury Department. It took 8 months and at least 20 attempts before she accepted our forms and gave us the Letter of Allocation. My Father then suggested I call Mike Murphy and see if he had any thoughts or anybody he knew that might be able to help us. Mike Murphy suggested John Galanis. John Heniff and I flew to Las Vegas for some meetings and while we were there we called John Galanis. Much to our delight you agreed to fly down to Vegas and meet with us. The meeting went great and we established an immediate relationship both in business and friendship.You asked that we get you everything we could on the Bonds and our projects and John Heniff became your right hand man. We provided all the reading material, copies of all our deals, and introduced you to Raycen Raines, Stephen Haynes, and Tim Anderson. You and John went to work and you kept me informed at all times. You mentioned to me many times how good a worker John was and how having him made things easier. He worked his ass off for you and made himself available to you 24/7.Once you got your feet on the ground you called and said you were coming to Chicago and you, me and Murph should meet and go over things. We had a great meeting and you flat out told me that I would be getting a third of the million you expected to be left over. You, me, and Murph would be splitting the million three ways. In the following weeks you called and said you might want to go a different way and would I have any objection to you getting a little creative and possibly looking at something along the lines of an Annuity. You are a special talent and a

very smart man and I would be stupid to not let you do your thing. The entire reason we asked Murph to find someone was that you would represent us and make some money for yourself. Your Annuity idea was awesome and it allowed you to use Burnham and your Son which I loved. The 28 million is now about 25.5 million and will be earning about 5.6% interest per year. Yanni, that means that there is about 1.4 million dollars available on a yearly basis. I strongly believe that you deserve a big majority of the money and as a Father, I to would want to help my Sons of which I have three. However, the idea of the wonderful Galanis Family getting 1.4 million per year as well as closing fees and an extra 60k a year from the interest rates and the Shannon Family getting nothing is just not right. Without us nobody was even thinking about TED Bonds. We found the Bonds, we found Raycen, we found Stephen, we found Tim Anderson, we did the work with you that got this started, we asked you to represent us, we hounded you with Heniff for months. How many times did Heniff ask you "how are the bonds doing", "when will the bonds be done", "what can we do to help". Mike Murphy is a good friend with me and my Dad. When he said you are The Guy we didn't hesitate to bring you in with us. We counted on your brains, your expertise, and your honesty and still do. I am not asking for a favor or any Charity. I deserve and have worked for two years on this deal and there is no doubt that everything that came from the deal was started by us. When John Galanis tells me I am getting a third of the split, I believe him.
Warm Regards
Peter

A-5069

TRULINCS 14097054 - GALANIS, JOHN - Unit: BRO-H-A

FROM: Galanis, Jesse
TO: 14097054
SUBJECT: updated draft
DATE: 10/10/2018 10:21:03 PM

9 October 2018

Honorable Ronnie Abrams
United States District Court Judge
United States Courthouse
40 Foley Square
New York, NY 10007 - REQUESTED UNDER SEAL -

Dear Judge Abrams,

I am writing the Court on behalf of my father and co-defendant, John Galanis, in connection with his sentencing. As Your Honor knows I took responsibility for my crimes almost two years ago when I plead guilty. I acknowledged my central role in the conspiracy and the overt acts required to execute the fraud.

It is painful to see that my father was found guilty of a criminal role in what was largely my conspiracy. As his eldest son I am in a unique position to offer Your Honor some insights about my decisions regarding my father, as well as some insights about the conspiracy for which he is to be sentenced. My hope is that it in some way aids Your Honor's consequential process.

The USAO did not charge my father with investment advisor fraud as the other defendants were - the source of 100% of the money required by the charged fraud. He was not involved and never met nor communicated with any of the investment advisor parties. This was by design; my design. The government and certain defendants seemed to agree at trial that I deliberately separated third parties from one another in an effort to control information - my 'hub and spoke.' This is accurate. My partner and I believed the control of information was essential to our schemes.

My father first left my family when I was sixteen and my brothers were fourteen, seven, and two. I have lived with deep seeded resentment for the circumstances - his circumstances - foisted on us as innocent children. Another such trauma occured in 2001 - also not of my own making - when we were arrested in my brother's DEA case, and though I was not charged, the traumatic experience compelled me to separate to build an independent life. I did not speak to my father for over seven years. In short, I developed a practice of hiding my entire life from him.

When we did reconnect I was 37 years old. I was extremely guarded. I said to myself I was unwilling to ever let my father 'in' again. However, I did panic when I was arrested in 2010 in the sealed Central District of California case. I needed money - I believed and rationalized - committing crimes to get it using Tagliaferri and others, a fraud that largely paid over $5 million to my criminal lawyers - at that time - and $2 million to the IRS, and included funding my lifestyle. The Gerova experience - including the intense 14-month period of 24/7 electronic surveillence by the FBI on an OC case - further informed how I was going to handle my business affairs - total secrecy. Trial testimony confirms that I was secretive in not introducing my father to Morton. I wouldn't introduce Archer either. I wouldn't introduce Hirst. I wouldn't introduce Dunkerley. And most of all I would not let my father meet my true business partner in California - the actual person with the connections the scheme required.

I was protective and secretive - one of the few things I think all litigants agreed on at trial. I felt I had reason to be guarded with my father even more than with anyone else, especially in furtherance of what became the present conspiracy which my partner and I kicked-off using Thorsdale and COR in January 2013 at the offices of the Banc of California. This was well over a year before ever even meeting Morton in March 2014 or first contact with the tribal lawyers in Las Vegas in March 2014. In fact trial testimony of Hugh Dunkerley also misrepresented key dates and participants in frauds - this includes false testimony that Ballybunion proceeds were used to purchase Hughes; when a simple verification of the bank wires and emails show this is impossible since these events were nearly nine months apart. In fact, the Ballybunion fraud was completed on January 24, 2014 with all proceeds laundered at Banc of California fully dispersed for the benefit of Thorsdale and my partner.

I have read the trial transcripts Your Honor. There is no disclosure of the central role of my co-conspirator partner. I mistakenly thought the government would eventually successfully 'follow the money' in a paper case; millions upon millions of dollars went to him. I thought the emails and the money would lead to my co-conspirator. Just in case it didn't I even tried to assist the USAO in 2016 proffering through counsel. I was rebuffed. My overture was to meant for me to come clean. To provide assistance. To show the government when the fraud conspiracy had commenced, who was involved, and where the money went. My lawyers told me that the DOJ was not interested in listening to anything I had to say. With no 'voice' I then resorted to being a

A-5070

TRULINCS 14097054 - GALANIS, JOHN - Unit: BRO-H-A

"whistleblower" to a financial reporter in 2016 - which has since precipitated an SEC investigation - an investigation lead by the very same professionals that uncovered my Gerova and WAPC frauds. One that the Court is now aware I have been assisting.

Your Honor, there are emails that confirm other material inaccuracies alleged at trial. For example, Morton wrote an email on October 30, 2014 saying there was demand for more bonds, leading me to conclude there was an opportunity for more bonds; a statement I asserted as fact to my father. I copied this email to my unindicted co-conspirator on October 30, 2014. My statement of this 'fact' fraudulently induced the parties - including my father - into the second issuance.

The trial record was also silent as to who actually bought the 'second tranche' after they were issued and who derived the sole economic benefit. Archer and my father were charged on the second tranche fraud, but did not make a penny in the fraud, whereas my true partner took control of the second tranche bonds and sold them for $15 million to an unsuspecting Bermuda insurance company acquired by Wealth Assurance Holdings. Almost immediately my partner wired $8 million back out to himself, his wife, and his telecommunications company in Costa Rica. There are emails and bank wires that speak for themselves to confirm what I am representing to the Court. All that I told my father was I had another offshore insurance company that wanted to purchase bonds - which they did. I had no reason to provide him more information other than I promised to finance my mom's house through Camden, my partner's company and lender on my Bel Air home.

I also want to disclose to the Court that the allegation of misappropriating the COR name is false. There are emails that irrefutably contradict the position of the government in the indictment and at trial. In 2016 I tried to proffer about this as well and, since it was easily verifiable, I thought I would be heard. The significance to the trial is that there is a written record that my partner and his brother published misleading information about purported 'affiliated companies'. The evidence is they also fraudulently misrepresented the purported affiliations to regulators and auditors in the US and Liechtenstein, including in signed representations produced by regulators. This scheme was deliberate to 'blur the lines' of affiliated companies 'of' COR. My partner and I used the precisely same technique with Wealth Assurance 'affiliated companies.' I falsely told my father and others Wealth Assurance Private Client Corporation was a subsidiary of Wealth Assurance. I have emails that confirm my statements about our name fraud. And, here too, proof of who benefitted is as straightforward as following the money trail. It was not my father nor Archer. It was the unindicted co-conspirator that obtained through the WAPC fraud the capital source necessary to acquire 100% of $4.4 billion Valorlife, and to distribute proceeds to he and his wife. I received millions - to be sure the government is correct about that - but the evidence shows my partner received millions more of the proceeds for his uncharged role in the conspiracy.

The reason I thought it was imperative for Your Honor to be provided this information at this time is the prospect of sentencing my father and others - former friends - based on an inaccurate factual record of the criminal conspiracy I established and implemented.

My intention is not to question the verdict. Writing Your Honor is meant only as my quite diminished 'voice.' I felt strongly in my heart that people shouldn't be committed to prison for many years - perhaps life in the case of my father given his health condition - without the conspiracy and its economic beneficiaries being laid bare by available evidence for the Court to consider. Fortunately the evidence speaks for itself.

I can not imagine a heavier responsibility than the considerations of the Court in imposing sentences. Prison is America is very very real.

I have taken responsibility for my actions without qualification, and post conviction I've tried to be forthcoming now and in the past. I appreciate the Court's valuable time.

Respectfully,

Jason Galanis

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERI E; """""""""" 1'

Plaintiff, : MEMORANDUM AND ORDER

-against- : S 87 Cr. 520 (CLB)

JOHN GALANIS, :

Defendant. :
x

Brieant, Chief Judge

By motion docketed October 23, 1992, heard by the Court and fully submitted for decision on November 23, 1992, defendant John Galanis moved "for an Order granting further relief pursuant to Rule 35, Federal Rules of Criminal Procedure, specifically a reduction in sentence imposed on Defendant herein . . . on September 28, 1988, and such other relief as this Court may deem proper".

Some factual background must be supplied in addressing what is purely a jurisdictional issue. In the highest tradition of the Bar, a skilled and devoted advocate calls our attention to a harsh result, unanticipated at the time sentence was imposed. The temptation thus presented to find jurisdiction, is indeed strong.

On July 5, 1988, following a thirteen week jury trial in this Court, Mr. Galanis, who had a prior conviction, was found guilty of 44 counts arising out of widespread depredations in the

financial community, in connection with a number of unrelated enterprises, taking place over a long period of time.

On September 28, 1988, this Court sentenced Mr. Galanis on the various counts for an aggregate term of 27 years of imprisonment, followed by 5 years of probation. While one-third of that sentence would have been 9 years, at the time of sentence this Court's Probation Department advised the Court, the prosecutor, and the attorneys for the defendant, that the applicable Parole Commission guidelines for this 01d Law sentence -- indicating the actual amount of time to be served before parole -- would range from 40 to 52 months. Mr. Galanis began serving his sentence on October 24, 1988..

This Court contemplated that Mr. Galanis would appeal his conviction, however, he has never questioned the legality or constitutionality' of his sentence. On February 17, 1989, Mr. Galanis voluntarily withdrew his appeal to the united States Court of Appeals for the Second Circuit,1 and at or about that time entered into a plea agreement with New York State prosecutors by which he received a concurrent state sentence for

" J The Court notes that co-defendant Anthony J. Marchese did appeal his own conviction. On April 12, 1989, in an unpublished per curiam order, the Second Circuit found each issue raised on appeal to be without merit, and affirmed Mr. Marchese's conviction. The Court of Appeals also discussed specifically, in the course of its affirmance, the twenty year sentence imposed on Mr. Marchese by this Court. United States v. Marchese, No. 88-1396 (2d Cir. 1989).

criminal conduct arising out of essentially the same swindles which provided the basis for his federal prosecution. This Court has previously expressed its opinion, and continues to believe, that the crimes for which Mr. Galanis pleaded guilty in New York State "probably should not have been prosecuted separately". §gg Report on Committed Offender, Form Ao-235, dated July 31, 1990, attached to Barrett Aff. as Ex. 4.

On June 15, 1989, within 120 days of withdrawing his appeal, defendant filed a Rule 35 motion for reduction of his sentence. In a Memorandum and Order dated December 28, 1989, this Court noted that: "movant has not yet appeared before the Parole Commission. The Court at present has no idea what the Parole Commission will consider appropriate in this case, in light of the prior criminality and the extensive depredations involved." This Court, not wishing unduly to limit parole discretion by requiring movant to serve at least one-third of the time, granted Mr. Galanis' Rule 35 motion "solely to the extent of modifying the Judgment of Conviction . . . to add the following provision: '[djefendant may be released on parole at such time as the Parole Commission or its successor may determine, pursuant to 18 U.S.C. §4205(b)(2)'." Lg; Such a ruling distinguishes this case from United States v. Bilzerian, Fed. Sec. L. Rep. (Callaghan) 1 74,014, No. 88 Cr. 962, 1992 WESTLAW 301390 (S.D.N.Y. Sept. 2, 1992), relied on by movant, in which Judge Ward, of this District, "determined to carry out its

original sentencing purpose by granting the [Rule 35(b)] motion to the extent of reducing . . . defendant's sentence". In that case, the defendant first filed his Rule 35 motion after the Supreme Court denied certiorari, and the district court explicitly "deferred rendering a decision on the motion pending a determination of defendant's application for parole.'I Lg; Here, Mr. Galanis' Rule 35 motion was not explicitly deferred by this Court in the December 28, 1989 Memorandum and Order, but rather, was explicitly granted in part. In any event, the decision in Bilzerian appears inconsistent with the decision of the Supreme Court in United States v. Addonizio, 442 U.S. 178, 187 (1979), which held that "there is no basis for enlarging the grounds for collateral attack to include claims based not on any objectively ascertainable error but on the frustration of the subjective intent of the sentencing judge."

By letter of January 8, 1990 to the Court, the attorney for Mr. Galanis requested that this Court "retain jurisdiction [over the Rule 35 motion to reduce his sentence] for any further consideration or reconsideration that may be appropriate in light of the [future] decision by the Parole Commission". By letter of January 12, 1990, the government opposed Mr. Galanis' request to retain jurisdiction, essentially on the ground that no defendant is entitled to more than one Rule 35 motion.

This Court made no contemporaneous response, either to

the letter request of defendant's counsel or the Government's letter of opposition, and issued no additional opinion on the matter. However, on July 31, 1990, at the request of the defendant, this Court completed an A0-235 Form, noted supra, recommending that Mr. Galanis serve the length of time indicated "[within the Guidelines, subject to the discretion of the Commission". See generally 28 C.F.R. §2.19 (1992).

A Parole Commission hearing was held on August 6, 1990. The Hearing Panel issued its written Evaluation on August 21, 1990. The Panel wrote: "[w]hile the panel recognizes the offense severity as a category six with guidelines calling for 40-52 months, there are so many aggravating factors in this case that these guidelines hardly seem appropriate for the magnitude and severity of this case". The Evaluation concluded that:

> the Panel is in disagreement concerning the amount of time it is appropriate to recommend in this case with one examiner believing that total service of 15 years would be sufficiently appropriate sanction to ensure that Mr. Galanis is dissuaded from becoming further involved in a similar behavior once he is released to the community. The other examiner recommending that subject be continued for a 15 year Reconsideration Hearing believing that it would be inappropriate to set a presumptive parole decision within the next 15 years, as it would diminish the seriousness of this offense. . . .
>
> It is recognized that these recommendations do call for a significant amount of time to be served. However, in consideration of the aggravating factors as outlined on the reasons statement for going above the guidelines, it is believed that both of these recommendations are rationally justified in recognition of the unusual magnitude of these white collar crimes.

This decision was affirmed by the National Appeals Board on or

about January 8, 1991.

In the motion presently before this Court for decision, movant argues: "We believe the Court deliberately chose not to rule on Mr. Galanis' request [of January 8, 1990] until it was informed of all relevant subsequent events, including the rulings by the Parole Commission on Mr. Galanis' eligibility for release and, specifically, the accuracy of the Court's belief that the Parole Commission would follow the indicated guidelines. Accordingly, we believe the Court has retained jurisdiction of the Rule 35 motion and now request further relief thereunder based on the facts set forth . . . ." Barrett Aff., 1 7, at pp.3-4.

There are extensive facts set forth in support of the granting of whatever relief will terminate this defendant's incarceration in fewer than fifteen years. Many of these facts and arguments, contained in the motion papers, have a strong appeal to this Court.

The crimes committed, while highly significant and involving vast amounts of money taken by various tricks, schemes, and other forms of con job, were all essentially non-violent, as to Mr. Galanis' own conduct. More often than not, the victims were vulnerable primarily because of their greed, their gullibility, and their desire to avoid paying income taxes. At least it should be clear that, in modifying the judgment as it

did on December 28, 1989, this Court believed that nine years was probably too long to serve, before obtaining parole. We cannot equate this case with that of the large drug dealer, many of whom are released in fewer than 15 years; or with that of the violent criminal, despite the absurd comparison of Mr. Galanis to a murderer, by the Acting Regional Administrator of the Parole Commission. Barrett Aff.; Ex. 7.

We recognize that review of the discretion of the Parole Commission has not been entrusted to this Court. The Parole Commission "was established for the express purpose of minimizing disparities in the sentencing practices of judges, and [has] the power to determine when a particular individual would be released on parole." United States v. Huerta, 878 F.2d 89, 92 (2d Cir. 1989), cert. denied, 493 U.S. 1046 (1990). See also 28 C.F.R. § 2.18 (1992) ("The granting of parole to an eligible prisoner rests in the discretion of the U.S. Parole Commission."). The Supreme Court has written:

> the judge has no enforceable expectations with respect to the actual release of a sentenced defendant short of his statutory term. The judge may well have expectations as to when release is likely. But the actual decision is not his to make, either at the time of sentencing or later if his expectations are not met. To require the Parole Commission to act in accordance with judicial expectations, and to use collateral attack as a mechanism for ensuring that these expectations are carried out, would substantially undermine the congressional decision to.entrust release determinations to the Commission and not the courts. . . .
>
> Accordingly, . . . we hold that subseguent actions taken by the Parole Commission -- whether or not such actions accord with a trial judge's expectations at the

> time of sentencing -- do not retroactively affect the validity of the final judgment itself.

United States v. Addonizio, 442 0.8. 178, 190 (1979) (emphasis added).

The Court has reviewed the totality of the relevant facts affecting this sentence, many of which occurred after the sentence was imposed on Mr. Galanis. The actual time the Parole Commission proposes to be served by him does seem somewhat harsh, even in light of the magnitude of money involved in these several unrelated frauds, for which he was convicted. Nonetheless, this situation is distinguishable from that in Egi§§g_§§g§§§_g; Slutsky, 514 F.2d 1222 (2d Cir. 1975), in which the case was remanded by the Court of Appeals for a reconsideration of the sentence, due to the district judge's failure to consider the then newly implemented parole guidelines. Circuit Judge Moore wrote:

> We are convinced that the parole consideration afforded the Slutskys is likely to depart substantially from what we must assume were the reasonable expectations of the district judge. Accordingly, we think that a remand for resentencing is appropriate in order to allow the district judge an opportunity to reconsider the original sentence in light of these new circumstances.

Id. at 1227. Judge Moore concluded, correctly, that "the parole implications of a sentence are a necessary and important factor for the consideration of the sentencing judge." Id. at 1229. Unlike the Court in Slutsk , this Court was fully aware of the "implications" of its sentence on Mr. Galanis, at least insofar as concerns the vast discretion entrusted to the Parole

Commission, as enlarged by this Court in its decision on the Rule 35 motion.

The theory of the instant motion seems to be that this Court intended, by its silence in January 1990, to grant the written request of defendant to ''retain jurisdiction" over the motion for the presumed purpose of acting as a reviewing body over the final decision of the ParoIe Commission, whatever it might be. This was not the customary procedure of the district courts, acting under the old sentencing law, and indeed, is contrary to the principle of Addonizio, supra. It was generally believed that the Court was to impose a "fair sentence," and then the Parole Commission would make its discretionary determination, after a review of the case, as to the actual length of time to be served. The time ranged from between the span of one-third and two-thirds on a standard sentence (18 U.S.C. §4205(a)), or between zero and two-thirds of the sentence, if the sentence was imposed pursuant to 18 U.S.C. §4205(b)(2) (1985 and Supp. 1992). An early case which reviewed the statistical history of former §4802(a)(2) [now §4205(b)(2)] sentences noted, with irony, that 78% of those prisoners served longer than the minimum one-third, despite the sentencing judge's explicit authorization for their early release on parole. Grasso v. Norton, 520 F.2d 27, 35 (2d Cir. 1975). Such a statistical finding may have resulted from the tendency of sentencing judges to authorize early release only for those defendants who had been sentenced to rather lengthy

A-5080

prison terms, one-third of which would still be a long time.

Under the old sentencing law, a determination of the Parole Commission was subject to administrative review within the Commission and, on rare occasions, could be tested by collateral attack in court for procedural failures amounting to an alleged denial of due process or equal protection. It would have been highly irregular in the pre-Sentencing Commission days, however, for a court to have held open a Rule 35 motion simply for the purpose of indirectly reversing or modifying the presumptive parole date established by the Parole Commission, or merely for the purpose of waiting to see what that date would be. "The trial court may set a defendant's eligibility for parole at any point up to one-third of the maximum sentence imposed. Whether the defendant will actually be paroled at that time is the decision of the Parole Commission." United States v. Addonizio, 442 U.S. 178, 189 n.13 (1979) (citing United States v. Gra son, 438 U.S. 41, 47 (1978)). This Court had the right to presume that the Parole Commission would do its duty in the matter, and achieve a just result. That, arguably, it may not have done so in this case, adds little to the discussion.

General dissatisfaction arose with the uncertainties of parole in individual cases. Public disapproval of sentences by Courts -- expressed in boxcar numbers, but followed, as the participants in the process knew they would be, by early release

on parole -- increased. It was these perceptions that delivered us all into the tender hands of the Sentencing Commission, for crimes committed after November 1, 1987.

Since issuing the December 28, 1989 Memorandum and Order granting Mr. Galanis' Rule 35 motion by modifying the original judgment of conviction to allow for parole at less than one-third of the sentence, this Court has issued more than 350 other written decisions or opinions. It is not possible now for this Court to place itself in the same position of knowledge or intent that it enjoyed in 1989, as to any particular decision. Nor is it possible for the Court to derive from "mental notes" any firm conviction that, in 1989, it was the undisclosed intention of the Court to retain jurisdiction over Mr. Galanis' motion in order to second guess the Parole Commission, at some unspecified future date. Indeed, this Court has never expressed any firm conviction as to how much of his old law sentence Mr. Galanis should serve prior to parole, except to imply that nine years would probably be too much.

To the extent possible to do so, like all such decisions, the Memorandum and Order issued on December 28, 1989 reflects that the Court had considered all of the relevant evidence, consulted the existing law, and stated its belief as to how the motion should be resolved. Indeed, after reviewing the sentence g; novo, this Court Wrote: "the sentence originally

imposed is believed to be appropriate". This Court does not intentionally issue partial or incomplete decisions, saying only part of what is meant. When the Court wrote that it was granting Mr. Galanis' Rule 35 motion "solely to the extent of modifying the Judgment of Conviction," that relief was intended to be final.

That the defendant thereafter had reggested the Court to retain jurisdiction until after completion of the Parole Commission's determinations, is not a controlling fact. Had the court wished at the time to have granted the defendant's request, it could have done so. It is absurd to suggest now that the reason for the Court's silence -- during almost three years -- was an implied promise to grant the relief sought, if it seemed expedient to do so later on; without so stating on the record at the time. Such conduct by a judicial officer would be perceived as manipulative and, for that reason, would be inappropriate.

On the current presentation to this Court, there is ample evidence of Mr. Galanis' cooperation with federal prosecutors by providing substantial assistance and truthful testimony in other cases, and the Court has also been provided with copies of several "extra good time recommendations" forms earned by Mr. Galanis while being a model prisoner and participating in teaching his fellow inmates while incarcerated.

This Court has also received, in support of the motion, letters from family members and others attesting to his character and conduct as a parent and family man, quite inconsistent with the criminal conduct reported at the trial. These testimonials are quite moving, and should have been considered by the Parole Commission.

The sole issue now before this Court, however, is whether Mr. Galanis' Rule 35 motion was finally decided on December 28, 1989, or whether this Court, by its silence with regard to a request by defendant's counsel, opposed by the Government, retained jurisdiction to modify its decision, which jurisdiction has survived until today, including surviving the intervening 22 months following the January 1991 decision of the National Appeals Board. Fed. R. Crim. P. Rule 35(b) (1987) explicitly provided that: "The court shall determine the motion within a reasonable time." gee also U.S. v. Devito, 99 F.R.D. 113 (D. Conn. 1983) (citing cases). As the Supreme Court has noted, if a sentence reduction motion is not considered until years after the sentencing, "it will often be difficult to reconstruct with any certainty the subjective intent of the judge at the time of sentencing." Addonizio, 442 U.S. at 188. To the extent that past intentions of a judicial officer can ever be reconstructed after such a lengthy passage of time, the Court now believes that it would, if pressed to respond to the letter, have declined at the time to retain jurisdiction, based essentially on

a philosophy that the Court was doing what it ought to do and expected that the Parole Commission would do likewise, and did not intend to sit in review of a specific parole finding in any particular case. Whether or not this is a valid belief, the Court is convinced that it has no jurisdiction at this time to grant any relief, and that the present motion is, as the Government argues, time barred. We reach this conclusion with some understandable regret. The entire system of American jurisprudence is based on the idea that where there is a wrong, there is a remedy.

