

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

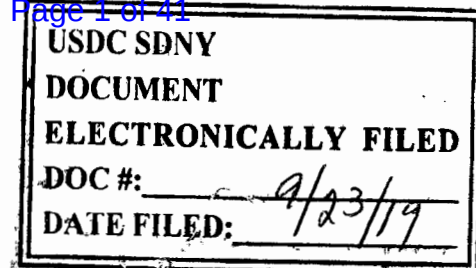
v.

DANIEL RIVAS,
JAMES MOODHE,
ROBERTO RODRIGUEZ,
RODOLFO SABLON,
JHONATAN ZOQUIER,
MICHAEL SIVA, and
JEFFREY ROGIERS,

Defendants.

1:17-cv-06192-VM

FINAL JUDGMENT AS TO
DEFENDANT RODOLFO SABLON



The Securities and Exchange Commission having filed a Complaint, and Defendant Rodolfo Sablon having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I:

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;

- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the 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.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] promulgated thereunder, in connection with any tender offer or request or invitation for tenders, from engaging in any fraudulent, deceptive, or manipulative act or practice, by:

- (a) purchasing or selling or causing to be purchased or sold the securities sought or to be sought in such tender offer, securities convertible into or exchangeable for any such securities or any option or right to obtain or dispose of any of the foregoing securities while in possession of material information relating to such tender offer that Defendant knows or has reason to know is nonpublic and knows or has reason to know has been acquired directly or indirectly from the offering person; the issuer of the securities sought or to be sought by such tender offer; or any

officer, director, partner, employee or other person acting on behalf of the offering person or such issuer, unless within a reasonable time prior to any such purchase or sale such information and its source are publicly disclosed by press release or otherwise; or

- (b) communicating material, nonpublic information relating to a tender offer, which Defendant knows or has reason to know is nonpublic and knows or has reason to know has been acquired directly or indirectly from the offering person; the issuer of the securities sought or to be sought by such tender offer; or any officer, director, partner, employee, advisor, or other person acting on behalf of the offering person of such issuer, to any person under circumstances in which it is reasonably foreseeable that such communication is likely to result in the purchase or sale of securities in the manner described in subparagraph (a) above, except that this paragraph shall not apply to a communication made in good faith
- (i) to the officers, directors, partners or employees of the offering person, to its advisors or to other persons, involved in the planning, financing, preparation or execution of such tender offer;
 - (ii) to the issuer whose securities are sought or to be sought by such tender offer, to its officers, directors, partners, employees or advisors or to other persons involved in the planning, financing, preparation or execution of the activities of the issuer with respect to such tender offer; or
 - (iii) to any person pursuant to a requirement of any statute or rule or regulation promulgated thereunder.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$923,566, but that this amount shall be deemed satisfied by the order of forfeiture entered against Defendant in *United States v. Michael Siva et al.*, 17-cr-00503-AJN (S.D.N.Y. April 5, 2019) (Dkt. 166), which ordered forfeiture of \$923,566.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the allegations in the complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

VI.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

VII.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated:

23 September 2019


Victor Marrero
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

DANIEL RIVAS,
JAMES MOODHE,
ROBERTO RODRIGUEZ,
RODOLFO SABLON,
JHONATAN ZOQUIER,
MICHAEL SIVA, and
JEFFREY ROGIER,

Defendants.

1:17-cv-06192-VM

CONSENT OF DEFENDANT RODOLFO SABLON

1. Defendant Rodolfo Sablon ("Defendant") acknowledges having been served with the complaint in this action, enters a general appearance, and admits the Court's jurisdiction over Defendant and over the subject matter of this action.

2. Defendant has pleaded guilty to criminal conduct relating to certain matters alleged in the complaint in this action. Specifically, in *United States v. Michael Siva et al.*, 17-cr-00503-AJN (S.D.N.Y.), Defendant pleaded guilty to violating 18 U.S.C. § 371 (Conspiracy to Commit Securities Fraud and Fraud in Connection With a Tender Offer). In connection with that plea, Defendant admitted the facts set out in the transcript of his plea allocution that is attached as Exhibit A to this Consent. This Consent shall remain in full force and effect regardless of the existence or outcome of any further proceedings in *United States v. Michael Siva et al.*

3. Defendant hereby consents to the entry of the Final Judgment in the form attached hereto (the "Final Judgment") and incorporated by reference herein, which, among other things:

(a) permanently restrains and enjoins Defendant from violations of Sections

10(b) and 14(e) of the Exchange Act [15 U.S.C. §§ 78j(b), 78n(e)] and Rules 10b-5 and 14e-3 thereunder [17 C.F.R. §§ 240.10b-5, 14e-3]; and

- (b) orders Defendant liable for disgorgement in the amount of \$923,566, but finds that that this amount shall be deemed satisfied by the order of forfeiture entered against Defendant in *United States v. Michael Siva et al.*, 17-cr-00503-AJN (S.D.N.Y. April 5, 2019) (Dkt. 166), which ordered forfeiture of \$923,566.

4. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

5. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Judgment.

6. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

7. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

8. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

9. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission,

within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

10. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that he shall not be permitted to contest the factual allegations of the complaint in this action.

11. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges the guilty plea for related

conduct described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the complaint or creating the impression that the complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the complaint, or that this Consent contains no admission of the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the complaint; and (iv) stipulates for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19). If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

12. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have

reached a good faith settlement.

13. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

14. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: 6/20/2019


Rodolfo Sablon

Approved as to form:

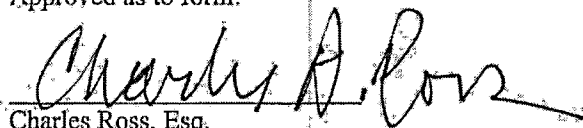

Charles Ross, Esq.
Attorney for Defendant

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

17 Cr. 503 (AJN) (DCF)

5 RODOLFO SABLON,

6 Plea

7 Defendant.

8 -----x
9 New York, N.Y.
10 July 17, 2018
11 10:42 a.m.

