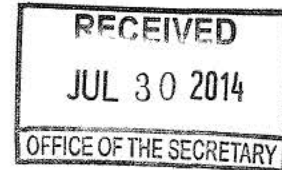


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

HARD COPY

ADMINISTRATIVE PROCEEDING
File No. 3-15887



In the Matter of

BLAYNE S. DAVIS,

Respondent.

**DIVISION OF ENFORCEMENT'S MOTION
FOR SUMMARY DISPOSITION AGAINST RESPONDENT
BLAYNE S. DAVIS AND SUPPORTING MEMORANDUM OF LAW**

Andrew O. Schiff
Senior Trial Counsel

DIVISION OF ENFORCEMENT
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1800
Miami, FL 33131
Phone: (305) 982-6390
Fax: (305) 536-4154

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I. Introduction

Pursuant to Rule 250 of the Commission's Rules of Practice, the Division of Enforcement respectfully moves for summary disposition and imposing the sanctions of an industry bar from association and a penny stock bar against Respondent Blayne S. Davis pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 ("Exchange Act"). We set forth the grounds for the sanction below.

II. History of the Case

The Commission issued the OIP on May 27, 2014, pursuant to Exchange Act Section 15(b). In summary, the OIP alleges that Davis solicited investors on the false representation that he would be investing their funds in foreign exchange markets when, in fact, he was not investing the funds at all but was using them for personal spending and to make payments to earlier investors. These facts led to Davis's criminal conviction.

On June 19, 2014, Davis, having been served with the OIP, submitted pro se his "Answer to Commissions [sic] Complaint and Request for Dismissal," which raises defenses relating to the statute of limitations and the pendency of a post-conviction proceeding. Davis does not deny that he was convicted as alleged in the OIP.

On June 23, 2014, the Division moved for leave to file a motion for summary disposition, which the Law Judge granted on July 11, 2014, setting a filing deadline of August 1, 2014.

III. Memorandum of Law

A. Davis's Criminal Case

On January 11, 2011, a federal grand jury returned a superseding indictment against Davis, charging him with five counts of wire fraud, in violation of 18 U.S.C. § 1343. (D.E. 41,

superseding indictment, *United States v. Davis*, No. 6:10-cr-00190 (M.D. Fla.) (attached as Exhibit 1 to this motion)).

On March 8, 2011, a jury convicted Davis on Counts 3 through 5 and acquitted him on Counts 1 and 2. (D.E. 79, jury verdict (attached as Exhibit 2); D.E. 80, jury instructions (attached as Exhibit 3)). On November 30, 2011, the district judge sentenced Davis to 36 months imprisonment, and, subsequently, to restitution totaling \$41,865, payable to four individuals. (D.E. 130, 147, judgment and amended judgment (attached respectively as Exhibits 4 and 5)). The court of appeals subsequently affirmed the conviction. (*United States v. Davis*, 491 F. App'x 48 (11th Cir. Sept. 27, 2012) (opinion attached as Exhibit 6)).

On December 14, 2012, Davis moved to set aside his conviction pursuant to 28 U.S.C. § 2255. Davis's motion has been fully briefed and is pending decision. (Docket Sheet, *Davis v. United States*, 6:12-cv-1870 (M.D. Fla.) (attached as Exhibit 7)).

B. Facts Determined Against Davis

Davis's conviction estops him from disputing the facts relevant to this matter. *Eric S. Butler*, Exchange Act Release No. 65204, at 7 n.23, 2011 WL 3792730 (Aug. 26, 2011). Therefore, “[t]he indictment and jury instructions, together with the [court of appeals’] [d]ecision, establish the factual framework for our analysis of the conviction[.]” *Id.*; *see also Gregory Bartko*, Exchange Act Release No. 71666, at 2 n.3, 18 & nn. 69-70, 2014 WL 896758 (Mar. 7, 2014) (approving consideration of “district court order describing the trial and evidence”: “[F]ollow-on proceedings have long considered district court findings, including in [criminal] cases following a general verdict, as evidence of the public interest that is not open to collateral challenge.”).