The motion is denied, not for want of merit, but for want of jurisdiction.

SO ORDERED.

Dated: White Plains, New York
January 19, 1993

CHARLES L. BRIEANT

Charles L. Brieant
Chief Judge

Dear Judge Abrams,

After a six week trial I understand that the Court has an in depth knowledge of this case and my involvement. Yet I know the trial did not fully explain my entire role in this case and certainly did not explain the nuanced relationship I have and had with my son Jason. I have also read the Court's decision on the defendants' Rule 29 motion where the Court quite correctly gave Mr. Archer the benefit of the doubt in his relationship with Jason and whether Mr. Archer had any idea of Jason's ill intentions. I too fully understand why the Court in its decision seems to indicate that it believes that I being Jason's father and a man with my criminal history was a willing participant in Jason's fraud from the beginning. However, before you render your decision on what the Court believes is a just sentence in this matter I feel the need to fully explain certain circumstances that the Court may not be aware of so that you can adequately judge my degree of culpability.

Let me begin by saying that when I was sitting in Las Vegas at that first lunch I had no intention of stealing any money from anyone and had not discussed any criminal scheme with anyone at that time. These good intentions remained with me for many months including through the first bond transaction. I never had any discussions whether explicit or implicit with Jason about any scheme to steal the proceeds of the bond transaction. Your Honor will be rightly skeptical of the statements of a man about to be sentenced after a second long trial before this court. I request your Honor take into account Chief Judge Charles Brieant's comments about me after a 13-week trial over thirty years ago. In testifying for over a week in my defense I was given the opportunity to present information to the court that explained my action and intent. Although imposing a long sentence Judge Brieant rejecting a perjury motion remarked that I "believe the complex schemes were legitimate." Furthermore, his stated goal giving me a long sentence was to have a rational period of incarceration followed by a long period of supervised release. However, the parole board thwarted this judicial recommendation. Judge Brieant expressed his view about my more than a decade and a half in prison as "an injustice without remedy" having noted that a prison term "within the guidelines of 40 to 52 months would be appropriate." I served approximately five times what Judge Brieant thought would have been an adequate period of incarceration. A further demonstration of my past honest statements about my criminal conduct is shown in the Second Circuit's decision by Judge Friendly that based on statements of AUSA David Brodsky that I had been truthful with the government and could not be extradited to Canada on the same charges.

Unlike my trial in the 1980s, before you Honor I did not testify in my own defense because my Gerova conviction would have been prejudicial to me and undeservedly to my codefendants. The following discussion is made not to excuse my actions but as an attempt to explain my lapse in judgment and bad parenting. I hope through this letter your Honor will understand that I accept responsibility for the terrible result from not acknowledging that Jason would deceive me. The witnesses that testified about me were truthful to the pieces with which they were familiar. However, portions could not be allowed due to the court's prior ruling on my background. This created many missing threads to the tapestry that was created by their testimony. I will try to provide threads, which, hopefully, may mitigate punishment. If the Court deems appropriate I would be prepared to verify these statements under oath fully cognizant of the penalties of perjury. For although the jury found me guilty of serious charges, it did not see the blind devotion which caused me to neglect my role as a parent and accept Jason's assertions as truthful.

Although the decline in my relationship with Jason started almost 28 years ago I did not recognize or accept that he used me as a convenient excuse for any problem he was experiencing. The Gerova sentencing submissions made clear that Jason & Derek's view of me. In the years up until 2000 he often came to me for advice and always introduced me to his friends and business associates. The demarcation point was after he and Derek were arrested on drug charges. Jason's charges of purchasing drug manufacturing equipment were dropped the next day when it became known that Derek had made the purchase using Jason's identification without permission. Although the reason for the drug charges had nothing to do with me Jason claimed the arrest and news articles linking his legitimate businesses with me as the reason why I could no longer be part of his social and business life. This negative publicity put a negative connotation on our relationship. The combined humiliation caused Jason to distance himself from me in all business matters. Four years later I found myself, after having suffered a nervous breakdown, released from prison but without close ties to the oldest of my sons. There is no excuse for the foolish and illegal act I committed when approached by Jason to become involved in his securities manipulation (Gerova). However, I felt I owed Jason a debt of gratitude for the assistance he provided my wife and children and wanted to restore our relationship. As with all foolish acts a short-term problem's solution escalated to grievous long-term harm. Our alienation became even greater because I refused to get involved in further manipulative acts Jason committed in order to try save Gerova. As the government stated at my arraignment on the Bond Indictment while Jason had continued acts in the Gerova Conspiracy during the time of the Bond Scheme I did not. My involvement in Gerova was distinct and a for a short time period. It was this refusal to continue to act as requested by Jason that continued to drive a spike through our relationship.

The relationship hit rock bottom during the Gerova investigation as I made it quite clear to Jason and his attorneys that I would not let my son Jared go to jail for my actions. Jason and his attorneys throughout this time continued to meet with me about the Gerova case but now I see it was only so they would have knowledge about my intentions. There is no doubt they characterized me as an "enemy" to their position. What I failed to realize during these meetings starting in 2011 was the conflicted advice Jason was receiving from his attorneys. I requested that Paul Grand represent me but was told that because of the sensitive nature of the Jason's cooperation and the physical danger that represented to Jason his lawyers insisted I use an attorney whose office was at their firm but was not a member. I acceded to this because the lawyer was very able and it seemed a reasonable request. Two years later unbeknownst to Jason's lawyers, I went to Paul with Jared to memorialize my position. Until Judge Castel swept away the haze of a supposed use immunity claim by Jason's attorneys I did not realize the true reason for their demand. All the parties were aware that I had impersonated Jared and that Jason's statements to the CDCA & later to the SDNY prosecutors did not reveal that fact. Unknowingly I had fueled their paranoia by insisting if there were an issue about Jared's involvement I would have to provide the prosecutors with the truth. I had hoped that none of us would ever be indicted thus escaping what I know had to be done for Jared. However, as the Court well knows we were all indicted and I did exactly as I told Jason I would I sat down with the government and explained exactly what I had done and how it impacted Jared.

I have since realized that the reason he kept me in the dark about his business practices specifically this bond scheme is because he knew all along that when push came to shove I was going to tell the government about Gerova to save Jared and he certainly was not going to trust me with knowledge about more criminal acts he was committing when he knew I was ready willing and certainly going to talk to the government if Jared ever got arrested. This is why Jason kept every thing from me during the months leading up to the bond execution because he knew I could not be trusted, he did not know what exactly I was going to tell the government or how much. This is why he did not take me into his confidence as he did Hirst, Dunkerly, Morton and Martin. Each one of them at different times were at meetings or received telephone calls and emails where Jason openly exposed his plan but I was not at any of these meetings or received any of those telephone calls or emails. As an example of how determined Jason was to keep me from any knowledge of his ongoing business affairs is that I had no knowledge or was involved in any way in the Code Rebel offering. All of the rest of his inner circle were except me because he was fearful of how far I would go to clear Jared.

I would be less than candid if I did not tell the Court I was always concerned about Jason's business practices after Gerova. However, during the period of the CDCA, SEC and SDNY's investigations there were numerous defense strategy meetings with attorneys. Jason would explain his current business activities and more importantly who were his business partners and associates. Not only was I impressed with the names of the individuals but also proud that he had made the transition to have well-established partners. At those meetings he explained how he and his business partners had first planned and then executed the take over of Burnham even providing documentation that substantiated his claims. This continued during the acquisition of Wealth Assurance.

But another the question the Court I am sure has is that after being ostracized by Jason and his involving me in illegalities why did I consider bringing any transaction to him. My wife's view is that I was always trying too hard for his approval. Maybe so, but my action was also influenced by his helping me financially when in 2013 my wife and I were evicted from our home. Jason found and paid for a local hotel room where we lived for more than a year until my youngest son Jesse and his wife took us into their home. Although a generous act Jason informed my wife and I should not expect any further assistance. This divisive position also included no family interaction and never staying at his home. He claimed his business partner, Jason Sugarman (his partner in the Burnham acquisition plan), would object to any association with me. So I felt I could possibly repay some of my debt to Jason and he also was involved enough with credible financial businessman with the wherewithal to finance the bond deal I was proposing.

A factor that exacerbated my financial concerns was that just prior to this period I had severe medical issues having lost control of my arm. Fortunately, cervical spinal surgery was able to restore most of the problem. What continued were the lumbar and leg pains, which I continued managing by taking opiods. Not until much later did I realize I was addicted and how that addiction affected my judgment.

Having now attempted to fully describe my unique relationship with Jason let me turn to the facts of the bond deal itself. In trying to reestablish some financial security, in late 2013, my attorney, Michael Murphy introduced me to Peter Shannon, a businessman who was working for Messrs. Raines, Haynes and Anderson on a Native Bond issue. Both my

attorney and myself told Mr. Shannon of my background, I felt no need to hide it because a simple Google search would reveal everything. I made several suggestions to Mr. Shannon on how he might accomplish his goal. Mr. Shannon and Mr. Haynes began supporting my establishing an online presence for Nation American investments, which included their tribal alcohol distribution business. In order to understand why the prosecution is wrong about my intentions in Las Vegas it is necessary to explain the relationship between the parties and what they were looking to accomplish. The primary purpose of the Las Vegas meeting was to meet with Mr. Haynes in order to secure funding for his & Mr. Shannon's alcohol distribution business. Mr. Haynes business was to act as an intermediary between various tribes and their affiliates including the WLCC and non-native businesses. A look at Mr. Hayne's company's website illustrates the scope of his tribal business. Demonstrating the influence he had over various tribes his company was responsible for substantially all of the income received by WLCC from 2014 through 2018. Mr. Haynes and I came to an agreement to work together on using his tribal contacts including Mr. Raines to fund projects with tribal entities. In no way is the aforementioned intended to cast any aspersions on Mr. Haynes honesty. As both Messrs. Anderson & Raines testified he is an honest "Wall Street charging type". What I do hope to convey is that all of my actions and statements was passed through a series of experienced intelligent professionals.

In accordance with this idea Mr. Shannon instructed me to go to Las Vegas (I did not go there under any instruction or in agreement with Jason) as he had arranged a meeting with Mr. Raines who I had not yet met. During the lunch meeting Mr. Raines explained to me that he was the development officer for the Wakpamni Lake Community Corporation (WLCC), which was owned by a tribal community entitled to sovereign immunity. I learned that sovereignty would allow the WLCC to issue its own bonds to finance the alcohol distribution business proposed by Messrs. Shannon and Haynes. After the lunch meeting with Mr. Raines, Haynes and others, I was introduced to Mr. Anderson. After being asked to the meeting but well before it occurred I had called Jason to ask if through Burnham he would have any interest in Native American bonds. Although he expressed an interest he declined to meet with the Wakpamni representatives until months later. I later learned the reason for this was because he was looking at other avenues to finance certain purchases he and Sugarman wanted to make but when those fell through the Wakpamni bonds took front and center in his mind. Therefore, I continued to work with Mr. Shannon after the meeting on attempting to find alternative financing sources for Native American projects. One of the entities being developed for the online activity was tentatively named Sovereign Nations Development Trust in the prepared material. Because I was incurring expenses for these activities including legal fees and web site development, I used the name for the company to receive the commission I hoped to receive many months later. With the same contingent of lawyers and service providers I continued to prepare brochures in an attempt to keep Jason and the Wakpamni engaged with each other. All of the documents I helped edit were prepared from information provided by Jason, Haynes or Raines.

There is no doubt I put too much weight in the fact that peerless firms audited the financials of Wealth Assurance and Valor Life. In retrospect I should have questioned why outwardly appearing substantial businesses did not have better corporate governance. The now obvious evidence of imperfect corporate actions is that the same officer was acting on behalf of all the participants. Naively, I mistook Mr. Dunkerly's omnipresent

roles as tacitly verifying that Wealth Assurance Private Client (WAPC) was a subsidiary of Wealth Assurance Holdings (WAH). Supplementing my belief that Jason had told Mr. Anderson and I the truth about the companies' affiliation was Jason as an owner of the Burnham holding company had Mr. Anderson appointed as Burnham's attorney. As Burnham's attorney he could easily have confirmed the fact with Mr. Dunkerly who was an officer with all three entities. I believe Mr. Anderson did not inquire because he found it impossible to conceive that Jason would lie about such an important fact. Yet Jason did fabricate the relationship of the companies to Mr. Anderson and me, and I foolishly passed this information on to others.

Further confirmation of the legality of the WAPC annuity was Jason's hard line negotiations on the amount of commission to be paid for finding the buyer for the annuity. To justify the amount of the commission I had to research the private placement annuity insurance fees paid by the industry. Further, I pointed out that I was receiving only a fraction of the proceeds with lawyers and others were owed the majority of the payment. In what I thought was a further safeguard I insisted any payments be from Wealth Assurance since as its agent I was not receiving funds form a securities offering. I drafted and sent a commission agreement, which, despite repeated requests, Jason never returned. A further issue between us was his insistence that I could not be an officer of the entity receiving the commission. His stated reason was my presence would cause concern with the accountants when Wealth Assurance's financial statements were audited. So when Mr. McMillan called me looking for work, it was an opportunity to do a good deed and accomplish Jason's request. The aforementioned discussions and negotiations between Jason and I is what caused me to accept the validity of the annuity transaction. I first learned of the change as to which company was going to provide the annuity on a conference call with Jason and Mr. Anderson. At this point I had no reason to doubt the legitimacy of WAPC. Just like Mr. Dunkerly who testified that he had no reason to doubt the legitimacy of the transaction until he saw the transfers to Thorsdale, I also had no reason to doubt Jason. However, unlike Mr. Dunkerly I never knew of the transfers to Thorsdale because as Mr. Dunkerly's testimony made clear I had no knowledge of those accounts.

Never was it my purpose to hide my involvement in these transactions form authorities. Although I chose Mr. McMillan as a favor to him for administering the Sovereign Nations Company, I knew he would always be truthful with authorities. Mr. McMillan called me when contacted by the government regarding Gerova. I told him his role was blameless and he should be truthful about our relationship. I introduced him and paid for his attorney who secured an immunity agreement.

Another misperception is being applied to the use of encrypted testing. Up until the Gerova indictment where on a suggestion by Jason's attorneys to use encryption, all my texts and emails where openly available. There was no use of encryption by me during the time of the transactions. The government's evidence shows my email and phone information. My background was not hidden from the people I dealt with in these transactions. There is also an inference that I hid my background by using the name my Greek family and friends called me since childhood. Numerous meetings with third parties with the witnesses and I stand as verification of my openness.

Perhaps more thoughtful due diligence would have allowed me to prevent channeling the funds away from the stated agreement. As. Mr. Dunkerly testified that until after the money flow started to Thorsdale he believed the plan was legal. However, it would not have changed the most egregious aspect the scheme, the illegal sale of the bonds to the Hughes clients. I accepted that the pension fund clients were being independently advised because of the standing of Burnham as an old-line institutional firm. I did not know Jason's agreement with Morton about the bonds or that Hughes Capital Management was not a Burnham client.

Information about the bond issues was shared freely between Mr. Anderson and I. On reflection I should have been more aggressive in coordinating with him installing investment safeguards. For example, a collaborative approach could have changed decisions when informed of important prior agreed to arrangements. Two critical points were the change from WAH to WAPC and the second bond offering from a WAH subsidiary to Messrs. Archer and Cooney. Plausible explanations where given on both changes but in hind sight now I ask myself why was I not told in advance. The only explanation is Jason was concerned I would question the bone fides of the transaction to Mr. Anderson.

My wife and I did not live in a luxurious fashion ascribed to my son. As I previously stated we were trying to rebuild towards financial security after so many years of my being away. There are disbursements which if not fully explained appear to create a different impression. For example, BTI Jewelry may be a wholesale jeweler but I knew it as a licensed pawnbroker where my wife and I had received loans and later repaid on jewelry including her wedding rings. Also subject of confusion are the cars, which were both used and repossessed after the indictment.

An accounting would show that of the money I directly received over half paid for various expenses for Native American projects sponsored by the WLCC. Trial exhibits showed that most of the commission was paid to others including the attorneys and others who participated in preparing the documents. These expenditures were part of my building relationship with Messrs. Raines, Haynes and Anderson. We had mutually committed to working on various other Native American projects. These projects included an Indian health care facility, a burial insurance program and a wildfire fighting service, none of which Jason was to be involved in. For instance the cost of the Las Vegas trip for tribal youngsters regarding the martial arts program we were trying to set up, when you add in the cost for the youngsters, chaperones and trainers it is well over $30,000.00. I would be glad to demonstrate to you that the other programs with the WLCC ran well into the hundreds of thousands of dollars. So unlike your findings in the Rule 29 motion I did not personally receive close to the amounts you credit me with. Even after the Gerova indictment my relationship with all of the parties I knew continued. In part, I believe this stemmed from my aggressively pursuing payment on the bond issues for the WLCC.

The above is not to re-litigate the case; rather it is an attempt to show you the steps I took so I would not again be in this position. As shown at trial there was no direct evidence of my involvement, however, your charge regarding conscious avoidance was a moment when I had to reflect on how I failed yet again to be a good parent. I should have considered his actions in the Gerova matter where not only did he commit a crime but caused me to assist him. Again, it was my error not to see what should have been obvious.

As a parent it is difficult to admit that the child you loved and admired lied to you and those lies left you exposed. My regret is not seeing that the pieces just did not fit together as neatly as I wanted to believe.

I ask myself what should have been the demarcation line between reasonable expectation and conscious avoidance. Should I have questioned why Dunkerly was the officer of all the companies? However, I chose to believe Dunkerly because he was an inner circle executive of the Sugarmans and would provide the necessary corporate governance. The second event was an uncomfortable moment when Tim Anderson told me that Archer & Cooney were the buyers of the second tranche. The fact Jason did not tell me about the buyers was especially worrisome. Again I was comforted when I was told they were temporary holders pending the Sugarmans control of another insurance company, which was the intended purchaser. Jason's maintaining to Anderson and I that there was demand for the bonds seemed reasonable given the bonds were sold pursuant to the trust indentures. I was not informed of Jason's agreement to finance Ms. Morton and never knew of Mr. Hirst being involved.

If there was to be a moment of clarity on Jason's improper intentions it occurred when the interest on the bonds remained unpaid. The WLCC representative requested I intercede with Jason so the payments were made on the bonds. At that time I became aware there was a serious issue in the structure Jason had created. Not only were the excuses flimsy for non-payment but Jason also became hostile towards me because I was pressing for the payments. I took the hostility as defensive measure not wanting an inquiry as to why an affiliate of a substantial company like WAH could not make timely payments on the annuity with mutual release. Perhaps earlier action by me would have allowed a receiver to recover a substantial portion of the assets of the companies, which appear to be still active and very substantial. It was the moment fear struck me in that I was in more trouble than the Gerova charge, which I knew I would be pleading guilty to make right the situation I caused. Unfortunately experience had shown me in the WLCC matter that I would be drawn in regardless of the facts. It would be impossible for the investigators prejudiced by the CDCA matter and Gerova to separate my action form those of my son. In addition, my background would not permit an unbiased review by a jury. The news of your decision not to allow the Gerova matter to be presented at trial was gratefully received. Until discussing trial strategy I did not realize it would limit the ability to demonstrate the alienation between Jason and I.

Given my medical conditions and having seen the effect of prison on an older man, I tried to prepare myself for the sentence to be served for actions in Gerova. Statistically I realized that finishing my term would be unlikely but worse would be to be sent home an invalid to a family already devastated. Therefore, I had major surgery just prior to my surrender, which reduced the impediments I had before adjusting to prison. Unfortunately, as your Honor knows, my planning did not survive unfortunate accidents while in prison. I also became addicted to opiods during this period. Although I received them legally through prescriptions I was hopelessly addicted to them. The reason my Gerova PSI says no illegal drugs is because I was receiving the opiods legally but that does not minimize my addiction at the time. I respectfully ask your honor take my medical condition and opioid addiction into consideration in your sentencing of me.

Finally your Honor, I want to apologize to this Court for my actions. There is no logical explanation as to why I find myself in this situation. I truly believed on release from prison I would never be charged with a crime again. I thought my 17 years was a terrible price to pay. I did not realize that the true price was that my absence took a moral compass from my two older sons. Ultimately, the responsibility is mine because of the hubris in my actions of four decades ago, which lead to my not being there for them. I am chagrined and embarrassed by the legacy I have left. Although not an adequate excuse my having spent almost 17 years of imprisonment left me traumatized. Coming back to my wife of almost 50 years and sons I promised them I would never be put in a position where I would leave them again. Yet I am again before this court pleading to be allowed to present a full explanation of why I failed in order that you and those I love and respect can fully appreciate my actions. I beseech the court to review the circumstances I am now presenting, which adds to that which you have heard. I wish to convey by this letter how sorry I am that I did not use tough love thereby saving my family and all others from suffering of this chaos.

I thank this Court for the consideration it has shown me before and during trial.

Most Respectfully,

John Galanis

C. Chandra Galanis
1575 Golfcrest Pl.
Vista, CA 92081
415.517.8077

October 9, 2018

Honorable Ronnie Abrams
United States District Court Judge
United States Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. Galanis et al.,

Dear Judge Abrams:

As you are aware this has been a sad and difficult time for my family and I hope in this letter to give you my perspective on this tragedy. My husband, John, is a peculiarly, complex man who may seem self-assured, but do not let his demeanor fool you, as in truth, he is a terribly insecure individual. He is beyond devastated by what suffering he feels he has brought onto his family. In his usual manner, he blames only himself for what gave rise to his conviction over thirty years ago and what effect it has had on our two oldest sons. Long before the start of the matters now before your Honor, John grieved for the loss of his relationship as a parent with our two older sons. Because of the shame in causing them a difficult start in life as teens, he did not have the moral standing to guide the two, young men properly in their careers. The enigma is there is not a man more loving, selfless and devoted to his family and closest friends than John P. Galanis. He is such a gentle man, despite his tough exterior, with such a gentle way.

How things could have gone so wrong will haunt me for the rest of my life. I would like to go back to the early days of this family to give you a measure of the man, not the broken and far more fragile man before you now, but the man of passionate action who coached the baseball, football and soccer teams of his sons. And most importantly, he was always there when they were small and he made them feel safe and always made them feel important. A telling example of this is when our sons walked into his offices, the staff knew to hold calls because in his office there was a large cabinet, loaded with Playmobil figures, GI Joes, children's books, ships, blocks and puzzles. Upon their arrival, he would open up the cabinet and you would always find him on the floor for one to two hours at a time, completely engrossed in

imaginative play. He was truly delighted to be with them, be one with them, and they knew it.

It was that level of interaction and closeness that made it so difficult for each of our sons to accept and deal with their Father's long period of incarceration. The hole was just too large and deep. Despite John spending every day he was away either writing them or on the telephone to help in every aspect of their lives, from homework to personal problems, each of our sons found very different ways to accept and deal with his absence. Jason became obsessed with trying to succeed in business, as if to vindicate the family from John's conviction. He over many years entered into a relationship with Monet Berger and ultimately married her. She detested my husband even while he was still incarcerated and, on one occurrence, because I put Jason on the phone with his Dad at my house, she berated Jason to such an extent that he was crawled up into a ball sobbing on a chair. When John was released, there were scant family gatherings, whereupon, on one occasion, John spoke to her about her excessive spending and Jason's need to keep up with the amount of money necessary to maintain that level. And after that, John was not allowed in their house unless she was in NY and family gatherings were over forever. They simply stopped working together for many, many years. They spoke on the phone, but nothing was ever close again. Derek took a different direction because to him material success only led to tragic consequences, which resulted in very deep, conflicted feelings about John. I think Derek felt before Jason and John separated that Jason was always the chosen one for business and all things where you might vie for someone's attention and respect. Derek, I do not believe, ever understood that a business plan took endless months with enormous considerations to complete. He saw business as simplistic. He also had a great deal of anger and impatience with his Father and ideas. He also demanded a large sum of money from his Father for work he had done that was not an amount we had. He never believed this and swore to get even. I believe Derek has some bi-polar issues in general and we all tried to help by compensating, which was the worst thing we could have all done as a family. Thankfully he became engrossed in perfecting karate, kickboxing, etc. and became a much-admired teacher of these sports. Jared, who was only eight when John went away, became the scholar athlete who would spend hours talking to his Father about philosophical subjects such as the duty of man to be generous to those less fortunate. And yet, this fine man with several law degrees and a half completed Chartered Financial Analyst degree got looped into a case and should not have been, in my opinion. Jesse and John constructed a lasting bond based on immersing themselves in hobbies, which John miraculously managed to stimulate an interest in via the phone and visits, from salt-water aquariums to snowboarding. Jesse is the youngest of four and has stayed away from the business pursuits of his brothers as a man. Sometimes I believe the smartest men I have known never lose the child within. I certainly know John didn't. All children loved his company as he genuinely loves theirs. John's personality is massive, almost like a world-force, and I do believe that each of his children stopped growing when he abruptly left them with this enormous and empty space. We all tried to keep our family whole and good with all its warts, but sometimes wounds occur that cannot be fixed.

Not only was John devoted to our children, but also he gave generously of time and money to youth-orientated educational and recreational projects. By way of example, for several years in a row he was a significant donor and fund-raiser for the Brunswick School in Greenwich, CT; he sponsored and chaperoned ski and hiking trips for up to thirty children at a time during school vacations; he donated sufficient funds to complete the Greek Orthodox Church of the Archangels school and recreational center in Stamford, Ct; he built the science building at Burke Mountain Academy in Vermont and created a fund for annual Christmas presents for children in Ipswich, MA, at his hometown, Greek Orthodox Church. I deliberately have not listed the numerous acts of generosity he gave to individuals in need of help. All of this was accomplished with money earned from businesses, which was not obtained from criminal conduct; he had earned the money he gave so generously. Despite the ensuing years of severe financial issues, neither John nor I regret having given the hundreds of thousands of dollars to organizations and individuals that have remained in our lives. John rejected my suggestion to request family and friends to write to you as improperly imposing on them after they had written to Judge Brieant and the parole board many years ago.