12 Before:

13 HON. DEBRA C. FREEMAN,

14 Magistrate Judge

15 APPEARANCES

16 GEOFFREY S. BERMAN

17 United States Attorney for the
Southern District of New York

18 ANDREA GRISWOLD

Assistant United States Attorney

19 CHARLES A. ROSS

Attorney for Defendant

20 ALSO PRESENT: JONATHAN POLONITZA, Special Agent

1 (Case called)

2 MS. GRISWOLD: Good morning, your Honor. Andrea
3 Griswold, for the government, joined at counsel table by
4 Special Agent Jonathan Polonitza with the FBI.

5 THE COURT: Good morning.

6 MR. ROSS: Charles Ross, for Rodolfo Sablon, who's
7 sitting next to me.

8 THE COURT: All right. Good morning. I gather this
9 is referred by Judge Nathan for a plea. It's my understanding
10 defendant wishes to plead to Count Twenty-One only of the
11 indictment, correct?

12 MR. ROSS: That's correct, your Honor.

13 THE COURT: Mr. Sablon, the indictment in this case
14 charges you with felony crimes, and you have a right to a trial
15 on the charges before a United States district judge. If you
16 are found guilty, you will be sentenced by a United States
17 district judge, and ordinarily a defendant who wishes to enter
18 a plea to these types of charges would do that before the
19 district judge as well. That Judge would then conduct a
20 so-called plea allocution, which is a question-and-answer
21 session that must accompany the entry of a plea. With the
22 defendant's consent, however, a United States magistrate judge
23 such as myself also has the authority to take a plea. If you
24 were to consent to proceed before a United States magistrate
25 judge for the purposes of entering a plea, you would receive

1 all of the same procedural protections as you would receive if
2 you were proceeding before the district judge.

3 Do you understand that?

4 THE DEFENDANT: I do.

5 THE COURT: Is it your wish to proceed before a
6 magistrate judge for the purpose of entering a plea?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: If you would move the microphone a little
9 closer, you don't have to keep moving.

10 (Discussion off the record)

11 THE COURT: I have a form that's been handed up by
12 counsel entitled "Consent to Proceed Before a United States
13 Magistrate Judge on a Felony Plea Allocution." Did you sign
14 this form?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Before you signed it, did you discuss it
17 with your attorney?

18 THE DEFENDANT: Yes, I did.

19 THE COURT: He explained it to you?

20 THE DEFENDANT: Yes, he did.

21 THE COURT: Have any threats or promises of any kind
22 been made to cause you to agree to this procedure today?

23 THE DEFENDANT: No, your Honor.

24 THE COURT: All right. I will accept the consent.

25 In order to take your plea, I must ask you some

1 questions for which I need to place you under oath. Would you
2 please raise your right hand.

3 THE DEFENDANT: Do you want me to stand up?

4 THE COURT: That's all right.

5 (Defendant sworn)

6 THE COURT: Please state your name for the record.

7 THE DEFENDANT: Rodolfo Sablon.

8 THE COURT: Are you a United States citizen?

9 THE DEFENDANT: Yes, I am.

10 THE COURT: How old are you?

11 THE DEFENDANT: Thirty-seven.

12 THE COURT: How far did you go in school?

13 THE DEFENDANT: I got my bachelor's degree. I was
14 working on my master's, but I stopped.

15 THE COURT: Are you now or have you recently been
16 under the care of a doctor for any reason?

17 THE DEFENDANT: No, your Honor.

18 THE COURT: How about a psychiatrist or psychologist?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: Do you take any medication?

21 THE DEFENDANT: Ibuprofen.

22 THE COURT: Do you have any condition that affects
23 your ability to see or to hear?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: The ibuprofen you're taking, is that for

1 some kind of pain?

2 THE DEFENDANT: No, arthritis and exercise.

3 THE COURT: Do you have any condition that affects
4 your ability to think or to reason or understand or make
5 decisions or judgments on your own behalf?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: Have you ever been treated for drug
8 addiction or alcoholism?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: As you appear before me today, are you
11 under the influence of any kind of drugs or alcohol or
12 medication?

13 THE DEFENDANT: No, your Honor.

14 THE COURT: Is your mind clear today?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you generally feel all right today?

17 THE DEFENDANT: As good as I can, yeah.

18 THE COURT: Do you have any trouble understanding the
19 questions I'm asking you?

20 THE DEFENDANT: No.

21 THE COURT: Have you received a copy of the indictment
22 in this case?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: Have you had a chance to read it, or do
25 you want me to take the time to read it to you?

1 THE DEFENDANT: I've read it plenty of times.

2 THE COURT: OK. That would be a long read, but you're
3 entitled to it, if you wish.

4 THE DEFENDANT: I won't put you through it.

5 THE COURT: Do you understand what it says you did?

6 THE DEFENDANT: Yes, your Honor, I do.

7 THE COURT: Have you had enough time to talk to your
8 attorney about the charges and about how you wish to plead?

9 THE DEFENDANT: I've had more than enough time to
10 speak to him, yes.

11 THE COURT: Are you satisfied with the representation
12 and advice given to you by your counsel?

13 THE DEFENDANT: Yes, I am.

14 THE COURT: Are you ready to enter a plea?

15 THE DEFENDANT: Yeah.

16 THE COURT: All right. Bearing in mind that Count
17 Twenty-One of the indictment charges that you violated Title 18
18 of the United States Code, Section 371, by conspiring with
19 others to commit both securities fraud and fraud in connection
20 with a tender offer.

21 How do you wish to plead to that charge, guilty or not
22 guilty?

23 THE DEFENDANT: I plead guilty.

24 THE COURT: Because you are proposing to enter a
25 guilty plea, I have to ask you some additional questions to be

1 sure you understand the nature of the charges and the
2 consequences of your plea and also to ensure that your plea is
3 voluntary.

4 You OK?

5 THE DEFENDANT: Yeah.

6 THE COURT: All right. First, I want you to
7 understand that if convicted of this count of the indictment,
8 you could face a maximum sentence of five years' imprisonment,
9 a maximum term of supervised release of three years, a maximum
10 fine of the greatest of \$250,000 or twice the gross pecuniary
11 gain you derive from the offense or twice the gross pecuniary
12 loss to persons other than yourself resulting from the offense,
13 and a mandatory special assessment of \$100.

14 Do you understand all of that?

15 THE DEFENDANT: I do.

16 THE COURT: Do you also understand that if convicted
17 of this crime, the Court may order you to pay restitution to
18 any victims of the crime?

19 THE DEFENDANT: I understand.

20 THE COURT: Do you also understand that if you are
21 convicted, you could be required to forfeit all property, real
22 and personal, that constitutes or derives from proceeds
23 traceable to your crime?

24 THE DEFENDANT: I understand.

25 THE COURT: Do you also understand that if as part of

1 your sentence you are placed on a term of supervised release
2 and you then violate any conditions of that release, your
3 supervised release may be revoked, and you may face an
4 additional term of imprisonment?

5 THE DEFENDANT: I understand.

6 THE COURT: Do you understand that if that should
7 happen, you may not get credit for time that you served on
8 supervised release; in other words, the Court could require you
9 to serve in prison all or part of the term of supervised
10 release that's authorized by law for this offense without
11 giving you credit for time you may have already served on
12 supervised release?

13 THE DEFENDANT: I understand.

14 THE COURT: Do you understand that you have the right
15 to plead not guilty to this charge and the right to a speedy
16 and public trial and a jury trial if you wish?

17 THE DEFENDANT: I do.

18 THE COURT: Do you understand that if you previously
19 entered a plea of not guilty to this charge, you're not
20 required to change your plea?

21 THE DEFENDANT: I understand.

22 THE COURT: Do you understand that if you were to go
23 to trial, the burden would be on the government to prove your
24 guilt by competent evidence beyond a reasonable doubt?

25 THE DEFENDANT: I understand.

1 THE COURT: Do you understand that if you were to go
2 to trial, you would be presumed to be innocent unless and until
3 the government did prove your guilt beyond a reasonable doubt?

4 THE DEFENDANT: I understand.

5 THE COURT: Do you understand that if you were to go
6 to trial by a jury, a jury composed of 12 people selected from
7 this district would have to agree unanimously that you are
8 guilty?

9 THE DEFENDANT: I understand.

10 THE COURT: Do you understand that at a trial you
11 would be entitled to be represented by an attorney at all
12 stages, and if you could not afford to hire one, an attorney
13 would be provided to you free of charge?

14 THE DEFENDANT: I understand.

15 THE COURT: Do you also understand that your right to
16 be represented by counsel and, if necessary, to have the Court
17 appoint counsel for you applies not only to trial but also to
18 every other stage of the proceedings against you?

19 THE DEFENDANT: I understand.

20 THE COURT: Do you understand that at a trial you
21 would be entitled through your attorney to cross-examine any
22 witnesses called to testify against you?

23 THE DEFENDANT: I do. I understand.

24 THE COURT: Do you understand that at a trial you
25 would be entitled to testify and present evidence on your own

1 behalf?

2 THE DEFENDANT: I understand.

3 THE COURT: Do you understand this means that you
4 would have the right to call witnesses to testify on your
5 behalf?

6 THE DEFENDANT: Yes, I understand.

7 THE COURT: Do you also understand that you would be
8 entitled to have the Court issue subpoenas to compel witnesses
9 to appear to testify at trial?

10 THE DEFENDANT: I understand.

11 THE COURT: Do you understand that at a trial you
12 would not be required to incriminate yourself; that is, you
13 would not be required to testify against yourself?

14 THE DEFENDANT: I understand.

15 THE COURT: Do you understand that this means that at
16 a trial you would have the right to testify if you wanted to do,
17 so, but no one could force you to testify if you did not want
18 to do so, and furthermore, no inference or suggestion of guilt
19 could be drawn if you chose not to testify at trial?

20 THE DEFENDANT: I understand.

21 THE COURT: Do you understand that if you go forward
22 with your guilty plea, you will be giving up all of these types
23 of protections that I've just described, including your very
24 right to a trial, and the only remaining step will be the
25 imposition of sentence by the district judge in this case who

1 is Judge Nathan?

2 THE DEFENDANT: I do understand.

3 THE COURT: Do you understand that if any of the
4 answers you give me today prove to be untruthful, you could
5 face a separate prosecution for perjury, or for making a false
6 statement to the Court?

7 THE DEFENDANT: I understand.

8 THE COURT: Do you understand that if you plead guilty
9 and your guilty plea is accepted and you're adjudged guilty,
10 that adjudication may deprive you of valuable civil rights,
11 such as the right to vote or to hold public office or to serve
12 as a juror or to possess a firearm?

13 THE DEFENDANT: I understand.

14 THE COURT: In light of everything I've told you so
15 far, do you still wish to plead guilty?

16 THE DEFENDANT: I do.

17 THE COURT: All right. Do you understand that the
18 decision as to the appropriate sentence in your case will be
19 entirely up to Judge Nathan?

20 THE DEFENDANT: I do understand that.

21 THE COURT: Do you understand that Judge Nathan will
22 have discretion in determining your sentence and that her
23 discretion will be limited only by what the law requires for
24 this particular charged offense?