Much changed after John was indicted on state charges, starting with bail conditions, which permitted him only to live in the New York City area, while the family was in California. Since we had virtually no money, he slept on friends' sofas for almost two years, so whatever funds were available were used to support three of the children and me. Confirming that there was no money, Judge Brieant, despite the Federal government's request, did not impose any restitution, only imposing the mandatory fine of less than $1,500. Through the combined generosity of several of John's friends and Jason, throughout much of his detention, I was able to raise our two younger sons. I do believe that John felt he owed Jason a large debt for all he had done through a good deal of his incarceration. This would account for him helping Jason years later in ways the government does not see fit, but John saw no wrongdoing.

For the first part of his incarceration, John was very hopeful that he would be paroled within a time period that would allow him to assist the family. As time wore on, the effect of having the parole board close out any hope drained his enthusiastic spirit. The most debilitating action of the parole board was when the jury foreman contacted me and offered to attend the next parole hearing. He stated the jury was deadlocked on a number of the charges and that they only voted to convict based on the belief, since the case was primarily tax related, that John would serve no more than two years. The foreman contacted me again after he and a number of the other jurors learned John had been refused parole. This man flew out to CA, on his own money, to appear at the next hearing and to try to exert some positive influence on the board. Upon notification that the foreman was to appear, the hearing examiner cancelled my husband's hearing at the last moment, but not in time for the foreman to put off his trip, as he had already arrived at the prison.

After two difficult bouts with breast cancer, on the recommendation of a mutual friend, I wrote Representative Henry Hyde who was most gracious and personally looked into John's case. The ensuing investigation showed serious deficiencies in the manner the case was managed which resulted in a parole for John. However, our hopes were dashed again because he was not to be released on the companion state case. I grieved as this creative, giving man was crushed into a nervous breakdown realizing his ability to guide his two older sons was now gone and he would spend several more years in prison.

I do believe that my husband's many physical disabilities over time have affected his mind. He has been in continual pain for many years from both a family history of severe arthritis, back issues and old sporting injuries. Over time, walking normally became impossible, so he walked with a cane, but sometimes just got stuck in mid stride from pain and balance problems. A cervical fusion several years ago restored some of his balance and use of his right arm. Then a back surgery completed had made a huge difference. The back and leg pain were almost gone and soon we thought he will be able to walk normally. So this new normal, for him, way of walking will no longer aggravate his remaining spinal issues. He has been denied special shoes, which I have at home, after a foot surgery right before being incarcerated that today would still be vitally important. His back has been re-injured in NY as you know and I hope to nurse him at home before he is completely wheel-chair bound at all times.

When I think of this man I married almost fifty years ago, I see a collage and think old world gentleman, always positive in nature with the glass half full, always living by his word, handshake deals, a naive belief in people to a fault. Demonstrating my perspective of him, despite surprise by their colleagues, many of the lawyers and other professionals that have represented him and a prosecutor are still his friends over fifty years later. They have followed our children's strengths and weaknesses since they were babies and have stood by our family in this difficult time. John and I have gathered strength behind our years. We own this strength, we have benefitted from it. Behind our years we have evolved, and we have confirmed values that do not come when you are twenty to fifty years old. They do not come until you have lived many years. Please see if there is any way you can have my husband out of prison within his expected lifetime. There is no chance of a re-occurrence ever, and hopefully, the punishment will reflect he did not conceive of the crime. We will walk with as much grace as possible through whatever decision you make.

Respectfully submitted,

C. Chandra Galanis

C. Chandra Galanis

A-5097

Jesse Galanis
1575 Golfcrest Pl.
Vista, CA 92081
415.517.8077

October 9, 2018

Honorable Ronnie Abrams
United States District Court Judge
United States Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. Galanis et al.,

Dear Judge Abrams:

I am writing this letter in support of my father, John Galanis, and to ask for your leniency in sentencing him in the case before your Honor.

While my father was incarcerated, when I was very young, throughout the years that he was away, he always made arrangements with family friends and then my oldest brother so that the three of us and mother were taken care of. Although we had a non-typical relationship because of his incarceration, my dad called me on the telephone every chance he could. We would talk about how my days were going, what was happening at school and what I was working on with my aquariums (he and I share a love of fish). My father also sent my brothers and me numerous newspaper and magazine articles in the mail weekly. I remember how personal his choices were and always directed at subjects that each one of us was interested in, and always providing notes with words of wisdom and encouragement. They were our way of connecting and building a father-son relationship, even with the miles and difficult circumstances that kept us apart.

My father and mother remained married throughout his legal problems, which helped greatly in stabilizing the lives of all of us. And my mother would bring my brothers and I to see my father for visiting as often as she could. If we had a bad visit we cried all the way home, and if we had a great visit we cried all the way home. It was a no win situation. Although my father was not always physically in my life as a child, he was always there for me emotionally and always made sure that there was dinner on the table, so to speak. So, in retrospect, perhaps he was there even more so than many of my friends who had fathers who were not incarcerated, but

who were emotionally unavailable or who were too busy with work to be a part of their lives.

My father and mother lived with me for the year prior to his incarceration. It was a true joy watching how fantastic he was with my daughter. He is magical with small children. If my father is able to come home after his current sentence, I would love nothing more than for him to live with me and take care of my daughter while my wife and I continue to work. It is terrible and heartbreaking to me that he may never see my daughter again as a free man. I can only hope that you will take into consideration my experience with John as a father in your sentencing decision.

Please just know that our family needs him and loves him very, very much. Thank you for your time your Honor.

Respectfully submitted,

Jesse Galanis

PELUSO & TOUGER, LLP
ATTORNEYS AT LAW
70 LAFAYETTE STREET
NEW YORK, NEW YORK 10013

TELEPHONE: (212) 608-1234
FACSIMILE: (212) 513-1989

January 3, 2019

By Hand
Honorable Ronnie Abrams
United States District Court Judge
United States Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. John Galanis,
16 CR 371 (RA)

Your Honor,

It is the end of a long trial, and the judge is reading the charge on the law to the jury. There is a seat in the middle of the room, in perfect view of the jury. The man in that seat is 75 years old and he has been here before. But this time, he doesn't quite know why. He has sat through the testimony and listened as witness after witness described the fraud perpetrated in this case but his exact role in this fraud specifically his *mens rea*, his criminal intent is not clear to him. He has never before not stepped up and taken responsibilities for his misdeeds but in this case he is still not quite sure what he did wrong. He listens intently as the Court begins to charge the jury on the legal theory of "conscious avoidance." The words begin to echo in his head and emotions start to erupt and a light of understanding begins to flicker becoming ever so brighter as he continues to listen to the Court describe the law. Just last night he sat in jail and wondered to himself how did he get here? What led to him sitting in jail, failing in health, already serving a sentence that will probably mean he dies behind bars. And now on trial for distinct new charges that could lead to even more time in prison if convicted, where did he go wrong? What led him to this point? When the Court is finished with the charge he turns to his lawyer who himself had noticed the changed facial expressions of his client and says I now know what I did wrong and why I am in prison. He understands his mistake and realizes where he went wrong. It all begins to make sense.

This letter and the letters attached to this a letter[1] are an attempt to detail the answers that came to Mr. Galanis at that point. The answers are quite complicated as almost everything is when dealing with the life of John Galanis. For there is nothing simple, no straight lines from one point to another in this life. That is why this Court has the most

[1] Letters from John Galanis, his wife, Chandra Galanis and his son Jesse Galanis are attached as Exhibit E.

difficult of tasks, of deciding what is the sentence that fits Court's mandate to "to impose a sentence sufficient, but not greater than necessary' to accomplish the goals of sentencing," as stated in Kimbrough v. United States, 128 S.Ct 558, 571, 169 L.Ed 481 (2007).

The Court must decide what sentence is just considering all the factors that bring John Galanis before this Court for sentencing. Most sentencing letters at this point turn to a detailed analysis of the Guideline range and what sentence they recommend. While Mr. Galanis has objections to the Guideline range calculated by Probation in this matter and the one that will in all likelihood be argued for by the government. The importance of the exact number of months that the Guidelines recommend in this matter is quite reduced due to the nature of the crime and all the many different sentencing factors that are present. The Guidelines are based on a stark cold calculation of numbers and fail to take into consideration any personal factors of an individual defendant except his prior criminal record. In this case no plain mathematical calculation can lead this Court to a just sentence due to the myriad of individual, unique and personal factors that this Court must with all due respect consider before coming to a just sentence. Because the sentence this Court renders may indeed mean Mr. Galanis will die behind bars. This Court has a myriad and broad range of sentencing options open to it and in fact the Department of Probation in their sentencing memorandum recommends a large downward departure from the Sentencing Guidelines they used.

John Galanis' life began rather modestly in a small town in Massachusetts. His parents owned and operated a diner, which supported the family with a comfortable middle class life. Even in his youth, John Galanis was fiercely loyal and someone who would stand his ground in support of himself and others. Many have told me of stories of John Galanis stepping in and taking on numerous boys by himself because John didn't like the way they were treating someone—someone who was a friend or not, family or not—who was not able to defend themselves. John would get involved in these fights not always because he thought he could win, but because he figured he could take the beating better than the boy he was defending. And, he never shirked responsibility for his actions. He never looked to blame others. Fault or no fault, if caught fighting by the principal he took his punishment without arguing that the initial encounter was not his fault or others were the instigators. He didn't blame others for what he had done.

These personality traits have been with him his entire life and have always determined the way he acted. When he was first indicted for financial crimes in this district years ago, he testified for days on end before Judge Brieant describing in detail what he did and who was responsible for the alleged crimes. He spent hours on the witness stand (time that most might have dedicated to their own defense) reasserting his culbability and defending his codefendants' faultlessness. And in the end, he took the beating. He did not blame others, he did not lie to protect himself, he told the jury what happened because that was the right thing to do. Others should not be convicted of a crime and go to jail for what he did. In the end the jury convicted him, but two of his co-defendants

who he had stood up for during his testimony to his detriment and described to the jury how they were innocent were acquitted. Judge Brieant even commented during his sentencing of John Galanis how impressed he was with Mr. Galanis and that his testimony rang true to him.

Mr. Galanis' fierce loyalty to those he is close to is further evidenced by his actions in the Gerova case.[2] Mr. Galanis' desire to repay his son, Jason Galanis for Jason's devotion to his mother and brothers in the absence of his father was overwhelming and distorted his thinking causing him to act blindly and criminally and meet his son's demands. Here again Mr. Galanis did not blame others for what he did or make excuses. John Galanis pled guilty and stood before Judge Castel at sentencing and admitted exactly what he had done. John Galanis did not lie to the Court and blame others as other of his co-defendants did, he stood there and admitted his criminal conduct and took his punishment

But still how did John Galanis become part of the Wakpamni Bond deal and what is he guilty of? To answer that question one must go back before anyone had even heard of the Wakpamni. For the genesis, the roots of John Galanis' involvement begin at the time of Gerova. The Gerova matter led to another break up of the father/son relationship between John and Jason Galanis. And, the Court must understand this was not the first time that these two individuals had butted heads and decided to go their separate ways both in their personal and business lives. Both Jason and John Galanis are very proud, obstinate and emotional characters. They do not take being let down by someone lightly. In their minds, if one does not rise to the task presented by the other, the punishment of banishment is earned. This is not the first time this has happened in their lives and it wasn't the last. This separation between the two over Gerova was total and complete. John was never a welcomed guest in Jason's home, parties[3], trips, or life. He was persona non-grata to Jason. The proof of this can be found in the testimony of Mr. McMillan who testified that there was a break in the relationship around the time period of Gerova. For years, the two danced around each other with no meaningful communication. Jason did not want his father around. Jason's wife, Monet literally had no tolerance for John and Jason felt that John's involvement in his business deals would only be a detriment due to John's criminal past.

So how did John Galanis find the Wakpamni if not from Jason? While there is some inkling of the beginnings of this relationship in the trial evidence, most of the story was untold due to the fact that to tell the whole story would have led to John's entire criminal past being placed before the jury. The defense made the strategic decision to not let this occur. In fact the story is not how the government tries to paint it. The truth is that

---

[2] Attached as Exhibit A to this letter is the sentencing letter filed by the defense in the matter before the Hon. Kevin Castel.

[3] Just to remind the Court of the testimony of Jason's birthday party, there was one conspicuous person absent from the guest list, John Galanis.

Wakpamni through an intermediary sought out John Galanis not vice versa as the government alleges.[4] The genisis of the Wakpamni deal is when John is introduced by his friend and attorney Michael Murphy to Pete Shannon a Chicago businessman. Mr. Shannon was a businessman from Chicago who had a liquor distribution business and was looking to expand that business into the Native American community, mainly to supply the many Native American owned casinos with liquor. Mr. Shannon had an already existing relationship with Mr. Haynes and Mr. Raines. This is undisputed at the trial. Mr. Shannon had full knowledge of John Galanis' criminal history. Mr. Shannon, Mr. Haynes and John Galanis began to discuss many ideas on how to finance this business. No final decisions were made during these discussions. As the discussions proceeded the Wakpamni became the subject of the discussions due to Mr. Raines' relationship to the tribe. The actual deal was still in the embrionic stage of development. But John knew at some point the deal would need financing. Having nowhere else to turn he sought out his son, who he thought and the evidence at trial clearly demonstrated had enormous power at a highly respected financial firm, Burnham Securities, and with no where else to turn due to his past, John turned to Jason for help once he found the Wakpamni. There was no collusion between the two at the beginning, Jason, never one to turn down an opportunity to make money accepted the overtures.

As the discussions continued, Mr. Shannon informed John that there was a Native American Convention set to take place in Las Vegas and he had arranged for John to meet Mr. Raines who was the financial representative of the Wakpamni Lake Community Corporation (WLCC). (Jason Galanis had nothing to do with arranging this meeting). John accepted the invitation and agreed to meet with everyone in Las Vegas during the convention.[5] John and Jason Galanis did not as the government would have you believe single out the Wakpamni to join a nefarious conspiracy to sell bonds and pocket the money. The Wakpamni through Mr. Raines and Pete Shannon were interested to meet John Galanis and that is why the Las Vegas meeting took place. The infamous letter that the government keeps touting as proof that John and Jason Galanis picked the Wakpamni to be the sucker Native American tribal group to serve as the source of funds for their illegal schemes, is nothing more than Jason informing others that he had an idea to finance deals through the sale of Native American bonds. The reason Jason had the idea is because John Galanis with no where else to turn and knowing that the sale of Native American bonds would be difficult due to the soveirgn immunity factor had contacted Jason (because of his role at Burnham) and run the idea by him. John Galanis had no idea when he went to Las Vegas to meet with Mr. Raines and others that he was beginning a road that would lead him to a home behind bars. He was not privy to Jason's plan at all.

The arranged meeting took place in a Las Vegas hotel over lunch as testified to at the trial of this matter. During this luncheon many things were discussed including John

---

[4] See Email of Peter Shannon dated August 14, 2014 attached as Exhibit B.
[5] Many of these facts are supported by the testimony of Mr. Raines and Mr. Anderson.

Galanis' past, as this was not a secret due to Mr. Shannon's existing knowledge.[6] It is at this meeting that John Galanis and others first discussed the idea of a bond sale to finance the liquor deal and its positive ramifications due to the sovereign nature of the WLCC. This was as was brought out by the evidence at trial was one of many ideas discussed. It was at this meeting that John Galanis brought up the influence his son had at Burnham Financial. Whether John used the correct title or even if it is indeed true that Jason Galanis was not employed at Burnham there is no disputing that Jason Galanis had the power to decide what business Burnham was going to support and which ideas it was going to turn down. This is what is important in this situation, Jason's actual title is not. John was telling the people gathered at that luncheon that his son was a powerful figure at Burnham and that he could try to convince him to take on the financing of this deal. There is no lie there. There is no intent to defraud the WLCC. John was just stating a fact, that Jason had a great deal of influence at Burnham. This is an indisputable fact.[7] The semantics might have been wrong, but the influence Jason wielded was not an exaggeration of the truth. Thus, for the government to argue that proof of John Galanis' criminal intent can be garnered from this meeting is misplaced and unfounded in fact.

Further proof that John Galanis did not seek out the WLCC because he and Jason had already hatched a plan to sell Wakpamni bonds is the fact that as Mr. Anderson testified the bond deal wasn't the only idea discussed in las Vegas. Many other ideas were. If John was sent to Las Vegas to get the bond deal going by Jason, the bond deal would have been the main topic discussed and it clearly was not. If Jason had sent his father to reel in the Wakpamni in order to efficectuate a bond fraud John did a terrible job. As Mr. Anderson testified it was not until after this Vegas meeting occurred the idea started to germinate and ultimately all agreed upon the WLCC selling bonds. Mr. Anderson testified that Jason needed just as much convincing to do the deal as the other parties involved. Mr. Anderson made it quite clear that there was plenty of negoatiation that had to take place before the deal was agreed upon. This proves that there was no

---

[6] The defense did not make this fact known to the jury because of the obvious negative ramifications but that does not take away from the truth of what occurred at this luncheon. The defense would have brought this out by recalling Mr. Raines and Mr. Anderson or calling Mr. Haynes as witnesses once the Court changed its 404B ruling but the Court would not grant an adjournment for that purpose. Furthermore it is entirely disingenuous for the government to argue that Mr. Raines, Mr. Haynes and Mr. Anderson did not know of John Galanis' past. In today's day and age no one enters into a business deal such as this without doing their own due diligence and any google search of either Jason or John Galanis would immediately inform the searcher of John Galanis' past. In fact Mr. Anderson even testified that he did do due diligence on this deal. Furthermore, if the government seriously disputes this issue a hearing should be held wherein the attendees of the luncheon can be called to verify what was discussed at this meeting relative to John Galanis' past.

[7] Jason Galanis was an organizer and 1/3 owner of CORFA the acquisition vehicle for Burnham.

agreement between Jason and John Galanis prior to the luncheon meeting in Las Vegas, if there was Jason would have needed no convincing. He would have acted like a cheerleader pushing the deal forward not like someone who had not decided yet whether to move forward or not.

While in fact Jason ultimately decided to pursue the Wakpamni deal he did not do so until all the other avenues he was pursuing to finance his Burnham expansion plan fell through. Because as the SEC can verify, at this same time Jason was negotiating with a man named Elliott Broidy to finace his plan to purchase Valor but those plans disintegrated just as the Wakpamni deal was coming into focus. So Jason Galanis reluctantly put aside his personal warfare with his father and decided to work together on the Wakpamni deal for one reason, Jason needed the money. The mistrust between the two never subsided, especially on Jason's side of the feud. While Jason decided to work to find buyers for the WLCC bonds he did so not because of his father's involvement but despite it because he felt he could make money and use the funds to his and Sugarman's advantage.

Further proof that there was no pre-planned idea by John and Jason Galanis to steal the bond funds from the Wakpamni is that as testified to by Tim Anderson, Tim Anderson does not even speak to John Galanis for 6 weeks after Las Vegas yet it is Tim Anderson who sends out a memo 2 weeks after Las Vegas promoting the bond idea. It is illogical that if John and Jason Galanis were working as a team in a pre-planned quest to get the Wakpamni to issue bonds so they could steal the proceeds that they would stop communicating with the Wakpamni's counsel and adivsors and that it would be the Wakpamni's attorney Tim Anderson who sends out a memo pushing the idea of selling bonds two weeks after Las Vegas. Mr. Anderson sent out this memo pushing forth an idea that was hardly discussed in Las Vegas without talking to either John or Jason Galanis. This further demonstrates that Jason and John Galanis were not the protagonist of the Bond idea as they weren't even the initial proponents of the idea, the WLCC were through their attorney, Tim Anderson.

Mr. Anderson further testified once the idea of the WLCC selling bonds was accepted, and John made the introductions and connections, and Jason became involved, John Galanis' involvement in the deal began to lessen and Jason took over. And, as Jason has described to the Court in his letter[8], it was Jason's goal not to let his father into his world, meet his partners or anyone associated with this deal. The only role Jason Galanis wanted his father to have was that of the go-between for himself and WLCC. Jason needed John because it was John who had brought Mr. Haynes and Raines into the deal and could maintain the connection for Jason. But, as far as Jason was concerned the less his father was involved from this point on the better. Jason needed him, but he didn't want him. Mr. Anderson's testimony makes this quite clear.

---

[8] Attached hereto as Exhibit C.

As Spring turned to summer and Tim Anderson signed on to represent Burnham and Greenberg Traurig through Heather Thompson, Rayceon Raines' soon to be wife got involved, John Galanis was no longer necessary, he was as Tim Anderson stated at p. 324 replaced by Tim Anderson because Tim himself now knew and was related in some way or form with each party involved. As the evidence shows John Galanis' became an afterthought. His involvement in the email chains was reduced. His telephone contact went down. As the evidence shows he had served his role to bring the two parties together. And, either side only used him when there was a really big problem and he was brought in to soothe Jason down. Because as Tim Anderson stated, John you could joke with, Jason not so much. Jason by almost all the witnesses was bossy and hard to get along with and wanted things done his way so John was brought in when there was a problem. See page 323 & 325- 326.

The fact that Jason wanted to keep John from learning any facts about his own plans for the deal is further evident if one considers other factors taking place at the same time as this deal is being negotiated. During this same time period the fallout from Jason's failed Gerova investment was being played out and the investigation into it by government authorities had already begun. Jason knew he was in trouble and he also knew one very important fact. Jason knew that his father had already picked to protect his brother Jared over him. John had told Jason in no uncertain terms that if they were all indicted in the Gerova scandal, John was going to tell the authorities what he had done to save Jared from prosecution. John was not going to stand idle and let Jared go to jail for his actions. Jason knew this, Jason knew that John had picked Jared's freedom over his own. Thus, Jason Galanis was not going to give his father any further amunition to use against him by letting his father in on his scheme to defraud the Wakpamni and the investors in the bonds. Jason knew his father had become his enemy but he needed the money so he worked on the deal and kept his plans secret from his father. Jason practiced the old saying, "keep your friends close but your enemies even closer." Jason had his lawyers meet with John routinely to keep an eye on him and feed him just enough information to keep the bond deal going but Jason did not let his father know the truth because he knew one day his father would be sitting down with law enfocement explaining what happened in Gerova not for his own benefit but for Jared's.[9] Because of this knowledge of his father's intentions there was no possibility that Jason was going to let John into his circle of knowledge. Just as Mr. Dunkerly testified, Jason only gave out information on a need to know basis. And John Galanis had no reason or need to know Jason Galanis' plan and he in fact did not.

Furthermore, John Galanis wanted to keep up his contact with Mr. Haynes, Mr. Raines and the WLCC for many reasons, as he was negotiating numerous other deals that he had hoped would bring financial benefits to the Wakpamni and to himself. Thus there was

[9] In fact this is exactly what occurred. After Jared, Jason and John Galanis were indicted in Gerova, John sat down with law enforcement and explained how Jared had done nothing and that he, John Galanis had executed Jason's plan.

no reason for John Galanis to involve himself in any fraud on the WLCC.

There is no proof in the record that John Galanis had direct knowledge of what Jason Galanis was doing and what Jason's goal in this deal was. There is an assumption that there is proof in blood. Jason was John's son, so they must have been working together. The $2.3 million John received it is argued is proof that John was involved in the fraud. Well, the fact that there is a father/son relationship here in this instance means absolutely nothing. Yes, many fathers and sons have very good relationships where each knows the intentions of the other. But that is not the situation herein. Jason Galanis in his letter to the Court[10] makes it quite clear that he did not tell his father anything about his criminal intentions and that his father was never knowingly on the inside of the criminal conspiracy. The Court might doubt these assertions as just the post plea and post sentence statements of a son trying to help his father but I assure, you they are not and if the Court doubts the integrity of these statements I implore the Court to hold a hearing where Jason can come and testify under oath and describe his father's involvement and prove John Galanis' lack of involvement with the emails only Jason has. The Court I am sure will ask the question why should it believe these statements by Jason Galanis. He has lied so often in the past why is he not lying now just to help his father. The reason the Court can have confidence in the statements now being put forth by Jason Galanis is three fold. One, there is physical evidence to support each and every statement and Jason has that evidence in his possession. Second, the SEC certainly seems to be trusting Jason's current version of these events as they have interviewed him numerous times and an active investigation is on going based on Jason Galanis' statements. Three, is the timing. The Court must be asking itself why didn't Jason come forward with these statements before the trial and help his father gain an acquittal on the charges. The answer is that is how sour the relationship had become between this father and son. But now only after being placed in the position of knowing that his father will in all liklihood die in jail because of his actions Jason has realized that he must come forward with the truth.

Support for Jason's statements about the lack of involvement of John Galanis in the criminal conspiracy in this matter also can be found in the trial record. Hugh Dunkerly testified quite clearly that he never spoke to John Galanis. He testified that John Galanis was never at any of the meetings held to discuss the plans that were being put into effect in regards to the WLCC bonds. He testified that Jason was very protective of information about what he was doing[11]. Mr. Dunkerly himself testified that he didn't know Jason was stealing anything until after the first tranche of bonds and no one was more intrically involved in all of Jason's actions than Hugh Dunkerly. Witness after witness testified

---

[10] The verification of the contents of this letter is that Jason Galanis is now cooperating with the SEC and certainly realizes that he cannot lie to anyone about the facts of this case especially in communications with a court of law in the Southern District of New York.

[11] A fact that was verified by many other witnesses at the trial.

how they never spoke to, met or had any knowledge that a man named John Galanis existed. Michelle Morton never communicated or met John Galanis. Francisco Martin also never communicated with John Galanis. There is no proof in the record or in any of the voluminous Discovery to prove that John Galanis had any knowledge of what his son was doing. Jason Galanis as testified to by many was an island to himself operating by himself and barking out orders to people who followed them blindly for their own financial gain. Michelle Morton and Gary Hirst committed their own crimes knowingly. Hugh Dunkerly and Francisco Martin the same. They knew at some point exactly what they were participating in. Morton and Hirst knew they didn't get the approval from their clients to buy the bonds. Morton and Hirst knew that the purchase of Hughes Capitol Management and later on Atlantic Asset Management was illegal because of the *quid pro quo* involved. They knew what they were doing and chose to remain involved. But the only knowledge John Galanis had was information that Jason Galanis relayed to him. He had no knowledge of criminal acts being perpetrated. The people involved on his end were all lawyers or members of the WLCC. Why would he suspect any wrong doing. There was nothing illegal about the deal. The illegality was that unbeknownst to John Galanis, Jason had corrupted a legal transaction and turned it into a financial scheme to aid him and his partners to the detriment of all others.