25 THE DEFENDANT: I understand.

1 THE COURT: Do you understand that with respect to
2 your sentence, the Court will have the authority, as I
3 mentioned, to impose an order of restitution and the obligation
4 to impose a special assessment?

5 THE DEFENDANT: I understand.

6 THE COURT: Do you also understand that in determining
7 your sentence, the Court will have the obligation to calculate
8 the so-called sentencing guidelines and to consider them, even
9 though it will not be required to sentence you within the
10 guidelines range?

11 THE DEFENDANT: I understand.

12 THE COURT: Have you and your attorney had a chance to
13 talk about how the guidelines may be calculated in your case?

14 THE DEFENDANT: Yes, we have.

15 THE COURT: Do you understand that the Court will not
16 be able to determine the guidelines for your case until after a
17 presentence report has been completed and both you and the
18 government have had the chance to challenge the facts that are
19 reported there by the probation officer?

20 THE DEFENDANT: I understand.

21 THE COURT: Do you understand that even after the
22 guidelines calculation has been made for a case, the sentencing
23 judge will have the authority to impose a sentence that is
24 either less severe or more severe than the sentence recommended
25 by the guidelines, as long as it's within the statutory maximum

1 for the crime?

2 THE DEFENDANT: I understand.

3 THE COURT: Do you also understand that in addition to
4 considering the sentencing guidelines, the Court will have to
5 consider possible departures from the guidelines and also a
6 number of different factors in deciding on the appropriate
7 sentence to impose in your case?

8 THE DEFENDANT: I understand.

9 THE COURT: Have you and your attorney had a chance to
10 talk about the various factors that are listed in the relevant
11 provision of law that's Title 18 of the U.S. Code, Section
12 3553(a), and about how those different factors may apply to you
13 in your particular case?

14 THE DEFENDANT: Yes, we have.

15 THE COURT: Do you understand that those factors
16 include, but are not limited to, the actual conduct in which
17 you engaged, the victim of the offense, the role you played in
18 the offense, whether or not you have accepted responsibility
19 for your acts, whether you have any criminal history, and
20 whether you engaged in any obstruction of justice?

21 THE DEFENDANT: I understand.

22 THE COURT: Do you understand that even if you end up
23 shocked and disappointed by your sentence, you will still be
24 bound by your guilty plea?

25 THE DEFENDANT: I do understand that.

1 THE COURT: Do you understand that under some
2 circumstances you or the government may have the right to
3 appeal the sentence that is imposed?

4 THE DEFENDANT: I understand.

5 THE COURT: Do you understand that there is no parole
6 in the federal system and that if you are sentenced to prison,
7 you will not be released on parole?

8 THE DEFENDANT: I understand.

9 THE COURT: After everything I have just told you, do
10 you still wish to plead guilty?

11 THE DEFENDANT: I do, your Honor.

12 THE COURT: I have a copy of a plea agreement in this
13 case. It's a letter dated July 2, 2018, from the Office of the
14 United States Attorney to your counsel. Did you sign this plea
15 agreement?

16 THE DEFENDANT: Yes, I did, your Honor.

17 THE COURT: Before you signed it, did you discuss it
18 with your attorney?

19 THE DEFENDANT: Absolutely did.

20 THE COURT: Did he explain to you all its terms and
21 conditions?

22 THE DEFENDANT: He did.

23 THE COURT: All right. In reviewing the plea
24 agreement, I note that it contains an analysis as to how the
25 sentencing guidelines may impact on any sentence that may be

1 imposed in your case. Based on that analysis, the agreement
2 states the conclusion that if the guidelines were applied, you
3 could expect the range of a prison sentence to be from 37 to 46
4 months.

5 Do you understand that?

6 THE DEFENDANT: I do.

7 THE COURT: Do you also understand that the agreement
8 states the conclusion that under the guidelines the applicable
9 range for a fine in your case would be anywhere from 15,000 to
10 \$150,000?

11 THE DEFENDANT: I understand.

12 THE COURT: Do you understand that Judge Nathan is not
13 bound by the guidelines calculation contained in the plea
14 agreement and that she will do her own analysis, which may
15 result in a guidelines range that is different from the one
16 stated in the plea agreement?

17 THE DEFENDANT: I understand.

18 THE COURT: Do you understand that even if Judge
19 Nathan agrees with the guidelines analysis contained in the
20 plea agreement and therefore concludes that the guidelines
21 range for your case for a prison sentence would be from 37 to
22 46 months, she would still be free to impose a sentence that is
23 either less than 37 or more than 46 months?

24 THE DEFENDANT: I understand.

25 THE COURT: Do you understand that under the terms of

1 this plea agreement, you are agreeing not to seek a so-called
2 departure from the stated guidelines range even though you are
3 reserving your right to seek a sentence outside the guidelines
4 based on those factors listed in Section 3553(a)?

5 THE DEFENDANT: I understand.

6 THE COURT: Do you understand that under the terms of
7 this plea agreement, as long as you are sentenced to a prison
8 term of no more than 46 months, you're giving up your right to
9 complain about your prison sentence, both by appeal to the
10 Court of Appeals or by any other further application to this
11 court?

12 THE DEFENDANT: I understand.

13 THE COURT: Do you also understand that under the
14 terms of this plea agreement, you are giving up your right to
15 challenge any term of supervised release that may be imposed as
16 long as it is not more than three years?

17 THE DEFENDANT: I understand.

18 THE COURT: Do you also understand you are giving up
19 your right to challenge any fine that is less than or equal to
20 \$150,000?

21 THE DEFENDANT: I understand.

22 THE COURT: Do you understand that under the terms of
23 this plea agreement, even if it turns out that the government
24 illegally withheld from your counsel certain information that
25 would be helpful to you in defending yourself at trial, you're

1 giving up your right to complain about that?

2 THE DEFENDANT: I understand, your Honor.

3 THE COURT: Do either counsel have any reason to
4 believe that Mr. Sablon is not a United States citizen as he
5 claims to be?

6 MS. GRISWOLD: No reason to believe.

7 MR. ROSS: No, your Honor, he's a citizen.

8 THE COURT: All right. Mr. Sablon, I want to make
9 clear to you that I have no reason to believe that you're not a
10 citizen. You've told me you are. Counsel seems to accept that
11 you are a citizen. Nonetheless, I'm just going to inform you
12 that if that is not the case, if you are not a citizen of the
13 United States, you should understand that your guilty plea and
14 resulting conviction could have the consequences of
15 deportation, which could be mandatory; it could prevent
16 citizenship in the future and prevent return to this country in
17 the future.

18 Do you understand that?

19 THE DEFENDANT: I understand.

20 THE COURT: Do you understand that under the terms of
21 this plea agreement, you are admitting the forfeiture
22 allegations contained in the indictment with respect to Count
23 Twenty-One and that you are agreeing to forfeit to the United
24 States all property, real and personal, that constitutes or is
25 derived from proceeds traceable to the commission of that

1 crime?

2 THE DEFENDANT: I understand.

3 THE COURT: Before I go on, are there any other
4 particular provisions of the plea agreement that either counsel
5 would like me to review with Mr. Sablon to make sure he
6 understands?

7 MS. GRISWOLD: No, your Honor.

8 MR. ROSS: No, your Honor. Thank you.

9 THE COURT: Apart from what is in the plea agreement
10 itself, have any promises of any kind been made to you to
11 influence you to plead guilty?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Have any promises been made to you
14 regarding the actual sentence you will receive?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: Do you understand that no one, including
17 your attorney or the government or this Court today, can give
18 you any assurance as to what your sentence will be, as your
19 sentence will be determined solely by the sentencing judge
20 after that judge has ruled on any challenges to the presentence
21 report, has contemplated the sentencing guidelines, and has
22 determined whether there are grounds to adjust the guidelines
23 range or sentence you outside of that range?

24 THE DEFENDANT: I'm aware of that, yes.

25 THE COURT: Have any threats been made against you,

1 either directly or indirectly, to influence how you plead
2 today?

3 THE DEFENDANT: No, your Honor.

4 THE COURT: Is your plea voluntary and made of your
5 own free will?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Before I ask you to explain what you did,
8 let me ask the government, please, to summarize the elements
9 that it would need to establish at trial to sustain this
10 charge.

11 MS. GRISWOLD: Yes, your Honor. Count Twenty-One
12 charges a conspiracy to commit securities fraud and tender
13 offer fraud in violation of Title 18, United States Code,
14 Section 371. This crime has three elements: First, the
15 defendant agreed with at least one other person to commit the
16 defined objects; second that at least one overt act was taken
17 by the defendant or a coconspirator to further the conspiracy;
18 and, finally, venue, at least one overt act in furtherance of
19 the conspiracy took place in the Southern District of New York.

20 If I could set forth the elements of each of the
21 objects for the record. First object is securities fraud. As
22 relevant to this case, this has five elements:

23 First, that the defendant received material nonpublic
24 that is, that is, information he knew was not publicly
25 available and would be important to a reasonable investor;

1 Second, the information was disclosed or used in
2 breach of a duty to keep the information confidential and
3 disclosed or used for personal benefit;

4 Third, the defendant knew the information was
5 disclosed or used in breach of a duty and for personal benefit;

6 Fourth, the defendant traded based on the material
7 nonpublic information he received; and

8 Finally, that at least one overt act in furtherance of
9 this scheme took place in the Southern District of New York.

10 The second object is tender offer fraud. The elements
11 of fraud in connection with a tender offer are five elements:

12 First, that after substantial steps had been taken to
13 commence a tender offer;

14 That the defendant received material nonpublic
15 information relating to the deal;

16 Third, that either directly or indirectly that
17 information was received from someone the defendant knew to be
18 associated with either the offeror or the target issuer;

19 Fourth, the defendant knowingly and willfully traded
20 on that information in advance of the tender offer's public
21 announcement; and

22 Finally, that at least one act in furtherance of the
23 scheme occurred in the Southern District of New York.

24 THE COURT: Hold on a second. I was making notes, and
25 you said there were five elements, and I've managed to list

1 four.

2 MS. GRISWOLD: I think I didn't say number two, but
3 the defendant received material nonpublic information was the
4 second.

5 THE COURT: OK.

6 MS. GRISWOLD: May just have forgotten to give the
7 number.

8 THE COURT: So the first was?

9 MS. GRISWOLD: That after substantial steps had been
10 taken to commence a tender offer. Then the second is the
11 defendant received material nonpublic information relating to
12 the deal.

13 THE COURT: Sorry. I put those together.

14 MS. GRISWOLD: Sorry. That's my mistake, your Honor.

15 THE COURT: All right. Mr. Sablon, did you just now
16 hear the attorney for the government summarize the elements of
17 this crime that it would have to establish at trial in order to
18 sustain the charge against you?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand that the government
21 would have to prove each of the elements of the charged crime
22 beyond a reasonable doubt in order to obtain a conviction
23 against you?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you still wish to proceed with your

1 plea?

2 THE DEFENDANT: I do, your Honor.

3 THE COURT: All right, then. Did you, in fact, commit
4 the offense that's charged in Count Twenty-One of the
5 indictment?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Could you please tell us in your own words
8 what you did that makes you guilty of this crime.

9 MR. ROSS: Judge, Mr. Sablon and I have discussed this
10 thoroughly, and we've prepared a written statement for him
11 today. It represents the truth of what happened here, and if
12 it's OK with you, Judge, he be allowed to read that.