Further proof is the people and companies that Jason Galanis had surrounded himself with at this time. These were not fly by night companies, they were top flight repected in their fields companies. The list of companies reads like a who's who of financial and accounting firms. John Galanis had no reason to doubt the honesty of the Sugarmans at this time. And there were top rated law firms involved. Why wouldn't John Galanis have some faith in what his son was telling him?

It seems however that we always come back to the $2.3 million, the government consistently points to the money, the jury certainly did as did this Court in its Rule 29 decsion. However, as the record makes clear the money, even though it is a very large sum is just the normal commission paid out in these types of situations.[12] Both Mr. Dunkerly and Mr. Martin made this clear. The government counters this argument by asking, if the commission was honestly earned why was no one informed about it and how come it is so much larger than everyone else's? The answer to this argument is found in who was paying the commission. There was no need to inform the WLCC or their representatives about the commission. Although Mr. Raines and Mr. Anderson testified that they assumed John Galanis would receive a commission they were not paying the commission so it didn't matter how much John Galanis got. Mr. Raines and Mr. Anderson cared how much the commissions were to the people they were paying because it came out of their money. But why would the WLCC be concerned with how much John Galanis got paid if his payment had no impact on them, which it wouldn't. There was no need or reason to make John Galanis' commission part of the closing documents because his commission wasn't being paid by bond funds. It was being paid

[12] A check of numerous websites and the evidence at trial verify this fact.

by Wealth Assurance (at least that is what John thought) because that is who he was helping. John Galanis was not assisting the WLCC he was bringing financing to Wealth Assurance. The only entity that had any interest in knowing how much John Galanis would get was Wealth Assurance because it was being paid by them and Jason Galanis and Sugarman controlled Wealth Assurance's finances so they were the only ones who had to know. John Galanis had no knowledge that Wealth Assurance Private Client (WAPC) was not affiliated with Wealth Assurance. How could he unless Jason told him so? And, it is clear from Jason's letter that not only did he not tell John about the true relationship between WAPC and Wealth Assurance, he purposely lied to his father about it.

The reason John Galanis' commission is so much larger than the WLCC commissions is because the funds brought to the WLCC were much smaller than the funds brought to Wealth Assurance. Thus, the commissions would be much smaller. As previously stated John Galanis' commission was well within normal guidelines of the industry. Especially considering that John Galanis was going to use most of the commission to in turn pay people who helped the transaction actually reach fruition.

Thus, this Court must also consider that John Galanis and his immediate family members only received a small percentage of the $2.3 million. Much of the money went to pay people who had worked integrally with John and others to help the Wakpamni bond deal and other discussed Wakpamni deals. For instance, John paid lawyers, publicists, printers and others through these funds. He paid commissions to others who had helped the deal. As you can see from the attached email from Pete Shannon he wanted his commission. Much has been made by the government that John paid for luxury goods and this is also far from the truth. John paid back some pawn brokers where he had pawned his wife's jewlers and some hotels where he was staying because he had lost his home.

It is all these facts when considered as a whole that demonstrate that the commission paid to John Galanis is not proof that he was involved in illegal conduct and was merely a sum he had rightfully earned and was going to be split with many others. If John Galanis was the co-mastermind behind the entire bond scheme with his son the question that should be asked is not why his commission was so high but exactly the opposite, why was his pay out so low. Jason got tens of millions of dollars that allowed him to continue his rich and lavish lifestyle. Living in multi million dollar homes and driving the fanciest cars made. John got to live in bargain hotels and then with one of his other sons and drive used cars that were ultimately repossessed. In financial cases it is always important to follow the money and it will demonstrate who was intricately involved and who was just a worker. Here, as in Gerova Jason got tens of millions and John got actually got less than half a million. This alone demonstrates John's lack of involvement in this conspiracy.

Jason's statements that his father was not involved in the purchase of Hughes Capitol

Management and later on Atlantic Asset Management and the sale of the bonds to clients of these firms is completely supported by the testimony at trial and the indictment itself as John Galanis is not charged with any counts relative to this activity. Jason Galanis purposely built a wall between himself and John Galanis because he felt he had to hide any nefarious intentions from his father because Jason Galanis knew that his father would some time in the near future be sitting in a United States Attorney's Office answereing questions about Jason's conduct. And, if John Galanis had first hand proof that Jason Galanis had committed a fraud in dealing with the Wakpamni, Jason Galanis knew very well that John Galanis would use it to help his son Jared in the Gerova matter. The Court must remember Jason knew that John had decided that Jared's freedom was worth more than Jason's so Jason was not giving John any more ammuntion to help Jared over himself.

However, it is shortly after the first tranche was completed during the sale of the second tranche of bonds where John Galanis now understands where his culpability lies. Where the Court's words during the "conscious avoidance" charge became so important and eye-opening. It is when John found out that the second set of bonds were not being sold to the entity he was told they would be sold to but instead to Devon Archer and Bevan Cooney that he now realizes he literally began to stick his head in the sand and refused to realize what was going on around him. He refused to put two and two together. This is when he should have begun to realize that this bond deal was not being handled honestly and lawfully, but he just did not. This is when he realized he failed to see the obvious. And, as time went on and Jason began to make excuses for the delay in payments John Galanis just kept sticking is head further and further into the sand. As a parent it is difficult to admit that the child you love and admire lied to you and that those lies would leave others irreparably harmed and you exposed to arrest, conviction and jail. John Galanis' regret is that his thoughts were corrupted by his emotions and that he did not see how—or more correctly, refused—to see how the pieces did not fit together as neatly as it seemed. He regrets, as he states in his letter, "not seeing the demarcation line between reasonable expectation and conscious avoidance." The charge was the moment of clarity. It wiped away the haze that hid the truth. John Galanis knows what he is guilty of and he admits this to the Court. He is not guilty of planning and joining a conspiracy to defraud the WLCC and the clients of Hughes Capitol Management and Atlantic Asset Management. He is guilty of not stopping his son from doing it once he should have realized what was happening. He is guilty for blindly trusting his son. This is his crime. This is why he will more than likely die in jail.

This argument for leniency is not an attempt to shirk responsibilty for the deeds John Galanis committed, it is offered only to demonstrate to the Court why John Galanis stands before the Court. He stands here for one reason he trusted his son not to lie to him. This was his mistake, giving blind trust to his son. It literally hurts John Galanis more than this Court will ever realize that he is just another victim of his son's lies and deceptions. This Court must realize Jason Galanis is a good liar. He has fooled many in his life. He has fooled the best law enforcement agencies in the world and certain United

States Attorney's Offices. He has fooled numerous sophisticated businessmen, attorneys and accounting firms. The casualties of Jason's lies and scams is quite long and John Galanis is just another person to be added to it. John knows that now and he should have been aware enough to spot the lies, conscious avoidance is correct and he is before you because of it.

The Court at a recent conference correctly stated that Jason Galanis was the obvious mastermind of this scheme. He and Sugarman were the only ones who knew exactly what was happening and had the initial intent to defraud. Others then got suckered in for their own reasons. Some of their eyes were blinded by greed and the quest for the almighty dollar. Some were blinded by their quest to play with the big boys. But only John Galanis was blinded by his heart and mind. What is the truth can be debated forever herein. But the Court must draw a line between objective misstatement of facts and the subjective knowledge of those speaking those facts. Did John Galanis tell people that there was demand for a second and successive bond sales, yes he did. Was that a lie, objectively yes. Did John Galanis know it was a lie when he said it, no. And there is no proof anywhere to prove otherwise except that he was Jason Galanis' father. It is indisputable that John Galanis had no independent knowledge of what the demand for the bonds was or was not. John Galanis only knew what Jason told him and now John Galanis knows he was lied to. Same can be said for the relationship between WAPC and Wealth Assurance. John's knowledge was based on what information he was being fed by Jason and Jason was just feeding him poison.

The government argues that John Galanis' guilt can also be discerned by the fact that he tried to hide behind the corpaorate entity Soveirgn Nations. The facts disprove this argument. Yes he formed a corporate entity, many innocent people do this every day in this country. John knew that all of the funds he was going to receive were not going to go to him so he formed a corporation to act as intermediary. Furthermore, as is demonstrated by the Discovery in this case John had many other business plans with the WLCC that were being discussed and that is why he named the company, Sovereign Nations because he was going to be doing business with Native American business enterprises. There is nothing illegal or nefarious about this. He was going to be paying people and entities that had worked to bring the deal to fruitiion, why wouldn't he form a corporation. The fact that he hired an individual to do it is also done everyday in this country. John Galanis never tried to hide his connection to Soveirgn Nations in fact he told Mr. McMillian to tell the government the truth. He did not try to influence Mr. McMilian at all. John Galanis said go in and tell them everything and he even hired a lawyer for Mr, McMillian to use.

The previous quote in Kimbrough that a Court is "to impose a sentence sufficient, but not greater than necessary' to accomplish the goals of sentencing," is euphemistically referred to as the "parsimony clause," it is in reality a manner of codifying the constitutional doctrine of the least restrictive alternative. "Parsimony in the use of punishment is favored. The sentence imposed should therefore be the least severe

sanction necessary to achieve the purposes for which it is imposed ..." See, American Bar Association, Standards For Criminal Justice, Chapter 18, "Sentencing Alternatives and Procedures", 18-3.2(a)(iii) (1993). It is also a manner of codifying the age-old adage that a just sentence is one that not only takes into consideration justice but also mercy. As the old proverb states, when God prays he or she prays that his or her penchant for justice be outweighed by his or her feelings of mercy. It would be easy for this Court to sentence Mr. Galanis to many more years in prison for his conviction in this matter but doing so would just placate the members of our society who demand that people convicted of crimes be warehoused and thrown into jail for maximum periods of time without any consideration of all of the facts and circumstances therein.

First and foremost, John Galanis is already serving an extended sentence for his previous conviction in the Gerova matter. As the Court is well aware, John Galanis is not a healthy man. Yes, in this day and age there are many 75 year olds walking among us who have many more years to live and enjoy everything that life has to give. John Galanis is not one of these individuals. He has a multitude of health problems that even if he were not incarcerated would cause him serious health concerns in the years to come. The fact that he is incarcerated exacerbates his health issues many times over. Even discounting the poor health treatment in the BOP system, a perusal of any actuary table about life expectencies[13] for men with Mr. Galanis' health issues demonstrates quite clearly that Mr. Galnis is already serving a life sentence before any additional sentence for this matters is added into the equation.

The Bureau of Prisons (BOP) historically always states that they can treat any illness an inmate might have and give excellent health care. However, these statements, when judged by the facts of the care given Mr. Galanis, must be questioned. How can the BOP even state that or this Court believe or have any confidence that Mr. Galanis will receive even adequate care for his serious heart issues, build up of plaque in his arteries and veins, spinal issues, prostate issues[14], diabetes, high blood pressure, renal disease, various joint deterioration, hearing issues and a myriad of others when the BOP can't even supply him with a pair of orthopedic shoes that were prescribed over one year ago even though Mr. Galanis has even offered to pay for them? Or take months to conduct an ordered MRI by independent emergency room doctors for injuries that occurred due to an accident directly caused by the ineptitude and indifferent care he was provided? And,

---

[13] The average life span for a healthy man in America is 79. Mr. Galanis will be older than that when his Gerova sentence is fully served.

[14] His PSA levels are 33% higher today then they were from the already seriously high levels just 5 months ago. The issue has gotten so severe including the presence of blood in his urine that the BOP has ordered an MRI examination to be given to Mr. Galanis. However, when that examination will take place is anyone's guess considering how long previous medical tests have taken to occur. This is not to be confused with the MRI that was ordered by the doctors after his van accident. Although that has finally taken place a full 6 months after it was ordered, the results have still not been given to anyone.

then compound this delay by not giving anyone the results. This Court should not overlook the significance of the inability of the BOP to provide Mr. Galanis with his orthopedic shoes for over a year because the lack of the orthopedic shoes has caused him to lose his ability to walk on his own and forced him into a wheel chair.[15] The BOP's indifferent approach to necessary medical care is not limited to the failure to provide Mr. Galanis with his prescribed orthopedic shoes. The BOP's continuous and unending negligence is evident in every aspect of Mr. Galanis' medical care. The BOP's lackadaisical attitude as to the ordered MRI demonstrates their inability to understand the seriousness of the injuries they caused. The reason the emergency room doctors ordered the MRI was to discover among other things whether there is spinal fluid leaking from his spine a condition that can cause very serious ramifications. The BOP even refuses to give him Ibuprofen for the pain that he endures due to the lack of orthopedic shoes and the van accident he was involved in. Yes, he can purchase Tylenol in the commissary, but they refuse to sell him enough to last from one commissary opportunity to the next. So he spends half of his nights in bed unable to sleep due to the pain in his back and legs because he can't even get a simple pill of Ibuprofen. Although this failure to treat his spine and leg issues will not cause any immediate threat to his life, it will no doubt shorten his life and make his day to day living much more painful. Because due to the fact he is confined to a wheel chair and the daily pain he is in he is far less capable to exercise. This lack of exercise will have many negative side effects including increasing the ravages caused to his health by diabetes & hypertension. The accident in the van and the BOP's lackadaisical approach to his after care took care of that.

This is the reality of the BOP health system. This Court must take into consideration the complete lack of medical care towards John Galanis by the BOP when sentencing him. It is respectfully submitted that Mr. Galanis' health issues and the severe lack of adequate medical care that he has received for these issues by the BOP rise to the level for a sentencing departure under §5K2.0 of the Federal Sentencing Guidelines. And more importantly, this is why any sentence this Court gives Mr. Galanis that is consecutive to the sentence he is already serving could very well be a sentence of life. Thus, it is most respectfully suggested that even the Probation Departments recommendation of a sentence that mandates 4 years consecutive to the sentence he is already serving is too harsh. If this Court sentences him to a sentence that requires even only two years consecutive to the sentence he is serving it would mean that John Galanis still would not be released from jail until 2024 as an 81-year-old man. This sentence would provide him and his wife little hope that he could survive his incarceration John Galanis' only wish now is to die a free man and be buried by his family. Not the United States

---

[15] Even after the lack of orthopedic shoes caused Mr. Galanis to be confined to a wheel chair the BOP as of the writing of this letter has still not given Mr. Galanis the shoes he desperately needs. This demonstrates quite clearly that Mr. Galanis' overall health is severely in jeopardy everyday he spends in BOP custody and each and every day this Court might add to his sentence risks his untimely death in federal custody.

government.

Mr. Galanis' guideline level is greatly inflated in this matter by the loss amount calculated by the Probation Department. The Probation Department raises his Guideline level by 22 points because they find the loss amount to be greater than 25 million dollars and less than 65 million dollars. This loss amount is generated by adding together the amount of bonds sold in each tranche of bonds to the clients of Hughes Capitol Management and Atlantic Asset Management. It is the defendant's respectful position that Mr. Galanis is not responsible for this loss and he should not be held accountable for it. Mr. Galanis believes that the loss amount he should be held accountable for is the loss amount suffered by the WLCC which is over 3,500,000.00 but less than 9,500,000.00. This would account for the payments the WLCC were due under the bond agreements. This would result in the addition of only 18 points as opposed to 22 in the PSI. Furthermore, Mr. Galanis should not receive 2 extra points under USSG §2B1.1(b)(2)A)(i) because he is not responsible for 10 or more victims. He is only responsible for one victim, the WLCC. Thus, leaving a guideline level of 25.

As the Court is well aware Mr. Galanis was not charged nor is he convicted of any counts relative to the clients of Hughes Capitol Management and Atlantic Asset Management. Even the Probation Department in the PSR when discussing the overview of the conspiracy charged breaks the conspiracy into multiple conspiracies. In §33 the PSR describes the conspiracy relative to the WLCC and in §34 describes a second conspiracy relative to the clients of Hughes Capitol Management and Atlantic Asset Management. The two conspiracies involve some of the same individuals but also involve some that are not involved in both. In §34 the PSR clearly states that John Galanis was not involved in this conspiracy. The evidence at trial also clearly and unequivocally demonstrated that John Galanis was not involved with this conspiracy and had no relationship with Michelle Morton, Gary Hirst, or any clients of Hughes Capitol Management and Atlantic Asset Management.

It is also clear from the trial record that the WLCC cannot be held responsible by the clients of Hughes Capitol Management and Atlantic Asset Management because they have sovereign immunity, which forestalls any action against them, by the clients of Hughes Capitol Management and Atlantic Asset Management or their successors. The WLCC have not had to pay any funds towards these bonds to date nor will they ever.

Mr. Galanis' Guideline range is also increased due to the fact that his criminal history level has been set by the PSR at a category III. As argued previously in the Gerova matter, this level overstates his criminal history. As the probation report notes, Mr. Galanis has received three points for his conviction in New York County in 1988. As the Probation Report also states, Mr. Galanis received three points for his conviction after trial in this Court before Judge Brieant in 1988. It is the defendant's position that since the conduct in both cases arose out of the same conduct that he should not now be punished by double counting the three points. Both cases arose out of Mr. Galanis'

related white-collar swindles at the time. Support for this position comes from a very credible source, the very Court that sentenced Mr. Galanis in 1988. In a post trial motion decision Judge Brieant stated the following:

> On February 17, 1989, Mr. Galanis voluntarily withdrew his appeal to the United States Court of Appeals for the Second Circuit, and at or about that time entered into a plea with New York State prosecutors by which he received a concurrent state sentence for criminal conduct arising out of essentially the same swindles which provided the basis for his federal prosecution. This Court has previously expressed its opinion, and continues to believe, that the crimes for which Mr. Galanis pleaded guilty in New York State "probably should not have been prosecuted separately." See Report on Committed Offender, Form AO-235, dated July 31, 1990.

The decision by Judge Brieant is attached as Exhibit D. This demonstrates that the Court which knew the conduct best, having presided over a 13-week trial where the conduct of Mr. Galanis was related in great detail and heard Mr. Galanis testify for multiple weeks felt and continued to feel that Mr. Galanis was being punished doubly for the same conduct. This Court most respectfully should not perpetuate this wrong by once again double punishing Mr. Galanis for the same criminal conduct. It violates his constitutional rights against double jeopardy and due process. Accordingly, this Court should begin its Guideline Calculation by finding Mr. Galanis to be in Criminal History Category II not Category III. This correction of a wrong done to Mr. Galanis is even more important in this instance because Mr. Galanis ended up serving a much longer sentence for his conviction in 1988 than Judge Brieant ever wanted him to. When Judge Brieant sentenced Mr. Galanis to 27 years in jail the Court was under the impression that Mr. Galanis would serve at most 4 and one-third years in jail. However, due to the disgression of the Parole Commission Mr. Galanis in fact served a total of 17 years in jail for his convictions in 1988. The Court stated in the decision attached the following:

> The actual time the parole Commission proposes to be served by him (Mr. Galanis) does seem somewhat harsh even in light of the magnitude of money involved in these several unrelated frauds, for which he was convicted.

The Court continued at a later point in the decision:

> Indeed, this Court has never expressed any firm conviction as to how much of his old law sentence Mr. Galanis should serve prior to parole, except to imply that nine years would probably be too much. P. 6-7

The Trial Court felt nine years was too much so it can unequivocally be stated that it certainly would have felt 17 years, nearly twice as much, would be beyond its expectations. The last 6 of those years were spent in New York State custody after he

was paroled from Federal custody. Thus, it is clear that Mr. Galanis was punished much more severely than the Sentencing Court had intended and to now further use the conviction in New York State Court to increase Mr. Galanis' current incarceration would be piling on the injustice once again.

Judge Brieant's words ring very powerfully when one considers what Mr. Galanis was deprived of during the extra 12 years he spent in jail. Judge Brieant knew Mr. Galanis and he knew the case against him and he wished Mr. Galanis to serve 4 to 5 years in jail for those crimes. Yet, Mr. Galanis served 17. He missed his children growing up. He missed the best years of his life. But even more than what he missed is what his family went through due to the extra years of incarceration. His eldest son felt the need to support the family, which he did. This led directly to Mr. Galanis standing before you for sentencing all these years later. Because it can very credibly be argued that if Mr. Galanis had not been wrongfully charged in both jurisdictions (not our words, Judge Brieant's) and had he been incarcerated for the period Judge Brieant intended, Mr. Galanis would not be standing before this Court for sentence. No one forced Jason Galanis or John Galanis to get involved in criminal activity, and they should and have been punished for their actions; but to now punish Mr. Galanis again by adding extra years to his sentence because of the unjust way he was punished back in 1988 is unwarranted, unreasonable and excessive. It violates the "parsimony clause".

Accordingly, Mr. Galanis sentence should be calculated with a criminal history category II level. Under these calculations Mr. Galanis' Guideline range would be 63 – 78 months not 135 – 168 months as presented in the PSR.

The Court must also consider whether the respectful, suggested sentence of minimal extra time to the sentence he is serving would present this Court with unwarranted sentencing disparities compared to other sentences issued by this Court to Mr. Galanis' co-defendants. The Court sentenced Jason Galanis to a term of imprisonment, which required 5 years to be run consecutively to the sentence he was serving on Gerova. It is undisputed and stated by this Court that Jason Galanis was the instigator of this crime, the main engine in perpetrating the wrongs committed, and was directly and actively involved in both defrauding the WLCC and the clients of Hughes Capitol Management and Atlantic Asset Management. Jason galanis and his partners also received the bulk of the stolen assets to use at their pleasure. John Galanis' role and conduct in this case is, at worst, many levels below the level of Jason Galanis', and Jason Galanis certainly does not suffer from the same medical issues as his father. Thus, a sentence that is considerably under what Jason Galanis received is not grossly unwarranted. To the contrary, it is respectfully submitted that it is completely just and warranted when one considers all of the facts of this case.

The Court sentenced Gary Hirst to a term of imprisonment that requires Mr. Hirst serve an extra 3 years beyond the sentence he received for his role in Gerova. In this case, Mr. Hirst was an active participant in defrauding the clients of Hughes Capitol Management

and Atlantic Asset Management. He became an actual employee of Hughes for a period of time and was involved in actively convincing Hughes' clients to purchase the bonds. His role was certainly more active, hands on and knowledgeable than that of John Galanis. Gary Hirst knew exactly what he was doing when he signed those purchase orders to buy the bonds. He knew he was participating in illegal conduct because he knew very well that that the purchasers of the bonds had not authorized the buying of the bonds. Thus, again a sentence that is less than Gary Hirst received is not grossly unwarranted. To the contrary, it is respectfully submitted that it is completely just and warranted when one considers all of the facts of this case.

The government will certainly argue that John Galanis has done nothing more than live a life of crime for the past 3 decades and that this Court must at this point lock him up for good because he cannot be trusted to live among us. There is no disputing that John Galanis has participated in criminal conduct and he has and will continue to serve lengthy prison sentences for those crimes. This Court is not being asked to reconsider those sentences, what this Court is being asked to do is in this instance is understand exactly why Mr. Galanis is again before a court of law for sentencing and see through the agony that Jason Galanis' admitted activity caused and decide the individual culpability of John Galanis herein and weigh that against just how many more years John Galanis has to live and sentence him accordingly. This Court, in this instance, has extreme power and we only ask that this court temper its desire for justice with its equally important quality of mercy and give Mr. Galanis a sentence that fits within those parameters.

Most Respectfully,

David Touger, Esq.
cc.: All counsel

A-5117

J381gals

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

UNITED STATES OF AMERICA,

v. 16 Cr. 371 (RA)

JOHN GALANIS,

Defendant. Sentencing

----------x

New York, N.Y.
March 8, 2019
11:47 a.m.

Before:

HON. RONNIE ABRAMS,

District Judge

APPEARANCES

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York
BY: NEGAR TEKEEI
BRENDAN F. QUIGLEY
Assistant United States Attorneys

PELUSO & TOUGER
Attorneys for Defendant
BY: DAVID TOUGER, ESQ.

MORVILLO ABRAMOWITZ GRAND IASON & ANELLO PC
Attorneys for Defendant
BY: PAUL R. GRAND, ESQ.

ALSO PRESENT: SHANNON BIENIEK, Special Agent, FBI

(Case called)

THE COURT: Good morning, everybody.

So I understand, just before your appearances, that we're getting another set of headsets for Mr. Galanis. Can we get started, do you think?

MR. TOUGER: Sure.

THE COURT: All right. So please state your appearances. Good morning.

MS. TEKEEI: Thank you, your Honor. Good morning. Negar Tekeei and Brendan Quigley on behalf of the United States, and joining us at counsel's table is Special Agent Shannon Bieniek with the FBI.

THE COURT: All right. Good morning.

MR. TOUGER: Good morning, your Honor. David Touger, T-O-U-G-E-R, for Mr. Galanis, and it's my honor to have at the table Mr. Grand, Paul Grand.

THE COURT: All right. Good morning to all of you. Good morning, Mr. Galanis.

THE DEFENDANT: Good morning.

THE COURT: Mr. Galanis, if you're having trouble hearing anything, just raise your hand, all right?

THE DEFENDANT: Thank you, your Honor. I will.

THE COURT: Okay. This matter is on for sentencing.

Mr. Galanis was found guilty in June of conspiracy to commit securities fraud and securities fraud. I denied his

request for a new trial in a memorandum opinion and order dated November 15, 2018.

In connection with today's proceeding, I've reviewed the following submissions: The presentence investigation report revised as of October 1st of 2018; Mr. Galanis's sentencing memorandum dated January 3rd, with accompanying exhibits; and I also have his prior sentencing memorandum in the Gerova case as well; and the government's sentencing memorandum dated January 9th. Have the parties received each of these submissions? Am I missing anything?