13 THE COURT: That's totally fine. Thank you.

14 MR. ROSS: Thank you, Judge.

15 THE DEFENDANT: Before I continue, your Honor, I'd
16 like to just inform the Court that this was the most difficult
17 decision I've made in my life, not only because of the negative
18 impact it has on myself, my family, and my children, but the
19 thousands of kids that I help in my community and throughout
20 the country. That being said, I've prepared a statement with
21 my attorney.

22 Between approximately the fall of 2015 and April 2017,
23 I knowingly and intentionally agreed with others to unlawfully
24 purchase and sell securities based upon material nonpublic
25 information I received because of -- because of my agreement to

1 commit securities fraud. I received this information both from
2 an individual whose job allowed him access to material
3 nonpublic information and through my friend and codefendant.

4 THE COURT: Could you just slow down slightly.

5 THE DEFENDANT: Sorry.

6 THE COURT: Thank you. Go ahead.

7 THE DEFENDANT: A little nervous.

8 THE COURT: That's OK. It's just when we have a court
9 reporter, people tend to speed up when they read.

10 THE DEFENDANT: OK.

11 THE COURT: I always talk fast myself, and the court
12 reporters are fabulous and manage to keep up.

13 THE DEFENDANT: I'll slow it down.

14 THE COURT: Slow it down a bit.

15 THE DEFENDANT: The two of them were close friends,
16 and I was very close to my friend and codependent --
17 codefendant. I received this insider information based on this
18 relationship and because my friend and I offered to form an
19 investment entity. I later understood that the insider
20 individual had a duty not to disclose material nonpublic
21 information.

22 I opened a brokerage account, and with the assistance
23 of my friend, I purchased shares of a company named Tumi
24 Holdings based upon inside information. While these initial
25 trades were not profitable, I continued to trade various

1 securities based upon inside information, and those trades
2 were, in fact, profitable. My codefendant and I traded
3 aggressively on this information and purchased call options
4 from various companies' offerings in advance of material public
5 announcements.

6 I subsequently sold these options for profit. The
7 companies included Outerwall by Apollo, Panera by JAB Holdings.
8 As part of the conspiracy between March 29, 2017, and March 31,
9 2017, I was involved with my codefendant in the fraudulent
10 purchases -- purchase of approximately 412 Panera call options.
11 I used text messages, telephone calls, and encrypted mobile
12 messaging applications to communicate with my coconspirators.

13 As part of my agreement, I committed fraud and acted
14 as part of the scheme in a deceptive manner. I agree that my
15 actions affect interstate commerce and that at least some of
16 the material nonpublic inside information was obtained by the
17 corporate insider while he was in Manhattan and New York City.

18 I am deeply ashamed of my actions, and I am truly
19 remorseful and sorry for what I've done.

20 MR. ROSS: Judge, Mr. Sablon's prepared to admit and
21 concede that a number of these offerings were based on tender
22 offers.

23 THE COURT: I was going to ask that. Is that correct?

24 (Counsel confer with defendant)

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Some of the information that you
2 understood was inside information and material was received
3 from an offeror or issuer in connection with a tender offer?

4 THE DEFENDANT: Yes, your Honor.

5 MS. GRISWOLD: May I just clarify?

6 THE COURT: Please, please, counsel.

7 MS. GRISWOLD: So with respect to the tender offer
8 object, the defendant didn't have to know at the time that it
9 was a tender offer, but we have to set forth that it, in fact,
10 was. So in this case, Mr. Rivas, who is the corporate insider
11 at Bank of America, that was the source of this information,
12 provided information both about M&A transactions and about
13 tender offers. One example that this defendant traded in that
14 was a tender offer was Monsanto.

15 I would just ask that the Court could inquire whether
16 or not the defendant acknowledges that, in fact, he traded on
17 information about tender offers including Monsanto as one
18 example?

19 THE COURT: Mr. Sablon, is that correct that you
20 traded on information regarding tender offers?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: That included Monsanto?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: All right. Do either counsel believe any
25 additional facts need to be elicited? Is that a satisfactory

1 allocution?

2 MS. GRISWOLD: There were two other clarifications
3 that the government would request. I believe Mr. Sablon
4 indicated that he obtained information from a corporate
5 insider. I would just ask for confirmation that he understood
6 that that insider, Mr. Rivas, wasn't allowed to share the
7 confidential information.

8 THE COURT: I'm sorry. I was momentarily distracted.
9 Could you repeat that, please.

10 MS. GRISWOLD: Sure. Mr. Sablon indicated that he
11 obtained this confidential information from a corporate
12 insider. I proffered for the record that was an individual
13 who's cooperating with the government named Daniel Rivas who
14 worked for Bank of America, and what I'm asking the Court to
15 inquire is whether Mr. Sablon understood this was confidential
16 information that Mr. Rivas was not allowed to share.

17 THE COURT: All right. That was fairly lengthy.

18 Is it correct that you received information from
19 Mr. Rivas?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Was it your understanding that the
22 information was confidential and that he was not supposed to be
23 sharing it with you?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Anything further, counsel?

1 MS. GRISWOLD: One other thing. I believe Mr. Sablon
2 indicated that he received the insider information because his
3 friend and Mr. Sablon offered to form an investment entity.
4 Just wanted to if the Court would inquire if they offered
5 Mr. Rivas an opportunity to join that investment entity and
6 that was in part why he understood Mr. Rivas was providing the
7 information.

8 MR. ROSS: I think that was part of the admission,
9 Judge.

10 MS. GRISWOLD: May be a verbiage issue. I think my
11 notes said that Mr. Sablon said, My friend and I offered to
12 form an investment entity. I guess the question is why? What
13 does that have to do with the provision of inside information
14 here?

15 THE COURT: I'm not sure it's needed, but I'll ask the
16 clarifying question if there's no object to providing the
17 response.