MS. TEKEEI: We have, your Honor, and you're not missing anything as far as the government is aware.

THE COURT: Right. And today I see that you've also submitted a proposed order of restitution and preliminary order of forfeiture money judgment, correct?

MS. TEKEEI: Yes, your Honor, that's correct, and we provided copies to Mr. Touger as well.

THE COURT: Thank you.

Mr. Touger?

MR. TOUGER: You have everything that we have submitted, your Honor.

THE COURT: All right. Thank you.

So why don't we begin by discussing the presentence report, which, as you know, is prepared by the probation office.

Mr. Touger, have you reviewed the presentence report with your client?

MR. TOUGER: Yes, I have, your Honor.

THE COURT: Do you have any remaining objections? I know you made a number to the probation department directly and some changes were made. Do you want to tell me if there are any that remain from your perspective.

MR. TOUGER: The only additional ones are the ones we brought up in the sentencing memo that you have before you.

THE COURT: With respect to loss amount and number of victims?

MR. TOUGER: Yes.

THE COURT: Okay. So let me ask --

(Defendant conferring with his counsel)

MR. TOUGER: The only thing, your Honor, just to complete it, in the Prior Crimes section, there is a Canadian case that they have left sort of open.

THE COURT: Right.

MR. TOUGER: That case has been dismissed, as has the New York case that they left open. Both those cases have been dismissed. I don't know why they left them open. I don't think it matters much as far as calculations, but if they want it to be --

THE COURT: Does the government contest that? Is there any objection to noting that those cases were dismissed?

MS. TEKEEI: We have no objection to noting that that's what counsel has conveyed to the Court. I don't have information about the Canadian case, but as it doesn't affect his criminal history category, we have no objection to noting that for the record.

THE COURT: Okay. So we'll note that. I mean, right now, in the last sentence of paragraph 98, it reads -- oh, sorry. That was Connecticut. Hold on.

Yes, that still relates to the Canadian matter.

MR. TOUGER: Yes.

THE COURT: It says, "It is unclear whether the defendant was ever extradited to Canada in connection with this case or if the case was dismissed." Should we just revise that line to read that Mr. Galanis was never extradited to Canada and defense counsel has represented that the case was dismissed?

MR. TOUGER: That's fine, your Honor.

THE COURT: Okay. So that will be the last line of paragraph 98.

And is there another change you wanted to make with respect to the arrests for which there was no conviction?

MR. TOUGER: If you look at No. 101 --

THE COURT: Yes.

MR. TOUGER: -- that's the New York case I was speaking of.

THE COURT: All right. So I'll add a line at the end of 101 as well saying defense counsel has represented that this case was dismissed. Is that right, Mr. Touger? Can you represent that?

MR. TOUGER: It kind of says that in the report, because if you read it, it says the case was superseded by another indictment. So it was dismissed.

THE COURT: Okay. So do you think we need to add anything or do you think it's fine the way it is?

MR. TOUGER: I think we should, your Honor, just so it's clear.

THE COURT: All right. So I'll add that line.

All right. I'll make those changes.

Mr. Galanis, have you had enough time and opportunity to review the presentence report and discuss it with your attorney?

THE DEFENDANT: I have, your Honor.

THE COURT: All right. Does the government have any objections? And I'll of course get to the substantive objections.

MR. TOUGER: Let me ask Mr. Galanis one more question.

THE COURT: Yes, sure. Go ahead.

(Mr. Touger conferring with the defendant)

MR. TOUGER: I guess we're going to try out the new equipment.

THE COURT: Okay.

Does the government have any objections to the presentence report?

MS. TEKEEI: No, your Honor.

THE COURT: Okay. All right. So first of all, I'll just note that I'm going to adopt the factual findings in the report. The presentence report will be made a part of the record in this matter and placed under seal. If an appeal is taken, counsel on appeal may have access to the sealed report without further application to the Court.

Now, Mr. Galanis, as you're well aware, the federal Sentencing Guidelines are a set of rules that are published by the United States Sentencing Commission, and they're designed to guide judges. Although at one time they were mandatory, they're no longer mandatory, but judges must nonetheless consider the guidelines, and so we have to ensure that we have the calculated them properly.

I understand that you have three objections to the guidelines calculation. One relates to loss amount, one relates to the number of victims, and one relates to criminal history. Is that correct?

MR. TOUGER: That's correct, your Honor.

THE COURT: All right. Do you want to be heard further on those?

MR. TOUGER: No, your Honor. I think the memo

outlines the argument.

THE COURT: Okay. So with regard to the amount of loss, it seems clear to me that the loss caused by Mr. Galanis's offense of conviction exceeded $25 million and that a 22-level enhancement for loss amount in this case is entirely appropriate.

As I understand it, Mr. Galanis principally argues that he should not be held responsible for the loss amount suffered by the WLCC through its issuance of the bonds and the Hughes and Atlantic clients' subsequent investments in these instruments. This is because, according to Mr. Galanis, he did not knowingly engage in fraud in soliciting the WLCC bonds and he understood that the $2.35 million that he received for the execution of this deal was a legitimate commission for his services.

I disagree. As an initial matter, these arguments were not only rejected by a jury but, as Mr. Galanis appears to acknowledge, were also rejected by this Court in its Rule 29 decision. As I made clear in that decision, the evidence presented at trial established that Mr. Galanis made material misrepresentations to members of the WLCC tribe to influence them to issue the bonds at the heart of this case. Among these misrepresentations were Mr. Galanis's statements to the WLCC representatives that: (1) Jason Galanis worked at Burnham, which in his sentencing memo Mr. Galanis concedes was

objectively untrue; and (2) that the proceeds of the bond offerings would be placed in an annuity on its behalf when in fact no such annuity even existed. Furthermore, Mr. Galanis does not dispute that the $2.35 million payment was not provided for in the schedule setting forth the payments of expenses owed at closing, which would have been reported had his been a legitimate commission for the execution of the bond deal. In response, Mr. Galanis now contends, for the first time, that this supposed commission was not disclosed in the schedule because he believed that it was not being paid from the bond proceeds but by the company Wealth-Assurance because that is who he was helping. But Mr. Galanis does not point to any evidence for this novel assertion, which, as the government points out, directly contradicts Mr. Galanis's own claim at trial that he was working for Burnham Securities.

But perhaps even more probative of Mr. Galanis's fraudulent intent was the way in which this commission was received by him. As explained in the Court's Rule 29 opinion, these proceeds were not directly wired to the defendant but instead sent to a front company called Sovereign Nations. In turn, Mr. Galanis then directed distributions of the $2.35 million to both himself and family members through a fake email account. For these reasons, and those more fully explained in the Court's Rule 29 decision, the Court therefore agrees with the government that Mr. Galanis was well aware that

the bond's proceeds were misappropriated. It also follows that Mr. Galanis was aware that the bond's investors would lose whatever money they sank into this investment.

Because there's no dispute that this total investment loss is between 25 million and 65 million, the Court will apply the 22 levels to Mr. Galanis's sentence.

I also find that the two-level enhancement for ten or more victims is appropriate in this case. In his sentencing memorandum, Mr. Galanis contends that he should not be held responsible for the Hughes and Atlantic clients' investments in the WLCC bonds, as he had no direct relationship with these investors. But again, I disagree. As I just explained, Mr. Galanis was aware that the bonds were misappropriated and that their subsequent investors would therefore lose whatever they put into these investments. Nor does Mr. Galanis contest that the subsequent investment victims numbered over ten people. As a result, the Court will apply this two-level enhancement to Mr. Galanis's sentence.

Finally, Mr. Galanis argues that he should be placed in criminal history category II, not III, because he received three points for his federal conviction in 1987 and three points for his conviction in New York County for grand larceny in 1988, which violates double jeopardy and due process because these crimes should not have been prosecuted separately.

As the government correctly points out, however,

Mr. Galanis has not received criminal history points for the 1987 federal conviction; rather, the three points he received from the 1988 grand larceny conviction, combined with the three points he received from the 2015 Gerova conviction, is what yields a criminal history category of III.

All right. So those are my rulings with respect to the guidelines calculation. As a result, I find that Mr. Galanis's offense level is 31, his criminal history category is III, and his recommended guidelines sentence is 135 to 168 months in prison.

Now as I said a moment ago, that range is only advisory. Courts may impose a sentence outside of that range based on one of two legal concepts -- a departure or a variance. A departure allows for a sentence outside of the advisory range based on some provision of the guidelines themselves. As I understand it, you're moving for an actual departure based on health conditions, is that correct?

MR. TOUGER: That is correct, your Honor.

THE COURT: And do you want to be heard further on that?

MR. TOUGER: I thought we did deal with that in the sentencing memorandum.

THE COURT: Okay. All right. I also just will note that of course I also have the ability to impose a nonguidelines sentence based on what we call variance, pursuant

to the factors set forth in 18 United States Code Section 3553(a).

And now why don't I hear from the parties.

Would the government like to be heard.

MS. TEKEEI: Only very briefly, as your Honor sat through a lengthy trial in this case and is very familiar with the facts.

We just would like to note -- and again, the Court is aware of this, but -- capping a lifetime of criminal conduct, John Galanis played what can only be described as a critical role in this scheme. He victimized one of the poorest Native American tribes in the country by causing them to issue bonds; he promised them money for needed tribal development projects and guaranteed them the ability to repay investors in those bonds through a secure annuity. And then he defrauded the investors, the pension fund investors in those bonds -- pension funds that were held for the benefit of thousands of hard-working people, by allowing their money to be invested in bonds he knew were ultimately worthless.

For his conduct in this case, and in light of his extensive criminal history, and the 3553(a) factors that we've discussed in our submission, we seek a guidelines range sentence in this case.

THE COURT: All right. Thank you.

Would any victims like to be heard today, Ms. Tekeei?

Would any victims like to be heard today?

MS. TEKEEI: Your Honor, victims have already submitted letters. There are none here today that I'm aware of.

THE COURT: Thank you.

Would you like to be heard now, Mr. Touger?

MR. TOUGER: Yes, your Honor.

Actually, if it would be okay with the Court, could Mr. Galanis speak first and I'll speak after?

THE COURT: Sure.

Yes, Mr. Galanis. You are free to say what you'd like to say today.

THE DEFENDANT: Thank you, your Honor. And good afternoon.

THE COURT: Good afternoon.

THE DEFENDANT: Give me one moment, your Honor. I'm sorry. I need to --

Hopefully this plea is not too late to have you consider what I say. Your decision under Rule 29 was clear on what you thought happened. Your findings meant you did not accept Jason's letter saying he did not tell me of his plan to divert the bond proceeds and the other misinformation that he gave me. That leaves me pleading for leniency and hoping to show you why my failures as a father resulted in this case.

At trial, to preserve the 404(b) ruling, I made a

decision not to put on an affirmative defense, which would have helped show why I was fooled. However, my being fooled does not mean I do not acknowledge or accept your conscientious objection jury charge, which pointed out that my blissful ignorance is not a defense. I fully realize that through my actions over 50 years ago, I lost receiving the benefit of the doubt that you rightfully afforded to Mr. Archer. Your doubts will not evaporate with my explanations today, but I hope you hear them in mitigation of my actions. However, if you would consider leniency, because I want to show you the emotional aspects of my family's actions in this matter.

Often my history creates a negative judgment, but I ask you to look at it differently, maybe as Judge Brieant saw me and ruled that I deluded myself into believing that my acts were legal in the complex case he decided that were before him. I testified to over a week at that trial, and a jury was out for over nine days. My conscious avoidance of Jason's actions is not unlike Judge Brieant's description of my deluding myself. I grant my guilt is a distinction without a difference, but I want you and my family to know that I am foolish, not larcenous.

I make these statements not only for you today but also for my wife of 50 years, so she knows I did not lead our son astray. As Tolstoy wrote, all happy families are happy in the same way, and all unhappy families are unhappy in a

different way. My sentencing submission focused on why my child became unhappy with me, which caused unhappiness in my family. His warranted lack of trust and confidence in me resulted in this case. Even though I did not know his plan for the bond proceeds, I must and do take responsibility for his actions. Ultimately it was my fault he did not trust me. I did not fault him -- I do not fault him for his rebuke of me. However, he is right but for the wrong reason. The reason should have been by not rejecting -- that he should have been angry at me for not rejecting his Gerova plan. I was not the father that had advised him for years on how to avoid problems. I failed him. Despite my loving him, I let him hurt himself and others.

There may be many reasons unknown to me why he changed our relationship after 2011, but one thing remains undeniably clear at this point. He stopped introducing me to his friends and business associates, and there was never any further family events at which I was invited. Jason -- goes to Jason's lack of trust. Jason had a very logical reason for not confiding in me about his business plans. And his attorneys had maintained that his actions in Gerova were part of an immunity agreement with the Central District of California. That immunity agreement was contingent on truthful disclosure. Jason never disclosed me or my role in Gerova. I told Jason if there was an incident -- I'm sorry -- if there was an indictment, I would

seek to exonerate his brother Jared. As biblical Jacob created envy amongst Joseph's brothers by giving him a multicolored coat, I showed Jason that he could not trust me to protect him over his -- over his brother. His lawyers knew of my position and were constantly worried, because when I proffered Jared's innocence, I might also discuss his then-current activities. I limited my proffer to exonerating Jared, but this was after all the bond activity had occurred, so Jason never knew that I couldn't -- could not have talked about him.

Mr. McMillan's testimony verified in 2011 the change in Jason's and my relationship. I asked Mr. McMillan not to allow Jason in that year to control any accounts he ran for me. On the stand, if you remember, he was willing to go further in describing the issues but was stopped over concern of violating the 404(b) ruling.

Brings up: Why did I trust Jason? As to his plan on Gerova, I accepted his explanation that his illegal acts were desperate, were to save a cash-rich -- pardon me -- a cash-poor but asset-rich company. He admitted desperation could make him commit illegal acts, but there was no hint of desperation in his discussions about Wealth-Assurance. When I looked at Wealth-Assurance, it was a very different company than Gerova. It had a solid balance sheet, great auditors, and excellent partners who listened to him. No doubt, Jason was a primary architect of the Burnham roller plan, which everyone agrees on

as thoroughly legal. I thought he had finally made his fortune. And there was no temptation for him to do anything illegal. Wealth-Assurance was not a cash-starved company, and it had a fast-growing business.

An important factor for my going to Jason was he was the only source in the securities industry I knew, after all my time in prison. My relationship with Haynes and Shannon was just starting. Ultimately my finances are probably what caused me not to question his explanations after I learned who the buyers for the second bond offering were, and that WAAG was not going to be the issuer of the annuity. Also, I admit, I loved and admired my son and wanted to believe that he had redeemed himself. However, after the bond interest payment was late, I knew there was something very wrong, with his actions and ultimately mine.

Evidence which the government presented to determine my guilt I believe deserves an entirely different conclusion. The government's presentation is -- can be analogized to Lewis Carroll's Alice in Wonderland, where statements where Humpty Dumpty, in quotes, says, "A word is what I choose it to mean, not what you think it to mean." The government's use of evidence followed that same logic. Paraphrasing Mr. Carroll, the government would have you believe evidence means what they choose it to mean, not what it meant.

Please consider these arguments and my submissions on

the evidence.

There is one overall question which casts a cloud of doubt over the government's contentions. If I was Jason's confidant and so close to him I knew the conspiracy from inception, why did I know nothing about his illegal takeover of Hughes and Atlantic? Is it logical? If I'm deeply embedded in all aspects of the conspiracy, why not that one? That's the most critical part of his plan. Hirst knew, Morton knew, Dunkerley knew, Martin knew, but I didn't know, or certainly the government would have named me in those charges.

Jason did not tell me of his plan to divert the money or that there was not going to be a legal immunity because his lawyers had convinced him I was betraying him with my inevitable discussions about his breach of the immunity agreement.

Giving a Humpty Dumpty-type claim, the government maintains encryption was used on all emails until -- was used in all emails, yet no encryption was used until after the Gerova indictment on emails. Not shown were hundreds of emails between Jason and I, Shannon and I, Haynes and I, all painting a different picture. An example is Shannon's email which shows I was not sent to Las Vegas by Jason targeting Raines; I was sent by Shannon and Haynes to meet with their partner Ricen and Stephen Haynes, and others at that meeting.

I ask you to put my submission statements and

financial claims to the test. Call Shannon, Haynes, and Jason to the sentencing hearing. Please do not leave me in the position again which Judge Brieant had to write in his sentencing results on me: "An injustice without a remedy."

I am sure you realize that any additional time I receive today will result in being the equivalent of a life sentence. I ask you not to consider -- I ask you to consider all those extra years I spent in prison beyond what Judge Brieant considered appropriate as a reason for a downward departure in my sentence today. I ask you not to leave me in the same position as when Judge Brieant's sentencing intention was thwarted by nonjudicial factors, which greatly increased my prison time. For example, even though I was a clear candidate for the residential drug program, the BOP has rejected my application.

I did not plan crimes. The work I was doing for the Indians was exciting, fulfilling, and rewarding. My financial background could have -- could have been put to good use with Mr. Haynes and the Native Americans. Finally, despite my background, I found a group that needed and wanted my help. Most importantly, it was a group who would work with me, not Jason. Yes, the first transaction was with him, but many others were planned without him. Why else would Ricen never have met Jason and Stephen Haynes had only had one short lunch?

I did not intentionally intend to defraud the WLCC.

If I thought I was involved in an illegal scheme, does it make sense I would have spent the majority of the commission on professional fees for future projects with Haynes and the WLCC? Those projects Jason was not involved in. I should have paid -- yes, I should have paid more attention to the bond transaction's due diligence, especially knowing that Jason had taken shortcuts in Gerova.

I take exception to the view that -- the government's view of me as a career criminal. My many references to Judge Brieant's findings is because of his involvement in all my criminal cases. Having sentenced me in both my federal cases and clearly stating the related state case should not have been prosecuted separately, his later decision certainly made clear he did not think of me as a career criminal. Yes, I've made mistakes and take responsibility. I've also worked hard at legal businesses with successes. My error is not to have heeded the higher command of being a responsible parent, properly instructing my children. I loved being a father, and I hoped to be a parent who was respected and giving comfort and protecting his children. I am heartbroken I failed my two older sons. I did not stop Jason from committing a foolish act, and he despised me for that lack of character. Why does he hate me remains a mystery. He seems to have wanted me to have gone into the illegal drug business. He wanted me to act like a Mafia don. As I told him, that was a fool's role.

What gives me solace is how tightly Chandra, my wife, Jared and Jesse, my other sons, have stayed by me.

Now I must speak of the most humbling and painful part of my request. Given my age, medical issues, my current sentence reduces the likelihood I'll ever enjoy any of the years with my wonderful granddaughter Olivia. There is a sadness that at her same age, I had to have prison visits from her father Jesse till he was 18. My wife now lives with family to take care of Olivia while Jesse and his wife work. My wife Chandra is a survivor of two onsets of breast cancer. The most recent one resulted in a double mastectomy. I hope to be able to be home to help her with Olivia. Before I came east for the trial, last spring, Olivia came to visit me on a special children's visiting day, which allowed us to play games, draw, and walk around, unlike normal prison visits. We laughed as she rode on my walker. Through the prison visiting windows, we marveled the size of the container ships that were in Los Angeles Harbor. We made up a story that the containers were where Santa's helpers made presents. As the pelicans flew over the ship, she asked why they flew in a straight line, not like other birds. I will miss that wonderful part of raising a child of where the questions are an endless joy. Yes, we had a magical time, but the departure was heartbreaking. She lined up to leave with my son and his beautiful wife, but ran back to me, tugging at my arm, stamping her foot, demanding I come home

now, Pappous. "Pappous" is grandfather for -- in Greek. Whether I will meet this request depends on how you see my culpability, consideration for my age, medical condition, and many years spent in prison.

My medical issues are not idle speculation. My father died at 69 of a heart condition brought on by diabetes and high blood pressure. Both my grandfathers died of prostate cancer. As my medical records show, I have all three of these conditions. The possibility I could overcome these issues in prison was unlikely if I did not prepare myself from my prior experience. I believed if I undertook a healthy living program, eating correctly, exercising daily, with medical help, I expected I would be able to live out my sentence.

Graciously, Judge Castel allowed me time before surrendering to have two major surgeries to restore my maximal ability to implement my healthy living program. Unfortunately, much about prison medical department and food services has changed. The situation about my orthopedic shoes mentioned in the submission proves the old adage: For want of a horseshoe nail, the kingdom was lost. In my case, it was for want of -- my mobility was lost, for want of shoes. Confined now to a wheelchair, the exercise that was part of my program to moderating diabetes and blood pressure is gone. Exacerbating the problem, the prison food has gone from balanced meals with fresh vegetables to meals high in glycemic index carbohydrates.

Please understand, this is not from deliberate indifference of the prison. It's reality of the aging prison population, putting a budgetary strain on the BOP's resources. I hope you can see from my respectful dealing with the van accident, I do not cast blame on others for my difficulties. I accept that life is not free from the unavoidable, and I try not to be judgmental.

Because all of those factors I have described, please consider, is my role knowingly, or, as I maintain, unwittingly assisting Jason worthy of a life sentence? Whatever your decision, I wish to thank the Court for its gracious accommodation made because of my handicap before and during trial. If today's sentence could, as President Lincoln advocated, bear the richer fruit of mercy rather than strict justice, it would allow me to return to my wife, help heal my family, and entertain Olivia.

Thank you, your Honor.

THE COURT: Thank you.

Mr. Touger?

MR. TOUGER: Thank you, your Honor.

Your Honor, this case teaches me a lesson that I've learned many times in my career, that there are always two sides to a coin, and depending on what side you're on, that's how you're going to read the evidence in this case.

But I attached to my sentencing submission an email

from Mr. Pete Shannon. This was written long before the trial. No way anybody could argue that it was made up to combat evidence at the trial or anything else. That memo, that email puts, in my mind, a hole in the government's case that they cannot fill. That email says quite specifically that he wants John Galanis to go meet up with Mr. Haynes and Mr. Raines. This is not, your Honor, Jason Galanis sending him to Las Vegas. This is not anything to do with Jason Galanis. Mr. Galanis met Mr. Shannon by his friend Mike Murphy, they spoke, they came up with an idea, and they tried to implement it. There is no credible argument that can be raised against that email. Mr. Shannon takes so much credit for the idea that at the end of that email, you'll notice he wants -- he finds out that they made money and he wants a commission because it was his idea. So that puts the first hesitancy to adopt the government's idea that Mr. Galanis was working with Jason from the very beginning in this case in targeting the Wakpamni.

It leads us next to the meeting itself, and the statements that were just mentioned that John Galanis misinformed the WLCC representatives to get them to go along with the bond idea by saying that Jason Galanis worked at Burnham. As we've always said, objectively, that is a lie. Subjectively, it means it's a lie with no difference. There is no argument that is raised by the government, the Court, or anybody else that Jason Galanis controlled how Burnham would

invest their money. So if you're not familiar with -- if you're looking from the outside and you're not familiar exactly with how everything is working out, and Jason calls up his father and says, yeah, I can get this done, it's not unreasonable for John Galanis to tell them, he's working at Burnham. Whether he was working at Burnham or not, he controlled Burnham. That statement was not false in what it was being made to do. The idea was, he was telling WLCC, if we go ahead with this idea, I have somebody who can push it through, the bond thing through. That is not a lie. That was a true fact. That was proved out by the evidence itself.

The next argument is that somehow that if John were sent there by Jason, that after the meeting is over, John never talks to the representatives for six weeks. Now you might not know John Galanis as well as I do, but I think you can rest assured from the emails you saw during the trial, John Galanis would never let anybody go six weeks without hearing from him if he wanted him to do something. That's an impossibility for John Galanis. I've represented John Galanis for years now. I hear from him every day. If he wants something, he makes it perfectly clear how he wants to get it done and keeps coming forward, listening to your ideas, coming back with other ideas. That's John Galanis. John Galanis is sent to that meeting by Jason Galanis to convince them to do something, does not go six weeks without talking to those people after the meeting.

THE COURT: Are you asking me to reconsider my decision on your motions?

MR. TOUGER: No, your Honor. What I'm trying to outline to you is, you have a very difficult job here, to come up with a just sentence, and the just sentence has to be based on what somebody did to make them guilty of this crime. If you really believe that John Galanis was working with Jason from the very beginning and this whole thing was laid out by the two of them to sell the bonds from the Wakpamni and pocket the money, then you should give John Galanis one sentence. However, if you believe that in the beginning of this matter that John Galanis was not working with Jason, that John Galanis sought out Jason for the very purpose of -- he was the only one he knew who could possibly sell these bonds, and didn't know that these bonds were a falsity and a fake, and that Jason was just going to steal the money, if he doesn't know that from the beginning, he should get a different sentence. And that's why I'm outlining --

THE COURT: If I thought someone was innocent of crimes, we wouldn't be at sentencing.

MR. TOUGER: I'm not even saying he's innocent of a crime, your Honor. It's when his guilt came into effect. We have never argued -- we understand that after, when we figured -- I shouldn't say "we" -- when Mr. Galanis figured out that something was wrong here and improper, that we didn't come

forward and say stop, we didn't divorce ourselves from the proceedings, we kept going. We acknowledged our criminal conduct at that point. But that point happened after the first tranche of bonds was done. It doesn't mean he's not criminally responsible. Conscious avoidance, as I wrote in my sentencing submission, makes him criminally responsible. That is a federal charge of law, that is federal law, and that makes him responsible. But there is a sentence on somebody who is consciously avoiding figuring out a crime or somebody who actively began, maintained, and completed a crime; it's a completely different animal. And that's why I'm putting this to the Court.

What's also interesting, your Honor, is that as Tim Anderson testified, it was his idea, and only his idea, to send out the whole Wakpamni bond deals. He did that two weeks after the meeting in Las Vegas. And what's also important for this Court to remember is that Mr. Anderson testified that once the bond idea was accepted by all parties, Mr. Galanis basically dropped out of the picture and Jason Galanis took control. So that's another aspect that just flies in the face of what John Galanis is as a person. If John Galanis was part of this and this was his plan, he would not have dropped out of any picture.

Which leads us to the commission, and there are two things that everybody and the government hammered on in their

summations, and it's hammered on in their submissions, which is: (1) the meeting, the false statements in Las Vegas; and (2) the commission. At the trial -- and the Court in its Rule 29 motion also. There is no doubt his commission is higher than anybody else's. That's a fact. We can't argue with that. That's a fact. There's also no doubt, as stated by the government's witnesses at trial, that was a perfectly legitimate commission based on the amount of money that was involved here. The government's argument, as you stated previously, that this had to be -- if it was legitimate, it would have been put in the bond papers. That money was not coming out of the bond payments. There is no reason to put it in the bond payments. That money was coming from the organization that was getting the bond money. That's who owed the commission, and nobody else. They weren't making the Wakpamni pay for it. They weren't making the investors in the bond pay for it. They had to pay for it and therefore they didn't have to reveal it to anybody. And that's how the business works. This is not individual to this case. That's the normal operating procedure of this business. If you're being paid by the person who's making the money and it's not coming out of the bond proceeds, you don't need to tell anybody else that you're paying it, because nobody else is paying it.

What's also interesting is that the Court has amplified, and the government amplifies in their summation,

that it was Sovereign Nations, it wasn't John Galanis. Why would John Galanis take the $2.3 million into his personal bank account if he knew that that money was not all going to him? Most of that money, well over half of that money, went back to try to start the other Wakpamni investments, such as the fire, the fire, the water, and all these other programs that they were trying to do, and the athletic organization.

And then, the most important part of the Sovereign Nations testimony is the testimony of Mr. McMillan, who testified that there was a break in the relationship of Jason and John Galanis in 2011. And that in and of itself shows that there was no reason for Jason to trust John Galanis anymore, and I won't go into any more depth than that because that's covered completely in my submission.

What's interesting is the testimony of Mr. Dunkerley during the trial that Jason only gave everybody the knowledge they deserved or needed to have, and that he didn't know everything that was going on. But he knew all about the purchase of Ms. Morton's company. He knew it was happening. John Galanis didn't know; we know that. Mr. Hirst knew; we know that. Ms. Morton knew, obviously, but John Galanis didn't know. So if he was, again, this mastermind of this conspiracy from the very beginning, why wouldn't he know anything about this most important part? Because this is where they were getting the buyers of the bonds. It just doesn't make sense.

But this is all dealt with in great detail in my submission, so I just wanted to emphasize those points.

I'd like to now turn to Mr. Galanis's health. Whether the Court wants to deal with it as a departure or just as reasons why, as a variance, the Court can choose that way, but I just hope that the Court deals with this issue.

The average life span of an American male right now is 79 years old. Mr. Galanis has passed that age. He's not an average American male. He has high blood pressure, he has plaque build-up, he has prostate issues, he has diabetes, he has renal disease --

THE COURT: He's 75 now, correct?

MR. TOUGER: Excuse me. I meant we're past that on the original sentence. I'm sorry. He will pass 79 based on the sentence he has in Gerova. I'm sorry.

He has joint deterioration, he has hearing issues, and a myriad of other problems. And he's not outside in the American public with doctors dealing with that issue. It is unbelievable to me that the Bureau of Prisons couldn't even get him a pair of shoes. He has now been in custody for over a year, and he still doesn't have a pair of shoes. A simple pair of orthopedic shoes. A pair of orthopedic shoes, you must understand, that he came into the jail system wearing and they refused to allow him to take in, saying, oh, don't worry, we'll get you those shoes. A pair of shoes, I might add, that he's

offered to pay for and they say, no, we'll get you those shoes. The lack of those shoes has proved one thing and has done another. The lack of those shoes has put Mr. Galanis in the wheelchair. That's the effect of it. And what it proves, your Honor, is they will not take care of any of these other issues that have been caused either by that lack of shoes or been exacerbated by that lack of shoes. So there is no doubt that Mr. Galanis's life span expectancy is going to be less than the average American male.

THE COURT: Even if I'm sympathetic to the health concerns, how should I factor in the fact that he committed this crime in his 70s, committed the Gerova crime in his late 60s, when he already had some of these health conditions?

MR. TOUGER: The way you can factor that in, your Honor, is that as far as the Gerova crime, you have our sentencing memorandum in that, so I'm not going to go into a long explanation of why that occurred. So the Court has proven many things to this lawyer. One thing this Court has proven to this lawyer is that you read everything you've gotten and you understand it, so I'm not going to go into that theory. The Gerova case is totally separate and distinct from this case, as far as why they occurred.

Mr. Galanis did not come into this case committing a crime, and I guess that's where we have a distinction, your Honor, is, Mr. Galanis went into this case as a way, in

essence, really, to top off a career that began before he committed criminal conduct and go back and help out the Native American tribes. There is no doubt in my mind that Mr. Galanis did not go into this to rip off the Native American tribe in Wakpamni. There is no doubt in my mind. I have talked to those people, and there is no doubt in my mind. So he did not commit a crime in his 70s. He committed conscious avoidance and he committed -- later, when it became known to him, he didn't get Jason to stop this, but there was no going, in my mid 70s, I need to commit a crime. That did not occur.

And the way you can factor it in, your Honor, is -- I'm not going to sit here and argue -- or stand here and argue to you that you should not give him any time for this case. While I feel any time you give him just magnifies and increases his chances of dying in jail, I understand that this Court has to give him some time. The Court has given Mr. Hirst -- or Dr. Hirst, I should say -- three years, consecutive.

THE COURT: Three years consecutive.

MR. TOUGER: Consecutive. In my mind, Mr. Galanis's conduct is less than Dr. Hirst's conduct in this case, and that's what I'm using sort of as my bar to be set. Because Dr. Hirst also had the Gerova conviction, also is a man of age --

THE COURT: He doesn't have as many prior convictions.

MR. TOUGER: He doesn't have the record. I was just

going to say that.

THE COURT: He hasn't been committing crimes since the '70s, when Richard Nixon was president.

MR. TOUGER: Well, that's a statement that is true factually, but he spent 17 of those years in jail. He wasn't committing crimes for the last 40 years, your Honor. He committed a crime that led to multiple prosecutions that even a judge of this court said were all related in and of itself. He spent 17 years in jail for those crimes. And the only two crimes he's committed since then, your Honor, are the Gerova crime, which we've explained, and this crime. So this is not a man -- I know that the government wants to paint this man as a man who, all he's done his entire life is commit crime. That's not true. Yes, he has convictions from the 1970s and 1980s that were basically one criminal conduct that he got 17 years for, and then there's two other crimes, the Gerova and this.

In this case, Dr. Hirst knew exactly what he was doing. There is no way anybody could argue otherwise. He was an employee of Ms. Morton's company when they bought it. He convinced employees of that company that this was the right thing to do to buy these bonds. He signed the bond purchase. There is no way he can argue -- and I don't believe he has argued, as he pled guilty before trial -- that he did not commit those acts knowingly. His signature is on the purchase of the bonds. Mr. Galanis was not involved in that at all. I

think that is admitted by everybody. Mr. Galanis's main role here, even if you give him a role, was to bring the Wakpamni to the table with Jason. Even if you want to say that that was his role and that's what he was sent out to do, that's all he did. He did not force the Wakpamni to do anything, he did not take any money from the Wakpamni, and the Wakpamni, as we have shown, has not lost a penny from this. They have gained a building, they have gained the money they got, and nobody has come to them asking them for the $65 million. And nobody ever will. So I believe Mr. Hirst's -- Dr. Hirst's conduct was beyond that of John Galanis, and therefore, his sentence in this case, especially with the health issues he has, and the fact that we already know, from BOP already rejecting him from the drug program, that he's going to do the time the Court sentences him to -- he's not getting a year off. Even with the new legislation that has just been implemented -- I just went to a CLE on that -- he's not going to get the benefit of any of those programs. He's not safety valve eligible. None of those programs -- especially now that he's not getting the drug program -- will help him. Every day that you sentence him to, he's going to do 85 percent of that time. So every day that this Court gives him, he's doing.

And therefore, your Honor, I would ask that you give him a sentence less than Dr. Hirst, as far as consecutive to the sentence --

THE COURT: I'll just note for the record, Gary Hirst got a sentence of 96 months in prison, with 36 months to run consecutive to the sentence on Gerova.

MR. TOUGER: Yes. And my only request, your Honor, is, based on everything you know and the sentencing submissions you have, that John Galanis deserves a sentence less than Dr. Hirst.

THE COURT: Thank you.

Is there any reason why sentence cannot be imposed at this time?

MS. TEKEEI: No, your Honor.

MR. TOUGER: No, your Honor.

THE COURT: All right. So I'm required to consider the advisory guidelines range of 135 to 168 months, as well as various other factors that are outlined in a provision of the law, 18 United States Code Section 3553(a), and I have done so. Those factors include, but are not limited to, the nature and circumstances of the offense and the personal history and characteristics of the defendant, because every defendant must be considered individually as a person.

Judges are also required to consider the need for the sentence imposed to reflect the seriousness of the offense, to promote respect for the law, provide just punishment for the offense, afford adequate deterrence to criminal conduct, protect the public from future crimes of the defendant, and

avoid unwarranted sentencing disparities, among other things.

Mr. Galanis, you have been defrauding people and entities for well over 40 years. That is nothing short of extraordinary. Many of the crimes that resulted in conviction were in this very court, either in Manhattan or in White Plains. Your first conviction, as I noted a moment ago, was in this court back in 1973, for mail fraud and conspiracy to make false statements to the SEC. You were convicted in this court again in 1987 for a conspiracy to defraud the IRS. Tax fraud, RICO, securities fraud, bank fraud, and bribery. And after receiving a very lengthy sentence in another conviction in state court, you were again convicted in this court at the age of 72 before Judge Castel for a securities fraud in the Gerova case we've spoken a lot about.

And then there's the conduct in this case, which Mr. Galanis continues to challenge but which I have no doubt was proven beyond a reasonable doubt at a very lengthy trial by the government.

There's no real dispute, in my view, about the seriousness of the crime and the harm caused to one of the poorest Native American tribes in the country, as well as the clients of Hughes and Atlantic, pension funds held for the benefit of transit workers, longshoremen, housing authority workers, and city employees, among others. Over the course of two years, Mr. Galanis helped steal more than $40 million from

numerous pension fund clients and left the Wakpamni Lake Community Corporation without money for economic development and owing more than $60 million on the outstanding bonds. 2.35 million of the bond proceeds were sent to an entity controlled by Mr. Galanis, who then used that money for, among other things, jewelry, cars, hotels, and disbursements to family members.

As I noted in my ruling on his application to apply the minor role reduction, his involvement in this conspiracy in my view was far from minor. So I've considered his role, I've considered the number of victims impacted, and how they were impacted.

As I noted, Mr. Galanis, now 75, has five prior convictions, with criminal histories dating back to the 1970s, mostly for fraud-related offenses.

You know, Mr. Galanis, I recall your son Jason. I know you've had a complicated relationship, but I recall him at sentencing describing what it was like growing up with a father notorious for crimes. That's not the legacy most people seek.

A substantial sentence thus must be imposed to reflect the seriousness of the offense, promote respect for the law, provide just punishment for the offense, and afford adequate deterrence, both to you, Mr. Galanis, and to others who may seek to engage in similar conduct. Perhaps more than anything, however, I need to protect the public from future crimes that

you may commit. While most people are less likely to recidivate as they get older, as I noted earlier, you committed your last two crimes in your late 60s and your 70s, so that assumption appears not to apply to you.

I have considered and am genuinely sympathetic to, and I think you know tried to be throughout the trial and before, Mr. Galanis's health problems, including his degenerative disc disease, joint issues, spinal issues, prostate issues, high blood pressure, hypertension, diabetes, among other ailments, and I do take those medical conditions seriously, and if there are any recommendations you want me to make on the judgment that may assist in getting him the treatment he needs, I'm happy to do that. But as the government points out, Mr. Galanis committed this fraud at a time when many of these conditions were already manifest and so he was fully aware of the potential consequences on his health if he was punished for his wrongdoing. I also believe that the BOP will be able to handle Mr. Galanis's health issues, as they do with other inmates who have conditions that he identifies. So I don't think a departure is warranted for that reason. I have considered it in the 3553(a) balancing, and as I said, I'm happy to make any recommendation that may assist him going forward.

Finally, I've considered all of the other arguments Mr. Galanis has made, including the need to avoid unwarranted

sentencing disparities.

I've read all of the letters submitted from his wife and children.

And I am ready to impose sentence.

So Mr. Galanis, can you rise? If you can't, if it's uncomfortable, you don't need to.

THE DEFENDANT: It would be a problem, your Honor.

THE COURT: In any event, if it's difficult for him, there's no need to do that.

It is the judgment of this Court that you be committed to the custody of the Bureau of Prisons for a term of 60 months on Count One and 120 months on Count Two, to run concurrently to one another. 48 of those months is to be served consecutively to the sentence imposed by Judge Castel, and the remainder of the sentence is to run concurrently to the sentence imposed by Judge Castel.

That term of imprisonment shall be followed by a term of supervised release of three years on each count, to run concurrently.

I believe that this sentence is sufficient but not greater than necessary to comply with the purposes of sentencing set forth in the law.

So why don't we discuss the conditions of your supervised release. The standard conditions of supervised release shall apply. I'm not going to read them out loud.

They're on page 47 to 48 of the presentence report. Unless you want me to.

The mandatory conditions shall apply:

You must not commit another federal, state, or local crime;

You must not unlawfully possess a controlled substance;

You must refrain from any unlawful use of a controlled substance;

You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court;

You must cooperate in the collection of DNA as directed by the probation office; and

You must make restitution in accordance with the law. And those provisions of the law are set forth on page 47.

In addition, in light of the nature of the crimes, I'm going to impose the special conditions recommended by the probation office:

You must provide the probation officer with access to any requested financial information.

You must not incur new credit card charges or open lines of credit without the approval of the probation officer unless you're in compliance with the installment payment schedule.

And you'll be supervised in your district of residence.

I decline to impose a fine in light of the forfeiture and restitution that will be imposed.

I'm imposing the mandatory special assessment of $200, which shall be paid immediately.

So let's talk about restitution and forfeiture. Do you have an objection, Mr. Touger, to the preliminary order of forfeiture money judgment?

MR. TOUGER: Forfeiture? No.

THE COURT: So I'm ordering forfeiture in the amount of -- the government's seeking the $2,585,000, is that correct?

MS. TEKEEI: Yes, your Honor.

THE COURT: Yes. So I'm going to order forfeiture in that amount, and I'm going to sign this order of forfeiture money judgment, which will become part of the judgment in this matter.

Now with respect to restitution, you have an objection to the proposed restitution order, is that right, Mr. Touger?

MR. TOUGER: Yes, your Honor, based on the arguments we've already put forth to the Court.

THE COURT: All right. Would the government like to be heard.

MS. TEKEEI: Your Honor, as is clear in our submission and as the Court has already held with respect to the loss

amount, the full amount of the victims' losses can be directly attributed to and foreseeable to Mr. John Galanis, and that is why the restitution order covers the full amount of the victims' losses, which is more than $43 million.

THE COURT: I agree for the reasons that I've already stated, so restitution shall be ordered in the amount of $43,785,176, as indicated in this order of restitution, which I will sign and will also be made part of the judgment in this matter.

Does either counsel know of any legal reason, other than the ones that you've stated and I've rejected, why this sentence cannot be imposed as stated?

MS. TEKEEI: No, your Honor.

MR. TOUGER: No, your Honor.

THE COURT: All right. That's the sentence of this Court.

Mr. Galanis, you have a right to appeal your conviction and sentence. If you do choose to appeal, the notice of appeal must be filed within 14 days of the judgment of conviction. If you're not able to pay the cost of an appeal, you may apply for leave to appeal *in forma pauperis*, which simply means that court costs, such as filing fees, will be waived. If you request, the clerk of court will prepare a notice of appeal and file it on your behalf.

Are there any open counts or underlying indictments?

MS. TEKEEI: There are underlying indictments, your Honor, and we move to dismiss them at this time.

THE COURT: They shall be dismissed.

Is there any recommendation you want me to make with respect to housing or medical condition?

MR. TOUGER: Two things, your Honor.

One, I would ask -- I'm presuming that I will be doing the appeal, and so if you could have BOP keep him at the MDC for the next two months just so I can lay the preliminary groundwork for the appeal with him before he goes, and then, because that relates to my second request, is that he go back to Terminal Island from whence he came and that you also order --

THE COURT: How far away is that?

MR. TOUGER: It's in Los Angeles. That's where his family is, and that's where he was, at the medical -- it's the medical facility for the West Coast.

THE COURT: Okay.

MR. TOUGER: And also, your Honor, if you remember, you had put an order that he be flown from LA to here for the trial because of his medical conditions. We'd ask that you put that same order in, that he be flown back to Los Angeles and not go on the bus trips across the country.

THE COURT: Yes. Is there an order you need to submit to me to that effect?

MR. GRAND: I will submit it.

THE COURT: Please submit that.

I will make the other two recommendations in the judgment.

MR. TOUGER: Thank you, your Honor.

THE COURT: Are there any other applications at this time?

MS. TEKEEI: Not from the government, your Honor.

MR. TOUGER: No, your Honor.

THE COURT: Thank you. We're adjourned.

MS. TEKEEI: Thank you, your Honor.

MR. TOUGER: Thank you.

A-5161

Criminal Notice of Appeal - Form A

NOTICE OF APPEAL

United States District Court

Southern District of New York

Caption:

USA v.

John Galanis

Docket No.: 16 CR 371
R. Abrams
(District Court Judge)

Notice is hereby given that John Galanis appeals to the United States Court of Appeals for the Second Circuit from the judgment ✓, other [ ] (specify)

entered in this action on March 8, 2019 (date)

This appeal concerns: Conviction only [ ] Sentence only [ ] Conviction & Sentence [✓] Other [ ]

Defendant found guilty by plea [ ] trial [✓] N/A [ ]

Offense occurred after November 1, 1987? Yes [✓] No [ ] N/A [ ]

Date of sentence: 3/8/19 N/A [ ]

Bail/Jail Disposition: Committed [✓] Not committed [ ] N/A [ ]

Appellant is represented by counsel? (Yes) [ ] No [ ] If yes, provide the following information:

Defendant's Counsel: David Touger

Counsel's Address: 70 Lafayette St
NY, NY 10013

Counsel's Phone: 212-608-1234

Assistant U.S. Attorney: Rebecca Mermelstein

AUSA's Address: 1 St. Andrews Plaza
NY, NY, 10007

AUSA's Phone: 212-637-2000

Signature

A-5162

PELUSO & TOUGER, LLP
ATTORNEYS AT LAW
70 LAFAYETTE STREET
NEW YORK, NEW YORK 10013

TELEPHONE: (212) 608-1234
FACSIMILE: (212) 513-1989

January 22, 2020

BY HAND
Honorable Ronnie Abrams
United States District Court Judge
United States Courthouse
40 Foley Square
New York, New York 10007

Re: United States v. John Galanis,
16 CR 371 (RA)

Your Honor,

Enclosed please find a *Pro Se* Motion of Recusal that Mr. Galanis requested that I send to the Court on his behalf. This motion is filed pursuant to 28 USC §§ 144, 455(a) and 455(b)(5)(iii). Since, it is a *Pro Se* Motion I did not file it on ECF, if the Court wishes me to do so I of course will follow the Court's instructions. I have read the motion and as counsel of record I have no reason to believe that Mr. Galanis is not filing this motion in good faith and thus, pursuant to the requirements of 28 USC § 144 I certify that this motion is filed in good faith by Mr. Galanis *Pro Se*. As I understand the law I am just certifying the "good faith" of Mr. Galanis and not the facts stated in Mr. Galanis' affidavit, as I have no first hand knowledge of many of the facts stated therein.

Most Respectfully,

David Touger, Esq.

cc.: AUSA Rebecca Mermelstein

A-5163

AFFIDAVIT

I, John Galanis, hereinafter Declarant, hereby affirm and declare under the panalty of perjury (28 U.S.C. § 1746), that the following Facts stated herein are true and correct to the best of the Declarant's personal knowledge, understanding, and belief.

1. Declarant is of the age of majority, of sound mind, and competent to testify.

2. This Affidavit is filed requesting the court to disqualify itself from having presided at my trial and vacate the jury's guilty verdict pursuant to the United States Code Title 28 Sections 144, 455(a) and 455(b)(5)(iii).

3. **PROCEDURAL GROUNDS FOR RECUSAL:**

Under Section 144 Title 28 recusal can only be considered whenever a party files a sufficient affidavit stating the judge has a personal bias or prejudice either against that party or in favor of another party. And, due process may sometimes demand recusal even when a judge "ha[s] no actual bias" Rippo v. Baker, 137 S.St. 905. Quoting Rippo, "recusal is required when objectively speaking, 'the probability of actual bias on the part of the judge'... is too high to be constitutionally tolerable" (citation omitted): See Williams v. Pennsylvania, 136 S. Ct. 1899.

The United States Court of Appeals for the Second Circuit considers that sections 144 and 455 are to be heard in conjunction with each other as the sustentative analysis is the same under both, Apple v. Jewish Hosp. & med. Ctr., 829 F.2nd 326 (2nd Cir. 1987). Broader grounds for disqualification are applicable under 28 U.S.C.S. section 455(a) than either 28 U.S.C.S. section 144 or section 455(b)(5)(iii). However, disqualification

may be waived under section 455(a) if a judge discloses bias but not under section 455(b) and its subsections. Under Title 28 section 455(a) an objective standard is set for determining the bias of the court stating "any justice, judge, or magistrate of the United States shall disqualify [her]self in any proceeding which [her] impartiality might be questioned." The standard is to "be evaluated on an objective basis, so that what matters is not the reality of bias or prejudice but its appearance." (quoting from Liteky v. United States, 510 U.S. 540). Under that test a court must ask "Would a reasonable person, knowing all the facts, conclude that the trial judge's impartiality could be reasonablyquestioned." (United States v. Bayless, 201 F.3d 116).

However, section 455(b)(5)(iii) of Title 28 puts forth a distinguishable standard from section 144 or section 455(a) in that it cannot be waived bythe parties. Dictating an absolute prohibition on maintaining jurisdiction in a matter, section 455(b)(5)(iii) states: [She] shall have to disqualify [her]self in the following circumstances: [She] or [her] spouse ... (iii) is known by the judge to have an interest that could be substantially by the outcome of the proceeding. The United States Supreme Court in Lilijeberg v. Health Services Acquisition Corp, 108 S. Ct. 2194, found that subsection (b) of section 455 had a "somewhat stricter provision" than subsection (a). The statute requires recusal once grounds for disqualification arise even if insubstantial or absent an appearance of impropriety.

4. **VALIDITY OF REQUEST FOR RECUSAL:**

Despite the contentious political events since the 2016 United States presidential election, the judicial branch of government is properly perceived as upholding the fair and impartial rule of law. The use of sections 144 and 455 of Title 28 has had the desired affect of maintaining the public's trust in the judiciary. The issues which will be raised in this

request require the prudent use of the recusal statutes. Both the objective and subjective standards of higher courts have been met by the evidence presented. There have been substantial issues of inadvertent judicial bias raised because of unforseen revelations regarding Burnham/Wealth Assurance dealing with Russian and Ukrainian oligarchs. These issues are given greater gravity due to the current presidential impeachment. If the newly discovered evidence is ignored the public's trust in the judiciary as impartial arbiters would be questioned. As the newly discovered evidence demonstrates the principals in the Wakpamni bond and Burnam/Wealth Assurance case shows attempts at corrupt foreign interference in the American political system. One example out of many is the extraordinary connection between the Mueller investigation and the Bursima controversy. The government had the necessary facts to have informed the court and defense attorney before trial of the conflicted position in which the court was to be placed. By ignoring facts detrimental to its case, the government created a series of due process violations against movant which are discussed and supported in the sections that follow.

5. **BACKGROUND OF TRIAL:**

(A Glossary of Perticipants and Entities is attached and encompassed to this Affidavit).

After a six week trial where the government presented over 800 exhibits, the jury deliberated for under three (3) hours not having requested any exhibits or reading of witnesses' testimony to find movant, John Galanis, codefendants Devon Archer and Bevan Cooney guilty of the charges against them in the Wakpamni bond/Burnham/Wealth Assurance indictment. Prior to impaneling a jury, judge Abrams informed the parties she had met Hunter Biden who was "a couple of years behind me" at Yale Law School, and "we have a mutual friend." There were no onjections, however, during the opening argument by Devon Archer's attorney, the court at sidebar admonished the attorney's that there should

not be references to political figures. The government argued that defendants Jason Galanis (JWG), Devon Archer (Archer), Bevan Cooney (Cooney), and others were attempting to "obtain[ing] liquidity necessary to execute the roll-up." (Judge Abrams Rule 29 decision, page 3). The Securities and Exchange Commission later charged in a civil suit that unindicted co-conspirator Jason Sugerman was a key participant in the roll-up scheme. The roll-up refers to an acquisition plan to acquire financial services companies by Jason Galanis, Devon Archer, Jason Sugerman and others. The initial acquisition in 2013 were of Burnham Financial group, (BFG) by COR Financial Asset (CORFA) and Wealth Assurance, AG (WAAG) by Wealth Assurance Holdings, Ltd. (WAH). CORFA was operating the BSI subsidiary of BFG and awaiting board approval to acquire the asset management subsidiary (BAM). Wealth Assurance Ag was acquired in part by fraudulently redirecting its funds through an account at Banc of California which was controlled by the Sugarman brothers working with Jason Galanis. Through the Burnham/Wealth Assurance acquisitions, Jason Sugarman, Devon Archer, and Jason Galanis controlled over $2 Billion in assets.