18 Did you offer Mr. Rivas an opportunity to join this
19 entity?

20 (Counsel confer with defendant)

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Did you have an understanding that that's
23 why, perhaps at least in part, he was providing you with
24 confidential information?

25 THE DEFENDANT: Yes.

1 MS. GRISWOLD: That's it, your Honor. Thank you.

2 THE COURT: Does defense counsel believe any
3 additional facts need to be elicited for a satisfactory
4 allocution?

5 MR. ROSS: No, your Honor, it's sufficient.

6 THE COURT: All right. I'm going to ask both counsel
7 two final questions: One, if either of you believe there are
8 additional questions of any kind that I should be asking
9 Mr. Sablon today; and, second, if either of you know any reason
10 I should not recommend acceptance of this plea?

11 MS. GRISWOLD: No additional questions.

12 Would you like me to set forth what the government's
13 evidence would be at trial?

14 THE COURT: Do you think we need to fill in any gaps?

15 MS. GRISWOLD: I think it's sufficient to say that
16 Mr. Rivas would testify about how the scheme unfolded at trial
17 and --

18 THE COURT: If you want to make a further record,
19 you're welcome to do it.

20 MS. GRISWOLD: I think that's the record. Mr. Rivas
21 would testify about the information that he obtained in breach
22 of his duty and that he shared that information with
23 individuals, including Mr. Sablon, and that Mr. Sablon and his
24 coconspirator profited in excess of \$2 million as a result.

25 THE COURT: And you don't believe there are any

1 additional questions that should be asked and you don't know
2 any reason I should not recommend acceptance of the plea?

3 MS. GRISWOLD: That's correct.

4 THE COURT: Counsel?

5 MR. ROSS: Same for me, no additional questions, and I
6 have no objection to your Honor recommending acceptance of the
7 plea.

8 THE COURT: All right. Based on my colloquy with
9 Mr. Sablon, I conclude that he understands the nature of the
10 charge and the consequences of his plea. I'm also satisfied
11 his plea is voluntary and that there is a factual basis for the
12 plea.

13 I'll also note, for the record, I see no issue here
14 with respect to Mr. Sablon competence to enter a plea. He
15 seemed fully able to participate in these proceedings today.
16 Accordingly, I hereby recommend that Judge Nathan accept the
17 proffered plea to Count Twenty-One of the indictment in 17 Cr.
18 503.

19 Has Judge Nathan set a sentencing date?

20 MS. GRISWOLD: She has not, your Honor. We have a
21 conference before Judge Nathan this Friday.

22 THE COURT: All right. I'll set a control date for
23 sentencing of 120 days, which is November 14; but, obviously,
24 be in touch with Judge Nathan about sentencing.

25 Is there any issue here as to bail?

1 MS. GRISWOLD: No, your Honor. Continued bail terms
2 would be the government's request.

3 THE COURT: All right. I'm going to ask the
4 government to prepare the prosecution case summary for purposes
5 of the presentence report. Please deliver that to the
6 probation department no later than 14 days from today.

7 I'm going to ask defense counsel, please, to contact
8 the probation department to schedule a presentence interview of
9 your client to be held within that same two-week window.
10 Please make yourself available for that interview so the matter
11 can move forward.

12 I assume the government will order a copy of the
13 transcript of this allocution, together with any necessary
14 additional paperwork -- I'm sorry. Order a copy of the
15 allocution and submit it to Judge Nathan together with any
16 additional necessary paperwork so that she may act on this
17 recommendation.

18 Is there anything else?

19 MS. GRISWOLD: No, your Honor. Thank you.

20 MR. ROSS: Nothing from us, Judge. Thank you.

21 THE COURT: All right. Best of luck to you,
22 Mr. Sablon.

23 THE DEFENDANT: Thank you.

24 (Adjourned)
25



**United States District Court
Southern District of New York**

Ruby J. Krajick
Clerk of Court

Dear Litigant:

Enclosed is a copy of the judgment entered in your case. If you disagree with a judgment or final order of the district court, you may appeal to the United States Court of Appeals for the Second Circuit. To start this process, file a "Notice of Appeal" with this Court's Pro Se Intake Unit.

You must file your notice of appeal in this Court within 30 days after the judgment or order that you wish to appeal is entered on the Court's docket, or, if the United States or its officer or agency is a party, within 60 days after entry of the judgment or order. If you are unable to file your notice of appeal within the required time, you may make a motion for extension of time, but you must do so within 60 days from the date of entry of the judgment, or within 90 days if the United States or its officer or agency is a party, and you must show excusable neglect or good cause for your inability to file the notice of appeal by the deadline.

Please note that the notice of appeal is a *one-page* document containing your name, a description of the final order or judgment (or part thereof) being appealed, and the name of the court to which the appeal is taken (the Second Circuit) – *it does not* include your reasons or grounds for the appeal. Once your appeal is processed by the district court, your notice of appeal will be sent to the Court of Appeals and a Court of Appeals docket number will be assigned to your case. At that point, all further questions regarding your appeal must be directed to that court.

The filing fee for a notice of appeal is \$505 payable in cash, by bank check, certified check, or money order, to "Clerk of Court, S.D.N.Y." *No personal checks are accepted.* If you are unable to pay the \$505 filing fee, complete the "Motion to Proceed *in Forma Pauperis* on Appeal" form and submit it with your notice of appeal to the Pro Se Intake Unit. If the district court denies your motion to proceed *in forma pauperis* on appeal, or has certified under 28 U.S.C. § 1915(a)(3) that an appeal would not be taken in good faith, you may file a motion in the Court of Appeals for leave to appeal *in forma pauperis*, but you must do so within 30 days after service of the district court order that stated that you could not proceed *in forma pauperis* on appeal.

For additional issues regarding the time for filing a notice of appeal, see Federal Rule of Appellate Procedure 4(a). There are many other steps to beginning and proceeding with your appeal, but they are governed by the rules of the Second Circuit Court of Appeals and the Federal Rules of Appellate Procedure. For more information, visit the Second Circuit Court of Appeals website at <http://www.ca2.uscourts.gov/>.

THE DANIEL PATRICK MOYNIHAN
UNITED STATES COURTHOUSE
500 PEARL STREET
NEW YORK, NY 10007-1312

THE CHARLES L. BRIEANT, JR.
UNITED STATES COURTHOUSE
300 QUARROPAS STREET
WHITE PLAINS, NY 10601-4150

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(List the full name(s) of the plaintiff(s)/petitioner(s).)

____CV____ () ()

-against-

NOTICE OF APPEAL

(List the full name(s) of the defendant(s)/respondent(s).)

Notice is hereby given that the following parties: _____

(list the names of all parties who are filing an appeal)

in the above-named case appeal to the United States Court of Appeals for the Second Circuit

from the ☐ judgment ☐ order entered on: _____
(date that judgment or order was entered on docket)

that:

(If the appeal is from an order, provide a brief description above of the decision in the order.)

Dated

Signature *

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address (if available)

* Each party filing the appeal must date and sign the Notice of Appeal and provide his or her mailing address and telephone number, EXCEPT that a signer of a pro se notice of appeal may sign for his or her spouse and minor children if they are parties to the case. Fed. R. App. P. 3(c)(2). Attach additional sheets of paper as necessary.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(List the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

____CV____ () ()

**MOTION FOR EXTENSION
OF TIME TO FILE NOTICE
OF APPEAL**

(List the full name(s) of the defendant(s)/respondent(s).)

I move under Rule 4(a)(5) of the Federal Rules of Appellate Procedure for an extension of time to file a notice of appeal in this action. I would like to appeal the judgment entered in this action on _____ but did not file a notice of appeal within the required
date
time period because:

(Explain here the excusable neglect or good cause that led to your failure to file a timely notice of appeal.)

Dated:

Signature

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address (if available)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(List the full name(s) of the plaintiff(s)/petitioner(s).)

-against-

(List the full name(s) of the defendant(s)/respondent(s).)

____CV____ () ()

**MOTION FOR LEAVE TO
PROCEED IN FORMA
PAUPERIS ON APPEAL**

I move under Federal Rule of Appellate Procedure 24(a)(1) for leave to proceed *in forma pauperis* on appeal. This motion is supported by the attached affidavit.

Dated

Signature

Name (Last, First, MI)

Address

City

State

Zip Code

Telephone Number

E-mail Address (if available)

Application to Appeal In Forma Pauperis

_____ v. _____ Appeal No. _____

District Court or Agency No. _____

Affidavit in Support of Motion I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.) Signed: _____	Instructions Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number. Date: _____
---	---

My issues on appeal are: (required):

1. *For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.*

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	<u>Spouse</u>	You	<u>Spouse</u>
Employment	\$	\$	\$	\$
Self-employment	\$	\$	\$	\$
Income from real property (such as rental income)	\$	\$	\$	\$

Interest and dividends	\$	\$	\$	\$
Gifts	\$	\$	\$	\$
Alimony	\$	\$	\$	\$
Child support	\$	\$	\$	\$
Retirement (such as social security, pensions, annuities, insurance)	\$	\$	\$	\$
Disability (such as social security, insurance payments)	\$	\$	\$	\$
Unemployment payments	\$	\$	\$	\$
Public-assistance (such as welfare)	\$	\$	\$	\$
Other (specify):	\$	\$	\$	\$
Total monthly income:	\$	\$	\$	\$

2. *List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

3. *List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)*

Employer	Address	Dates of employment	Gross monthly pay
			\$
			\$
			\$

4. How much cash do you and your spouse have? \$_____

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner seeking to appeal a judgment in a civil action or proceeding, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$	(Value) \$	(Value) \$
		Make and year:
		Model:
		Registration #:

Motor vehicle #2	Other assets	Other assets
(Value) \$	(Value) \$	(Value) \$
Make and year:		
Model:		
Registration #:		

6. *State every person, business, or organization owing you or your spouse money, and the amount owed.*

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
	\$	\$
	\$	\$
	\$	\$
	\$	\$

7. *State the persons who rely on you or your spouse for support.*

Name [or, if a minor (i.e., underage), initials only]	Relationship	Age

8. *Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.*

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home) Are real estate taxes included? [] Yes [] No Is property insurance included? [] Yes [] No	\$	\$
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$	\$
Home maintenance (repairs and upkeep)	\$	\$
Food	\$	\$
Clothing	\$	\$
Laundry and dry-cleaning	\$	\$
Medical and dental expenses	\$	\$

Transportation (not including motor vehicle payments)	\$	\$
Recreation, entertainment, newspapers, magazines, etc.	\$	\$
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$	\$
Life:	\$	\$
Health:	\$	\$
Motor vehicle:	\$	\$
Other:	\$	\$
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$	\$
Installment payments		
Motor Vehicle:	\$	\$
Credit card (name):	\$	\$
Department store (name):	\$	\$
Other:	\$	\$
Alimony, maintenance, and support paid to others	\$	\$
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$	\$
Other (specify):	\$	\$
Total monthly expenses:	\$	\$

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☐ No If yes, describe on an attached sheet.

10. Have you spent — or will you be spending — any money for expenses or attorney fees in connection with this lawsuit? ☐ Yes ☐ No

If yes, how much? \$ _____

11. *Provide any other information that will help explain why you cannot pay the docket fees for your appeal.*

12. *Identify the city and state of your legal residence.*

City _____ State _____

Your daytime phone number: _____

Your age: _____ Your years of schooling: _____

Last four digits of your social-security number: _____