Jason galanis informed movant that the Burnham/Wealth Assurance partners were looking to fund the aquisition of a larger insurance company, ValorLife. Movant told Jason Galanis he had been contacted by a representative of a Native Americantribe looking to place economic development bonds. A meeting with representatives of the tribe was scheduled at a Native American economic development conference in Las Vegas. Jason Galanis offered movant a commission if through a tribal bond issue WAH could fund its acquisition of Valor Life.

At the Las vegas meeting, movant met with Raycen Raines, the Wakpamni Lake Community Corporation (WLCC) economic development director, L. Steven Haynes (Haynes), a co-venturer of the WLCC in the payday loan business, and Timothy Anderson, the attorney

for the WLLC and Haynes. Haynes explained that the WLCC was allowed to issue bonds which had tribal sovereign immunity. Movant, following a suggestion by Jason Galanis, explained Burnham Securities, Inc. (BSI) would be the placement agent for new issue of WLCC bonds. Movant knew of Jason Galanis' control of BSI through CORFA. Initially, the proposal was the majority of the bond proceeds would be used to purchase an annuity issued by WAAG, so it might be able to acquire Valor Life. The bond indenture would provide for the proceeds remaining after purchase of the annuity to be used to build a warehouse on the reservation to distribute alcoholic beverages to the tribal casinos.

After Haynes and the WLCC conceptually agreed to the proposal, movant introduced Haynes and Anderson to Jason Galanis. Anderson asked Galanis to become the attorney for BSI on the bond offering. Jason Galanis, through his control of CORFA, directed Burnham to appoint Anderson the bond attorney for BSI. Jason Galanis did not allow movant to meet or interact with any officers or directors of the Burnham/Wealth Assurance Group. Anderson and movant worked through the summer of 2014 preparing the documentation for approval by Jason Galanis and Greenberg Traurig, the WLCC's counsel.

Movant has no personal knowledge, nor does the government claim movant participated in distribution of the WLCC bonds portion of the conspiracy. Proven at trial, the Burnham Partners funded the acquisition of pension fund managers who conspired to illegally sell the WLCC bonds to their clients. During the summer of 2014, Jason Galanis had been introduced to Michelle Morton who was looking for funds to purchase an institutional asset manager, Hughes Asset Management. Morton assured Jason Galanis that she had the qualifications necessary to manage the assets of the pension funds who were Hughes' principal clients. Morton assured JWG that if lent the funds, she would support buying the WLCC

A-5169

bonds by the pension funds. JWG discussed the acquisition with his partners Jason Sugarman and Devon Archer, (the "Burnham Partners"). The Burnham Partners decided to have Wealth Assurance AG fund Morton's acquisition through a shell company BFG Socially Responsible investing. Upon completing the acquisition, Morton and Gary Hirst completed the purchase of WLCC bonds by Hughes clients.

In the later part of August 2014, on a conference call, JWG for the first time informed movant and attorney Timothy Anderson that WAAG would not be issuing the annuity called for by the WLCC bond indenture. JWG explained that a different subsidiary of WAH, named Wealth Assurance Private Client (WAPC) would be issuing the annuity. Anderson did not believe that the change would substantively alter the transaction, and would contact Greenberg Traug, attorneys for WLCC. Movant agreed to notify Raycen Raines, the economic development director for the WLCC. In fact, WAPC was not an affiliate of WAH, even though they shared the same director, Hugh Dunkerly. Movant has maintained he was not informed by Jason Galanis that WAPC was not a subsidiary of WAH. Jason Galanis wrote a post conviction letter to the court confirming his deception of movant regarding WAPC's lack of affiliation with WAH.

At the request of Jason Galanis, movant caused to be formed a company, Sovereign Nations Development Corp., to receive the commission due for having arranged the sale of the annuity. Movant asked Mark McMillan (McMillan), to act as the manager of the SNDC. McMillan had a long history of managing companies for movant. At trial, McMillan confirmed from 2010 on through the bond transactions there had been mutual distruct and separation of business interest between movant and Jason Galanis. The government maintained the receipt of proceeds for WAPC proved movant knew of the Burnham Partners plan to misapply the bond proceeds. However, Dunkerley testified as the sole director of

WAPC the SNDC funds were paid while he believed the annuity was valid. Only after Dunkerley was asked to transfer substantially all of the proceeds to Thorsdale Fiduciary and Guarantee, LLC., a private trust company controlled by Jason Galanis, did he realize those funds were being misappropriated. Dunkerley was never introduced or had any contact with movant.

Shortly after the first bond offering, Jason Galanis told movant and Anderson that BSI could place a second traunche of WLCC bonds. Movant spoke to Haynes and Raycen Raines to secure permission of the WLCC for the second offering. Anderson, as attorney for BSI, drafted the documents and coordinated with WAPC. The bonds were issued to Archer and Cooney with money provided from the first bond issue through Thorsdale. There was no testimony or evidence that the movant knew that the funds were circled back from the first offering to Archer and Cooney to purchase the second and third bond offerings. The second bond issue was used by Archer to purchase equity in WAH, where he was a member of the board of directors. The bonds were then transferred with board approval to a subsidiary BISSL. After trial, SEC maintains, by adding the Archer bonds to capital allowed his partner, Jason Sugerman, to improperly transfer over $8 Million dollars for his person benefit.

a fourth bond issue was requested by Jason Galani. Trial evidence showed that Morton had convinced Jason Galanis to assist in financing the purchase of Atlantic Account Management (AAM). Jason Galanis turned again to Jason Sugerman and Archer who agreed to fund Morton from Valor Life, for approximately $6 Million dollars. AAM had approximately $9 Billion under management. The fourth WLCC bond issue was approved and illegally placed with a client of AAM for $16.5 Million dollars.

6. **TIMELINESS:**

United States v. Amico, 486 F.3d 764 (2nd Ct. 2007) held that in regard to "a motion for disqualification, the actual time elapsed between the events giving rise to the charge of bias or prejudice and the making of the motion is not necessarily dispositive. Noting, that "to ensure that a party does not hedge its bets against the eventual outcome of a proceeding, a party must move for recusal" at the earliest possible moment after obtaining knowledge of facts demonstrating the basis for such a claim." (quoting from Apple v. Jewish Hosp. & Medical Center 826 F.2d 326). There are four "Apple" factors cited in Amico which allow a motion to remain viable despite a strict reading of timelines. The learned decision written by Judge Barrington D. Parker on the four factors bears repeating as it is remarkably similar to the conclusion the movant proposes. Quoting Amico "the first two 'Apple' factors, the substantial participation of the movant in pretrial proceedings and waste of judicial resources indicates untimeliness. The third factor, the absence of a final judgment before the motion is filed, should lean in the movant's favor. This factor is dissimilar in ceertain respect, but possibly inclusive under the following. Although the jury verdict was rendered, the court's ruling regarding the court's rule 29 decision is before the Appellate Court. The specific government motion to set aside the court's rule 29 pertains to setting aside the jury's guilty verdict of defendant Archer, the appellate court may have a broader ruling. Thus, the final judgment has not yet been rendered. In addition, movant has filed notice of intent to appeal the jury's verdict. The fourth factor "at the crux of the balancing" timeliness, is can the movant show good cause for the delay. As in United States v. Brinkworth, 68 F.3d 633, the tolling of the time to bring a request for recusal was for extraordinary circumstances. The court is also asked to consider the standard set forth in United States of America v. Parse, 789 F.3d 83 which held even when there has been an unknowing and unintentional forfeiture

by a litigant the court may use its discretion to correct an error affecting the movant's substantial right under the sixth amendment of the Constitution.

In good faith, this court advised the parties of its desire to maintain a trial record without reference to politically relevant persons. Unknown at the time was the manner in which the court's spouse's role as an attorney in the office of Special Prosecutor Robert Mueller would create an actual conflict with the facts brought before the jury. Evidence was produced from prior discovery by the court's desire to maintain a neutral trial. The newly discovered evidence will show that the basis for recusal was met in all three claims of this affidavit, although for very distinctive reasons. The argument for recusal based on Title 28 sections 144, 455(a) rests on "impartiality which might be resonably questioned" and could not have been brought until very recent events showed the potential for the public perceiving bias. The claim under section 455(b)(5)(iii) is not an objective standard of impartiality, rather the absolute prohibition on merging the interest of the court hearing the matter with an investigative body inquiring on matters directly related. See Williams v. Pennsylvania, (S. Ct.). As will be demonstrated, there is evidence available that Mr. Andres' investigation and indictment of Paul Manafort coincided with matters essential to providing a fair trial in the Wakpamni bond case.

Further, this submission is timely since a specific point in time can be shown well within a reasonable period to file this motion after knowing of the potential for the court's bias. On October 3, 2019, in an e-mail from my wife, I was informed that the court had recused itself from two civil proceedings where President Trump was sued for violation of the emoluments clause of the United States Constitution. The court did not provide any reason for its decision to recuse. A news article speculated that it may have been a few weeks later that her

spouse, Greg Andres, would join Robert Mueller Special Prosecutor's foreign election interference investigation. Prior to reading this information, I [movant] had never been informed of or about Mr. Andres' position. Coupled with the knowledge of Hunter Biden's role with Burnham/Wealth Assurance, I bagan to have cause to inquire about the possible connection between the two matter. Also of note is the fact that the recusal that followed the violation of the emoluments clause was prior to the start of the trial regarding this instant case.

The court's spouse, Greg Andres, acting for Special Prosecutor Robert Mueller, investigated and then cgarged Paul Manafort with crimes resulting from improper use of political influence on behalf of Russian and Ukranian oligarchs. In addition, Manafort was charged with fraudulently securing a loan from the banc of California. The newly discovered evidence will show that the activities of Jason Sugarman, Jason Galanis, Devon Archer, and Hunter Biden (hereafter referred to as the "Burnham Partners"), intersected with matters being investigated by the Mueller team of attorney's including Mr. Andres. The same foreign parties central to the Mueller inquiry were contemporaneously involved in similar schemes with the Burnham Partners. Furthermore, post trial discovery in civil litigation involving improper influence in the management of Banc of California (BANC) by Jason Sugarman and Jason Galanis. Substantially all of the aforementioned facts were discovered post trial.

7. **DISCUSSION OF THE MERITS:**

FACTUAL ISSUES UNDER SECTIONS 144 AND 455(a):

The decision to grant or deny a recusal motion is committed to the sound discretion of the judge to whom the motion is directed. See in re Drexel Burnham Lambert, 861 F.2d 1307 (2nd Cir. 1988). A judge must "carefully weigh the policy of promoting public confidence in the judiciary against the possibility that those questioning [her] impartiality might be seeking to avoid the

adverse consequences of [her] presiding over their case." Initially, and through the point at trial where the court refused to call Jason Galanis, I [movant] was not hesistant in the court hearing the matter which resulted in my conviction. After the October e-mail from my [movant] wife, I began to examine the court's ruling regarding co-defendant Archer. As previously noted, the court's admonition to the parties on maintaining a politically neutral trial as to testimony, was an attempt to avoid prejudicial political matters unfairly influencing the jury. Unfortunately, as with many undefined exclusionary efforts, the path is more likely to lead to misconception of the evidence and testimony presented.

Amongst other unintended consequences detrimental to my [movant] due process rights, the ruling prevented full disclosure of the reason Jason Galanis was induced by Archer to turnover his ownership of Burnham/CORFA. In addition to his directorship, further evidence of Hunter Biden becoming an undisclosed partner with Archer, Jason Sugarman, and Jason Galanis, was the purchase of his broker/dealer Rosemont Seneca by Burnham. Evidence is provided that after Archer and Hunter Biden gained control of Burnham, indirect political influence was used to obtain a $5 Million dollar investment in Burnham by a Chinese firm. A full vetting would reveal that Archer and Hunter Biden became the majority of directors of Burnham to continue utilizing political patronage to gain control of assets. While the former displays the potential of the public miscontruing the court's impartiality, a far more serious concern is raised in the court allowing Archer to travel while on bail. The court docket shows numerous requests for foreign travel for business purposes. Many of the travel permits are to jurisdictions which do not have extradition treaties with the United States, and are suspiciously venues frequented to parties of interest in the Mueller investigation.

Therefore, following the concept of appearance of bias over the reality of bias, it is possible to conceive that the Supreme Court's Liteky Test has been met. The following is a synopsis of the potential factors for which the court may be viewed as biased.

1: The court was appointed by President Obama;

2: Family members include a father who is a well respected Constitutional law attorney active in democratic politics, a brother who is a national news network legal commentary analyst and critic of President of Trump, and a husband who is a prosecutor on the Mueller investigation often viewed by republicans as anti-Trump;

3: Having attended Yale Law School with Hunter Biden and on the record as having friends in common;

4: Without explanation, the court recused itself from two foreign emoluments civil law suits brought against President trump. However, under-took a trial with far more tangible links to the potential of foreign parties having improper activity in the United States elections than the emoluments case;

5: Restricting from the trial the general knowledge of Hunter Biden, Christpoher Heinz, and Devon Archer were each partners in soliciting foreign investors;

6: Taking the highly unusual step of over turning the jury's guilty verdict for Archer;

7: Ruling that the 'roll-up' was wholly legal, despite evidence it was financed by fraud at Banc of California and conducted numerous illicit activities described by government witness Dunkerley and the SEC's complaint against Jason Sugarman. The ruling favors Hunter Biden as he was an officer and director.

8: Permitting Archer extensive foreign travel, despite serious questions on how it might effect evidence in the matter before the court and with the Mueller investigation.

In Lijebberg, the Supreme Court held that recusal was the proper remedy for a judge, who, despite lacking actual knowledge of the facts which may have been indicative of the judge's interest or bias, if a reasonable person, knowing all the circumstances, would expect the judge would have such knowledge. It is assumed the court did not know about the extensive 'quid pro quo' of political influence for capital that was being organized by the Burnham Partners. However, there were numerous news articles which speculated on how Archer and Hunter Biden were able to secure hundreds of millions of dollars of foreign investment capital, despite having no financial industry background.

Absent the bias of the court to believe Archer and Hunter Biden without blemish, Jason Galanis would have been allowed to testify. Two requests were made to the court to allow Jason Galanis to testify and explain the roles of each of the parties. The first request was made after the court ruled to allow a prior conviction to be disclosed to the jury, and the second was at sentencing to explain my minimum role. However, the United States Attorney's office made no attempt to interview Jason Galanis to determine the role of Archer or Hunter Biden. The court should examine its decisions before and after trial, which were made in good faith but cumulatively could be held by a 'reasonable' person to show partiality to one defendant. The effect of such bias was to deny my [movant] basic due process rights.

FACTUAL ISSUES UNDER SECTION 455(b)(5)(iii)

The post trial newly discovered evidence listed below demonstrates the linkage between the WLCC bonds/Wealth Assurance and the investigation under Special Prosecutor Robert Mueller. The majority of the initial WLCC bond proceeds were utilized to expand the financial services firm to be utilized by the Burnham Partners to replace the reputation value previously afforded through involvement with the Heinz Falimy and Rosemont. Jason Galanis gave his interest in Burnham/Wealth Assurance to Archer

on the prospect that Archer and Hunter Biden would continue to attract foreign oligarchs on the promise of high level political contacts. The insurance companies which provided the core of its $6 Billion in assets were domiciled and regulated in Liechtenstein, a jurisdiction known for its secrecy. As the Mueller report and indictments demonstrate, oligarchs such as Yanukovich, Firtash, and Zlochevsky would place large sums with politically well conected Americans. Both Manafort and the Burnham Partners dealth with the same group of oligarchs. The Burnham Partners would be able to offer the added advantage of secrecy, sanction busting, and money laundering through the use of the well regarded reputation of Burnham Securities. The Banc of California, controlled by the Sugarman brothers through fraud, financed the acquisition of Wealth Assurance, attempted to facilitate money laudering by Russian oligarch Elena Baturina and loaned Paul Manafort on fraudulent documents. The court is requested to determine if her spouse, Greg Andres, while investigating activities in the Ukraine and Russia involving most of the same group of oligarch's seeking influence with high level officials, and as worked with Archer and Hunter Biden had any reason to report the matter to the court or the United States Attorney's office for the Southern District of New York, (SDNY). In addition, an iquiry into how the Manafort loan was introduced to banc of California and which senior banc officers approved the loan.

as a Pro Se litigant, I [movant] was anxious to file this affidavit on a timely basis and before the appeal is due before the Appelate Court. I have not been able to attach the following referenced evidence to this affidavit, except for the chronology prepared by Jason Galanis. Detailed in that document is not only the Rosemont 'quid pro quo' scheme and details how it morphed into the Burnham/Wealth Assurance fraud, but many of the names and places which link the Mueller investigation with the Wakpamni bond matter. Please consider the chronology and its information as an integral part of the affidavit.

Jason Galanis did not confide in me the full nature of his relationship with the other Burnham Partners. The chronology made part of this affidavit details only a small portion of events to implement the new 'quid pro quo' method of attracting capital. The court will recognize many of the names from the Mueller investigation. Russians such as Mikhail Gutseriev, Yuri Luzhov, Elena Baturina, and oleg Deripaska. Ukrainians Victor Yaukovich, Mykola Zlochevesky, Dymitri Firtash, and Hares Yousef. Not only is it clear from the chronology that this pattern started of political influence peddling start with Rosemont, but was being refined with supplanting Archer and Biden's exclusion from Rosemont with Burnham/Wealth Assurance's ability to launder money. Many of the plans were shared and involved Dunkerley, the government's principal witness. Yet there was no material from the government that exposed this crucial fact. An example would be Dunkerley's purported sale of Fondinvest, a $1.5 Billion dollar fund manager to Hares Yosef, acting for Firtash. The Fondinvest financing was provided by the Wakpamni bonds. Only a full hearing would demonstrate the linkage with the Mueller investigation.

The post trial discovered evidence, which was unavailable pretrial, integrating the Wakpamni/Wealth Assurance fraud case with the Manafort matters were : 'Heinz e-mail to State Deptartment officials'; 'Paul Manafort charge of defrauding Banc of California'; 'Manafort indictment on Ukranian influence peddling'; 'the Securities and Exchange Commissions suit against Jason Sugarman'; 'the Banc of California class action suit alleging securities fraud by Steven Sugarman'; 'the report of Special Prosecutor Robert Mueller'; 'the chart and notes prepared by Jason Galanis, detailing the various foreign parties which the conspirators were soliciting funds for Wealth Assurance'.

A-5179

When the aforementioned post trial evidence clarifies the pre-trial discovery, such as 'the Hugh Dunkerley plea agreement'; 'the Teneco report on the Burnham/Wealth Assurance roll-up'; and the 'e-mails from Eliot Broidy regarding acquisition financing', there is clarification of the government's misdirection on who conspired to achieve what end. The evidence will show certain of the Wakpamni/Wealth Assurance conspirators and the parties investigated by the Mueller team of attorney's, had served related foreign parties in accomplishing improper acts against the interest of America. These facts would have caused an impartial party to determine the statutory language of section 455 Title 28 had been met, requiring the court's recusal. The failure to develop the issue of potential judicial conflict rests with the government, which did not inform the court and the defense of the relationship between the Wakpamni/Wealth Assurance case and the matters which were also being investigated by the Mueller special prosecutors.

As will be shown, exculpatory evidencefor my [movant] defense must have been available to various government agencies. The responsibility of coordinating that evidence fell on the United States Attorney's office for the Southern District of New York and the Federal Bureau of Investigation. It was their failure to take an unbiased approach which resulted in the court not realizing how tighlty bound the Wakpamni/Wealth Assurance matter and Mueller investigation was/were. The goal of the investigation was limited to placing primary blame for initiating the conspiracy against my [movant] son, Jason Galanis. This investigatory bias altered the role of a number of culpable individuals which would have diminished his [Jason Galinas] role and demonstrated my [movant] lack of criminal intent.

Described below are specific facts which obligate the court to have recused itself from United States v. Jason Galinas, et al, 16 CR 371. As the Mueller investigation and subsequent indictments demonstrated, Paul manafort was interacting with Russian and Ukranian politically influenced persons, including powerful oligarchs. Those foreign parties looked to improperly influence American political leaders. As the Mueller investigation charged in an indictment, gaining political influence was the reason Manafort was retained by foreign parties and paid millions of dollars.

Contemporaneaously, the same oligarch's, in order to cover other major American political leaders, reached financial accomodations with certain of the Wakpamni defendants and their partners. The Burnham Partners plan was to use Burnham/Wealth Assurance to profit by allowing foreign interests to influence American government officials and to avoid American financial sanctions. Archer and Hunter Biden had been able to successfully merchandize their political access for foreign parties using affiliated investment vehicles to disguise payments. the parent investment vehicle, Rosemont Capital, was an off-shoot of the Heinz family office, one of the wealthiest and well known American families. Christopher Heinz (Heinz), Secretary of State John Kerry's stepson, headed Rosemont, but not similarly named companies formed by Hunter Biden and Archer. Heinz eventually understood the nature of Archer and Hunter Biden's scheme of conspiring with foreign parties and terminated the relationship.

At the time of the trial, the government was the only party which had the information demonstrating statutory conflict issues under Title 28, Section 455. the government failed its duty to notify the court and the defendant's attorney of the necessity for recusal based on information developed by both the Mueller investigation and the Wakpamni/Wealth Assurance case investigations demonstrating linkage between relevant parties.

In addition to resloving the recusal issue, the court should inquire as to what information the Southern District of New York United States Attorney's office had received in its cooperation with the Mueller investigation, the Department of Justice, and/or the Securities and Exchange Commission (SEC) regarding the defendants in the Wakpamni case and other individuals associated with the matter, in order to determine if material information under the Brady doctrine or Giglio doctrine had been withheld. The facts presented do not require access to the information withheld by the government as the evidence demonstrates the connection between the Mueller investigation and the Wakpamni case. That connection requires the court's recusal.

In order to put into context the newly discovered evidence, the court is requested to take into account evidence which was mischaracterized or marginalized by the prosecution. A useful analogy is to view the previously recognized facts as part of a mosaic. The prosecution used the incomplete mosaic in a manner to distort the direction the jury should take. When filed with the newly discovered evidence, a different view of my [movant] knowledge of the conspiracy is presented. The court adopted the government's unsupported contention that I [movant] conspired with my [movant] son Jason Galanis to defraud the Wakpamni. There was clearly a conspiracy, however, when the new evidence is viewed in an unbiased manner, the reasons and goals are very different from the position adopted by the court in the response to the defendant's post trial rule 33 motions.

Evidence at trial was Jason Galanis and presumably his partners were attempting to find financing for Wealth Assurance to acquire the much larger insurance company Valor Life, and other acquisitions. Archer convinced Jason Galinas and J. Sugarman, utilizing his method of attracting capital from foreign parties seeking United States political influence, would be more

profitable if able to use the Burnham/Wealth Assurance platform. the only issue was who would reap the future economic benefit. Funding the acquisition, the Wakpamni bonds, by investing in a Wealth Assurance, AG annuity, would not permit the economic value to flow to the Burnham Partners.

The Burnham Partners benefit was three fold. First, to utilize a large, reputable, regulated company to disguise as investments improper payments from foreign parties for political purposes. Second, to offer a method of avoiding United States and other govbernments' sanctions on financial transactions through the world wide banking facilities available to Wealth Assurance. Third, the illegal payments would be recorded as legal profits, thus on a sale of the company - capitalized at a premium. Financial companies sold at premium capitalization values secure capitalization values of eight to ten times the net profit. thus, shares bought with the Wakpamni funds would be worth many times the amount of the illegal payments fraudulently booked and recorded as net profit.

The benefit of the Wealth Assurance scheme to Jason Sugarman, an unindicted co-conspirator, was made clear in a suit brought against him by the Securities and Exchange Commission, subsequent to the Wakpamni/Wealth Assurance trial. It identified Jason Sugarman as the principal beneficiary of the Wakpamni/Wealth Arrurance fraud. The SEC's allegations, the Banc of California class action suit, and Dunkerley's plea agreement demonstrate a pattern of fraudulent acts involving Burnham, Wealth Assurance, and banc of California. As defendants Jason Galanis, Hugh Dunkerley, Jason Sugarman, and Devon Archer knew the acquisition of Wealth Assurance was facilitated by a fraudulent transfer assisted by Banc of California, assisted by Steven Sugarman. The banl was controlled by Steven Sugarman with an undisclosed interest held for his brother Jason Sugarman. The Manafort loan from a bank controlled by defendants in the Wakpamni/Wealth Assurance case should have been disclosed to the court by the government.

Until post trial, unknown was how the aggressive use of political patronage from foreign parties caused both Hunter Biden and Archer to forfeit the partnership with Christopher Heinz, scion of a wealthy and politically active family. This forfeiture of their enabling entity, Rosemont Capital, resulted in Archer and Hunter Biden soliciting Jason galanis and Jason Sugarman to become partners. The dual components of Burnham Securities reputation and Wealth Assurances multi-billion dollar asset basewould allow Archer and Hunter Biden not only to continue, but enhance the services such as avoiding sanctions and money laundering offered to foreign oligarchs.

The Heinz e-mails discuss Archer and Hunter Biden joining the board of an energy company, Burisma Holdings, Ltd., (Burisma), which a top Ukraine government prosecutor maintained was a corrupt organization. As the e-mails make clear, Heinz disavowed his and Rosemont's further relationship with Archer and Biden in the Ukraine. Heinz's decision on the nature of implicit improper quid pro quo from the Ukranian oligarch was correct. On his first six (6) trips to the Ukraine, Vice-President Biden insisted that the prosecutor that was investigating Bursimabe discharged. Subsequent to the afformentioned Rosemont Seneca Bohai (RSB), an Archer controlled entity not affiliated with Heinz interest, received over $3.4 Million distributed between Archer and Hunter Biden.

The intersection and collaberation of parties interest in the Mueller investigation and Wakpamni bond fraud can be demonstrated on a macro scale by examining the interaction of former Ukranian President Victor Yanukovich (Yanukovich), and his associates. Archer and Hunter Biden had direct involvment with the Bursima Holding, Ltd., (Bursima), owner, Mykola Zlochevsky (Zlochevsky), a former Minister of Natural Resources in the Yanukovich government. Bursima was granted valuable natural resource rights when Zlochevsky was still a Minister. In February of 2014,

Yanukovich, who was backed by Russian President Putin, was forced to resign as President of the Ukraine. Shortly thereafter, Bursima and Zlochevsky were put under investigation for self dealing while a government minister. It is the termination of this investigation for which Hunter Biden's father, the former Vice-President Josesph Biden, is being criticized.

RELIEF REQUESTED IS APPROPRIATE:

The Second Circuit utilized the Lijeberg test of three factors im Amico to determine how to best address a violation of section 455. The factors with the reason why each is an extraordinary reason why this court should recuse itself:

1. The risk of injustice to the parties in the particular case. The bias shown by the court against the movant permitted violation of constitutionally protected rights under the sixth and fourteenth amendments of the United States Constitution;

2. The denial of relief will produce injustices in other cases. The court will be encouraged to examine partiality to a defednant over the due process rights required to be afforded to a co-defendant.

3. The risk of undermining the public's confidence in the Judicial process.
The perception of disguising the involvement of relatives of high level political figures and their friends in fraudulent activity by a United States District Court Judge is unacceptable under the rule of law. The Archer/Biden scheme cleverly constructed to avoid detection of foreign parties engaging in quid pro quo payment for access to high level officials puts the activity close to treason. The simplest way to clarify the allegation made in this affidavit is to have a hearing calling first party witnesses Jason Galanis and Greg Andres, amongst others.

A-5185

Although the courts have granted incarcerated Pro Se Litigants extraordinary leeway in the procedural aspects of motions, certain apects of this matter are of such an unusual nature that I [movant] request appointment of counsel to fully brief the court on the applicable law and present the evidence in a more formalistic manner.

If the court decides to hold a hearing on the merits of this submission, I [movant] request that I be allowed to waive physical presence atthe hearing. I [movant] understand that this institution [FCI Terminal Island, San Pedro, California], has the capability of my attending a hearing/proceeding through a video/audio system. The reason this accomodation is requested is that I [movant] have not yet been seen by a medical specialist for the injuries I [movant] received while being transported from trial. As the court might recall during the days of the trial, an accident in the van resulted in me being taken to the hospital emergency room. Prior to the accident, I had two spinal surgeries. Both of those area were compromised by the accident. The Metropolitan Detention Center doctor referred me to a neuro surgeon who requested a full spinal MRI in order to evaluate the injuries. Unfortunately, there were numerous delays in seeing the Neuro Surgeon after the MRI. While waiting for an appointment, I was sent back to FCI/Terminal Island. Although ackowledged as required and scheduled, it has been nine (9) months and I have not yet seen the specialist. Thus the request of my accomodation herein.

Declarant has nothing further to state at this time.

Declarant John Galanis, herein referred to as Declarant/Movant hereby affirms and declares under the penalty of perjury (28 U.S.C. § 1746), that the foregoing statement of Facts herein are true and correct to the best of the Declarant's personal knowledge, understanding, and belief.

Executed this 16th day of January, 2020.

By: _____
John Galanis
Declarant

SUBSCRIBED AND SWORN
TO BEFORE ME THIS 16
DAY JAN 2020
W.JJY (MONTH & YEAR)
W. DOULOT / CASE MANAGER
FCI TERMINAL ISLAND
1299 S. SEASIDE AVE
TERMINAL ISLAND, CA 90731
AUTHORIZED BY THE ACT OF JULY 7, 1955,
TO ADMINISTER OATHS (18 U.S.C 4004)

A-5187

A-5188

FOOTNOTES

Rosemont Capital was established by Chris Heinz and Devon Archer, and later joined by Hunter Biden. Rosemont Seneca was folded into Jason Galanis' Burnham Group, including the acquisition of Washington-based FINRA broker-dealer RSP Investments owned by Biden (2015). The New York and DC based firm, and its principals, were engaged in far-ranging international money laundering activities and pay-for-play influence peddling. Financial transactions were conducted with the Russians, Ukrainians, Kazakhs, and Chinese, as further detailed. Prior to the May 11, 2016 indictment of Galanis/Archer for Rosemont Seneca Bohai ("RSB") transactions, however, Rosemont and its principals - Archer, Biden and Heinz - had conducted a systemic series of transactions with individuals from foreign countries involved in official corruption proceedings.

Note 1: Rosemont Capital founded by Heinz and named for Rosemont Farms, the Heinz family farm in PA. Sometimes referred to as the Heinz "family office." J. Kerry is an investor. Archer is Trustee of Howard J Heinz Trust and Heinz Family Trust. Former co-chair of finance committee of Kerry 2004 presidential campaign.

Note 2: Rosemont Capital expands into commercial real estate through the acquistion of 51% of BGK Properties from Eddie Gilbert, Santa Fe, NM. Gilbert remains shareholder of renamed company - Rosemont Realty. Gilbert is a two-time convicted felon for securities fraud. Remains partner with Rosemont until sale in 2014 to Chinese.

Note 3: Oligarch 1. Luzhkov Family. Rosemont targets foreign nationals with a desire to move money to the US. $100 million invested by Luzhkov Family in Rosemont.

Note 3a: Yuri Luzkhov and Elena Baturina (wife) were targets of public corruption investigatio in Moscow arising from his 18 year tenure as mayor and his wife becoming a billionair from property development in Moscow. Rosemont disregards the corruption and money laundering allegations.

Note 4: Oligarch 2. Gutseriev Family. $500 million commitment to Rosemont., $35 million to purchase 35% stake in Rosemont general partner with Heinz and Archer.

Note 4a: Gutseriev is Kremlin ally raised in Grozny, Chechnia. Sold oil company to Deripaska (a Manafort partner) "under duress" and bought back. State bank, Sberbank, equity partner and lender to Gutseriev.
US sanctions in 2014 caused termination of proposed $500 million Rosemont investment.

Note 5: Archer and Heinz arrange meeting with JK in DC with Foreign Minster of Kazakhstan who was unable to obtain meeting with the Secretary.

Note 5a: Archer is recognized by Kazakh government with appointment as paid director ($300k) to the National Investment Company, the sovereign wealth fund.

Note 6: Archer/arranges for Galanis co-founded potash mining company a strategic investment from Chinese state owned firm, Sichaun Chemical. Sichaun commits to purchasing $2 billion in potash over 10 years. Archer and James Bulger (nephew of Whitey) are paid $4 million in cash and stock. Galanis and Archer agree to partner.

Note 7: Galanis/Archer/Cooney form COR Fund Advisors LLC and enter into agreements to acquire Burnham Financial Group. Archer is lead with Jon Burnham. (Burnham later acquires Biden's DC broker dealer RSP Investments; also is roll-up vehicle described in the Teneo Consulting financing document - see Teneo)

Note 8: CORFA/Burnham is funded by Kazakh investor and Chinese investor closed by Archer.

Note 8a: Burnham independent board rejects Galanis in ownership group and witholds consent to final change of control. Archer and Galanis agree on fraudulent plan to deceive the public board that involves Archer executing a document precluding Galanis' affiliatio and effecting a buyout, as alleged by the SDNY. Galanis and Archer coordinate fake buyout, including Galanis and Archer agreeing to "Round-Trip" the buyout money through lawyer Weiss' trust account - from Galanis to Archer and back to Galanis (note: same method used in RSB-Wakpamni indicted transaction; and in Latvian bank transaction - see EU Bank AML Work Around)

Note 9: Oligarch 3. Nikoli Zlochevsky. Ukrainian politician and minister subject to domestic and international official corruption proceedings. Ecology Minister in Yanokovych adminstration. April 2014 Archer and H. Biden join board of Burisma, owned by Zlochevsky during UK Serious Fraud Office court proceedings on asset freeze ($23 MM). Galanis requested to propose allocation of promised proceeds if proceedings successfu

Note 9a: VP Biden simultaneously (same month) makes first post EuroMaiden revolution visit to Ukraine. Publicly states adminstration's support for Ukrainian domestic gas industry. State Department announces the "Unconventional Gas Technical Engagement Program". Zlochevsky/Burisma successful in UK court proceeding and successfully retains all gas leases granted to his company while [illegible]

A-5189

Note 10: Russian Banker 1. Grigory Guselnikov. Owner of Vyatka Bank (Russia) since 2007. Gains UK passport. Gains control of EU Bank in Latvia called Norvik Bank by merging Vyatka Bank. Summer 2015 meets Archer and Galanis in Zurich at the Dolder Grand Hotel to discuss transaction with Norvik. Archer company Archer Diversified is to enter into another Round-Trip transaction wherein Guselnikov provides 100% of the money for Archer to front the acquisition of equity of Norvik Bank. EU banking regulatory approval required. Archer/Biden influence is motivation of the round trip

Note 10a: Transaction is completed and announced. the next year Norvik Bank announces the acquistion of the 6th largest bank in Ukraine, 100% owned by Sberbank, and intention to rename Ukrainian bank "Norvik." The acquisition of a Latvian bank is described to Galanis as a "backdoor" for Russians to an EU bank and a EU AML Work Around.

Note 10b: Norvik teams up on Sberbank Ukraine acquisition with Gutseriev Family as 55% partner Transaction portrayed as British citizens acquiring Ukrainian bank. Gutseriev son (age 29) is the front for the partnership. Ukraine denies approval. Archer already indicted at this point.

Note 11: September 2014. Archer and Galanis complete the $15 million Round-Trip Transaction with Rosemont Seneca Bohai using Rosemont's lawyer's trust account.

Note 12: Archer Diversified acquires the Galanis Residence in TriBeCa, New York. Rosemont attorneyyhandles financing and closing.

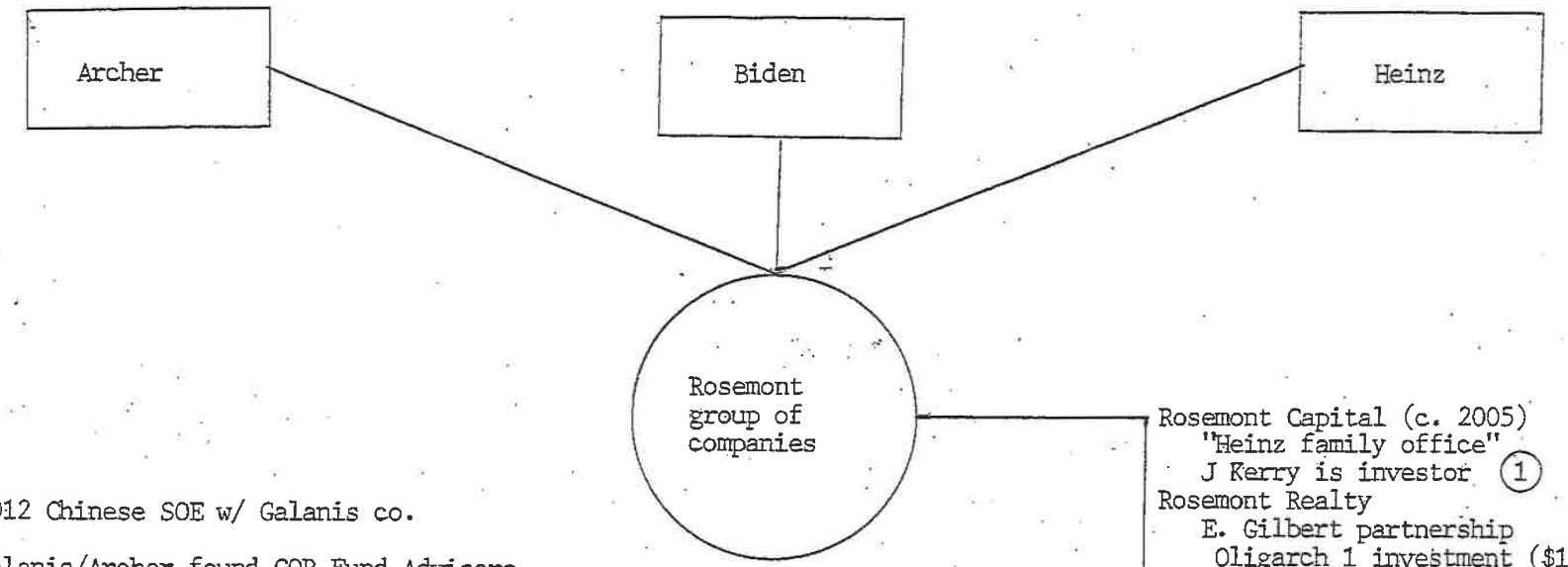
Note 13: CORFA/Burnham acquires 100% of RSP investments from Biden and Biden joins Burnham. Website notes that Rosemont Seneca is now part of Burnham.

Note 13a: SDNY alleges in indictment that Archer conceals Galanis' continuing involvement from public directors in controvention of written agreement (May 2016 indictment).

Note 14: Summer 2015 Teneo Consulting is engaged by Burnham to produce a financing document for presentation to Chinawsa and Russians (Baturina). Galanis is designated the point to represent Burnham. Teneo produces over three months financing document. Sets forth business plan to combine Burnham with Liechtenstein/Bermuda insurance business and asset managers. Biden, Archer and Sugarman are disclosed in document as senior leadership and board (Biden - Vice Chairman).

Note 14a: Biden and Archer deliver the document to Harvest Partners, China. request $15 millio Chinese do not committ

Note 14b: To induce Chinese, Biden sends email to Henry Zhao, Chairman/founder of Harvest. Says investment would be important to his family. Chinese agree to $5 million investment in Burnham Asset Management alone; not roll-up plan reflected in Teneo. (Note: Teneo paid by Valor and Archer $300k. Suppossed discount due to relationship with Clintons. Teneo founded by Doug Band and Declan Kelley)



Rosemont Capital (c. 2005)
"Heinz family office"
J Kerry is investor (1)
Rosemont Realty
E. Gilbert partnership
Oligarch 1 investment ($100MM)
Oligarch 2 investment
Sale to Chinese buyer
Rosemont Seneca Bohai ("RSB")
Chinese state-owned entity partner
RSB-Galanis Round-Trip Wakpamni
Rosemont Seneca
DC based Biden entity acquired

6 2012 Chinese SOE w/ Galanis co.

7 Galanis/Archer found COR Fund Advisors Sign to acquire Burnham

8 Kazakh and Chinese fund $3.5 million

8a Galanis "buyout" from Burnham. Round-Trip.

9 Oligarch 3. Zlochevsky. Official corruption in Ukraine. Archer/Biden join.

9a VP Biden Ukraine same month.

10 Russian Banker 1. Guselnikov. Round-Trip proposal. EU banking anti-money laundering 'work-around'

10a Archer closes. Norvik moves to buy Ukrainian division of Sberbank. Oligarch 2 partner.

10b 'British' citizen transaction denied in Ukraine

11 Galanis and Rosemont Seneca Bohai complete $15 million Round Trip (September 2015)

12 Archer Diversified buys Galanis residence NYC

13 CORFA/Burnham buys RSP from Biden; 13a SDNY alleges fraud on disclosure of Galanis involvement

14 Teneo Consulting. Financing document prepared with Biden disclosures. 14a. Biden sends to Chinese. 14b. Chinese fund

2 Rpsemont partners form Rosemont Realty and partner with E. Gilbert

3 Realty partners induce Oligarch 1

3a Public corruption allegations ignored

4 Realty partners induce Oligarch 2

4a Kremlin-ties ignored by partners

5 Kerry meet with Kazakh arranged in DC

5a Archer recognized by Kazakh gov

A-5191

A-5192

GLOSSARY OF ENTITIES AND INDIVIDUALS

Entities

Banc of California (BANC): A federally insured community bank with over $10 Billion dollars in assets. Controlling interest was acquired by Steven Sugarman in undisclosed partnership with his brother Jason Sugarman. BANC was a lender to Paul Manafort. Utilizing COR Clearings securities arrangements the Sugarman brothers were able to place tens of millions of preferred shares allowing Steven Sugarman to take control of the bank. Firmed up control by having very close associates on to the board of directors as and officers.

Bursima Holding Corp.(Bursima): Ukrainian company owned by Mykola Zlochevsky (Zlochevsky). The company acquired significant natural gas properties while Zlochevsky was the Ukrainian Minister of Natural Resources during the presidency of Victor Yanukovich. Hunter Biden, Devon Archer and Alekander Kwanaseiwski were board members of the company.

Burnham Financial Group: Parent company of Burnham Securities, Inc. (BSI) a licensed securities broker/dealer and Burnham Asset Management (BAM) a registered investment advisor. Through CORFA, Jason Galanis, Devon Archer, Jason Sugarman and later Hunter Biden took control of the BSI but were not permitted control of BAM.

COR Capital: The parent company for a number of entities with similar names utilize by the Sugarman brothers, Jason and Steven, to acquire financial assets. In partnership with Jason Galanis the Sugarman brothers formed several entities with similar names purportedly all linked to COR Capital. The following are the primary entities formed under the partnership:

COR Clearing: a federally regulated securities clearing firm with over $2 Billion in assets. The company was purchased with the assistance of Jason Galanis` pledge of $20 million dollars in securities.

COR Fund Advisors (CORFA): formed to acquired the Burnham Financial Group of Companies. Initially conceived by Jason Galanis and Jason Sugarman was later joined by Bevan Cooney and Devon Archer.

COR International: principal voting shareholder for regulatory approvals of several insurance companies, Wealth Assurance AG, ValorLife, Bermuda International, with assets of over $6 Billion dollars. The insurance companies where placed in a holding company, Wealth Assurance Holding, Ltd (WAH). Jason Sugarman and Steven Sugarman both signed the request to the insurance regulators as controlling parties of the acquire of Wealth Assurance AG.

Hapsburg Group: A working group of four former high ranking elected officials of European Union countries. Paul Manafort conceived of having the officials collectively collaborate on presenting favorable views on Viktor Yanukovich. Included in the group was Alekander Kwanseiski former president of Poland.

Rosemont Capital: A company within the H. Heinz family office controlled by Christopher Heinz.

Rosemont Realty: An affiliate of Rosemont Capital with Archer as managing member m which acquired a controlling in various real estate partnerships assembled by Edward Gilbert a twice convicted securities fraud. Later sold to a Chinese state sponsored entity for $1.5 Billion.

Rosemont Seneca Partners: A firm managed by H. Biden which was acquired by Burnham Securities when Biden became a Burnham director.

Rosemont Seneca Bohai: An entity controlled by Archer which received multi million dollar payments from Burisma substantial portions of which were transferred to H. Biden. Received $15 Million dollars misappropriated from the Wakpamni bond offering. The funds where used to buy Wakpamni Bonds in order to be contributes as capital to Wealth Assurance Holding so Archer would be shareholder.

Rossneft: With its affiliate Netisa are oil companies controlled by Mikhail Gutseriyev. Russian criminal tax evasion charges required Gutseriyev to move to London. The charges were eventually dismissed.

A-5193

Sovereign Nations Development Corp: Formed by John Galanis at the request of Jason Galanis to receive the commission earned for having introduced the WLCC, Haynes and Anderson who facilitated the issuance of the bonds.

Thorsdale Fiduciary and Guaranty, LLC: A private trust company formed and controlled by Jason Galanis. Received proceeds of Wakpamni bond offering used to purchase control shares of Wealth Assurance Holding, Fondinvest and personal disbursements.

Wakpamni Lake Community Corporation: A tribal corporation established by a subdivision of the Oglala Nation. The reason for formation was to enter the payday loan business through using sovereign immunity. Steven Haynes is the principal advisor to the company and sponsored the concept of issuing bonds to be sold through Burnham.

Wealth Assurance Private Client Corp. (WAPC): a British Virgin Islands company controlled by Jason Galanis and through Hugh Dunkerley. On the advice of Gary Hirst issued a "private annuity" to WLCC. Was advised so as to avoid the regulatory compliance issues of a WAAG issued annuity purchasing shares in its primary shareholder WAH.

Burnham/Wealth Assurance, Various COR Companies and Banc of California Participants

Devon Archer

Hunter Biden

Bevin Cooney: A restaurant entrepreneur who invested in Burnham Group through CORFA. Purchased third tranche of WLCC bonds

Hugh Dunkerley: Functioned in various executive roles for various companies controlled by the Sugarman brothers. Entrusted to perform administrative roles which were often improper.

Rory Knight: Former Dean of the Templeton Business School at Oxford University. Often advisor and/or participant in many of Jason Galanis` ventures.

Jason Galanis: Entrepreneur specializing in the financing and developing of financial services intellectual property. An SEC violation stemming from 2004 activity resulted in his taking a non control managerial roles in the ventures since that time. Partnered with Jason Sugarman since 2010 in various transactions. Plead guilty to fraud charges concerning Gerova Financial and Wakpamni bond cases. Second circuit vacated both pleas.

Jason Sugarman: Promoter of various real estate and mortgage investment vehicles which were investigated by the SEC and US Attorney`s office. While defending the ensuing litigation worked through his brother Steven in promoting the COR group of comapnies and Banc of California. Partnered with Archer, H. Biden and Jason Galanis in the Burnham/Wealth Assurance roll up plan.

Steven Sugarman: Yale Law School graduate with a business background in securities. With his brother Jason Sugarman as an undisclosed principal took control of Banc of California, COR Clearing, Wealth Assurance AG and ValorLife.

Paul Manafort: A Republican party political operative. Undertook lobbying efforts for Russian and Ukrainian politicians and oligarchs. For a short period acted as campaign manager for Donald Trump`s 2016 presidential candidacy. Convicted of various money laundering, political influence peddling and bank fraud.

Wakpamni Lake Community Corporation

L. Steven Haynes: Entrepreneur who maintained business arrangements with numerous Native American tribes in pay day loans, slot machines and alcohol distribution. Maintained control of businesses by passing sovereign immunity restrictions on control of tribal corporations through administrative contracts and loan agreements.

A-5195

A-5196

Raycen Raines: A member of the Wakpamni Lake Community. At suggestion of Haynes convinced tribal elders to form an economic development entity to use tribal sovereign immunity to avoid state restrictions on pay day loans. Virtually all of WLCC`s income is from payday loans.

Timothy Anderson: An attorney with two specialties; municipal bond offerings and laws regarding Native American tribes. Introduced by Haynes to Raines to form WLCC.

Heather Thompson: A lawyer with Greenberg Traurig the attorneys for Wakpamni Lake Community. Represented the WLCC in all aspects of the bond offerings. Married to Raines.

Peter Shannon: Business man from Chicago who had alcohol distribution joint venture with Haynes. Had an agreement with Oglala Sioux Tribe so part of proceeds of a $200 million dollar bond offering would be invested in various corporation with which he was affiliated. Introduced John Galanis to Haynes, Raines and Anderson to see if Oglala bond could be placed.

Rosemont Participants

Devon Archer * previously listed

Hunter Biden * previously listed

Christopher Heinz: Heir to H. Heinz food products fortune. Father was a United States Senator. Step father is John Kerry former Secretary of State. Roommate of Archer at Yale.

Edward Gilbert: Twice convicted felon whose real estate tax shelter company a Rosemont affiliate acquired 51%. Later sold to Chinese company for $1.5 Billion.

Foreign Oligarchs and their Facilitators

Victor Yanukovich: Former President of the Ukraine forced out of office on corruption charges and supporting closer ties to Russia and Putin. Financial sanctions by United States and European Union.

Mykola Zlochevesky: Minister of Natural Resources under Yanukovich. As owner of Bursima Holdings awarded valuable energy rights while a Government minister. Close relationship to Yanukovich and Firtash. Appointed H. Biden and Archer to Bursima board of directors. Financial sanctions had been imposed by United States and European Union.

Dymtri Firtash: Amassed billions in productive assets during Yankuovich administration for Bursima. Utilized Boise Schiller law firm and H. Biden in an attempt to settle criminal charges brought in United States. Worked with Manafort. Through Yousef coordinated several financial transactions with Archer and Jason Galanis. Financial sanctions imposed by United States and European Union.

Alekander Kwasneiwski: Former president of Poland. Close confidant and operative of Zlochevesky and Manafort.

Hares Yousef: Former advisor to Yanukovich. Acted as an intermediary for Firtash with H. Biden and Archer. Various transactions with Archer, Jason Galanis and Dunkerley. Firtash and Yousef were charged with money laundering by Spain. Charges were recently dismissed.

Yuri Luzhov: Former mayor of Moscow who became very wealthy during 12 years in office. Financial sanctions imposed by various jurisdictions.

Elena Baturina: Wife of Luzhov a billionaire through real estate transactions. Numerous attempts to avoid sanctions with assistance of Archer, Biden, Jason Sugarman and Jason Galanis. Conspired with Archer, Jason Galanis and the Sugarman brothers to avoid United States financial sanctions at Banc of California. Financial sanctions imposed by various jurisdictions had been imposed. Important client of Rosemont.

Mikhail Gutseriyev: Banker and principal shareholder in large Russian oil company. Financial sanctions imposed by various jurisdictions

A-5197

A-5198

Criminal Notice of Appeal - Form A

NOTICE OF APPEAL

United States District Court

Southern District of New York

Caption:

USA v.

John Galanis

Docket No.: 16 CR 371

Hon. Ronnie Abrams

(District Court Judge)

Notice is hereby given that John Galanis appeals to the United States Court of Appeals for the Second Circuit from the judgment ___, other | ✔ | from the Order issued denying his motion for a new trial and recusal (specify) entered in this action on January 24, 2020 (date).

This appeal concerns: Conviction only [ ] Sentence only [ ] Conviction & Sentence [ ] Other [✔]

Defendant found guilty by plea | | trial | | N/A |

Offense occurred after November 1, 1987? Yes [✔] No [ ] N/A [ ]

Date of sentence: _____ N/A [✔]

Bail/Jail Disposition: Committed [✔] Not committed | | N/A |

Appellant is represented by counsel? Yes ✔ | No | | If yes, provide the following information:

Defendant's Counsel: David Touger

Counsel's Address: 70 Lafayette Street
New York, New York 10013

Counsel's Phone: (212)608-1234

Assistant U.S. Attorney: Negar Tekeei

AUSA's Address: One St. Andrews Plaza
New York, New York 10007

AUSA's Phone: (212) 637- 2200

Signature