Here, the indictment, jury instructions, and appellate opinion establish the following: from 2005 through October 2006, Davis “knowingly and willfully” executed a fraudulent scheme. (Ex. 1, ¶ 1, Ex. 3, at 9). Davis offered his victims “investment opportunities in the foreign exchange market,” guaranteeing returns between 15% and 40% payable over periods between 7 and 45 days. (Ex. 1, ¶ 3, Ex. 7, at 2, 6). “Davis did not invest the money he received from investors, but instead used money from later investors to pay earlier investors and used significant portions of the money for his own personal use.” (Ex. 1, ¶ 6, Ex. 7 at 6-7 (describing bank records that prove this allegation)). To conceal the fraud, Davis gave investors documents falsely representing their investments were earning a monthly return of 20%-30%. (Ex. 1, ¶ 6). Davis also lulled investors into believing they would be getting their money back, by falsely stating (a) he had unsuccessfully attempted to wire money to them, and (b) the funds where he claimed to have invested the money were restricting his ability to make withdrawals. (Ex. 1, ¶¶ 7, 8a, 8b, Ex. 7, at 6). Davis received more than \$250,000 from at least nine victims through this scheme. (Ex. 1, ¶ 9).¹

C. Summary Disposition is Appropriate

1. Because of Davis’s Conviction, There are No Disputed Facts

The Law Judge should grant a motion for summary disposition if there is “no genuine issue with regard to any material fact and the party making the motion is entitled to summary disposition as a matter of law.” 17 C.F.R. § 201.250(b). Here, since “[a]ll material facts that

¹Davis testified at trial, claiming he transferred investors’ money to another individual, who Davis said was the actual wrongdoer—a defense the Eleventh Circuit held “refuted” by the documentary evidence. (Ex. 7, at 2, 6-7). Davis also testified he repaid his investors with money from Capital Blu, a company he worked for. (*Id.* at 2-3). Davis admitted the Commodities Futures Trading Commission filed a civil suit against both Capital Blu and Davis, against whom judgment by default was entered. (*Id.* at 3; *see CFTC v. Capital Blu Management, LLC*, 6:09cv508 (M.D. Fla.) (filed Mar. 23, 2009)).

concern the activities for which [Davis] was convicted were decided against him in the criminal case,” summary disposition is appropriate. *Adam Harrington*, Initial Decision Release No. 484, at 1, 2013 WL 1655690 (Apr. 17, 2013), *review dismissed*, Exchange Act Release No. 70149, 2013 WL 4027264 (Aug. 8, 2013); *Alan Brian Baiocchi*, Initial Decision Release No. 382, at 1, 2009 WL 2030524 (July 14, 2009) (same).

2. The Undisputed Facts Entitle the Division to Summary Disposition as a Matter of Law

The facts determined in Davis’s criminal case entitle the Division to summary disposition as a matter of law. The Division seeks relief under Exchange Act Section 15(b)(6)(A), which provides in relevant part:

With respect to any person . . . at the time of the alleged misconduct, who was associated with a broker or dealer . . . the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of limitations, suspension, or bar is in the public interest and that such person—

* * * *

(ii) has been convicted of any offense specified in [Exchange Act Section 15(b)(4)(B)] within 10 years of the commencement of the proceedings under this paragraph

15 U.S.C. § 78o(b)(6)(A). All requirements of Section 15(b)(6)(A)—timely issuance of the OIP, conviction under a qualifying statute, and misconduct committed while defendant was associated with a broker or dealer—are satisfied here.

a. The Division Timely Filed this Action

The Division must commence a proceeding under Section 15(b)(6)(A)(ii) within “10 years” of the criminal conviction. *See Joseph Contorinis*, Exchange Act Release No. 72031, at

4-6, 2014 WL 1665995 (Apr. 25, 2014) (10-year limitations period governs Section 15(b)(6)(A)(ii) proceeding; limitations period runs from date of conviction, not underlying conduct). Here, Davis was convicted in 2011, and the OIP was issued in 2014. Therefore, the matter was timely filed, and Davis's statute of limitations defense lacks merit.

b. Davis Was Convicted of a Qualifying Offense

Davis's wire fraud conviction triggers the Commission's ability to sanction him under Section 15(b)(6)(A). *See* 15 U.S.C. §§ 78o(b)(4)(B)(iv), 78o(b)(6)(A)(ii). The pendency of Davis's Section 2255 motion does not prevent the Law Judge from considering this matter. *See Adam Harrington*, Initial Decision Release No. 484, at 3, 2013 WL 1655690 (Apr. 17, 2013) (“[T]he pendency of [the defendant’s] appeal . . . does not preclude ‘follow-on’ action based on the conviction.”), *review dismissed*, Securities Exchange Release No. 70149, 2013 WL 4027264 (Aug. 8, 2013); *Brad Haddy*, Initial Decision Release No. 164, 2000 WL 556608, *1 (May 8, 2000) (“The Commission does not . . . delay an administrative proceeding based on a conviction pending the outcome of an appeal or other post-conviction proceeding.”).

c. Davis Was Associated with a Broker at the Time of the Misconduct

Section 15(b)(6)(A) requires that Davis have been a “person . . . associated with a broker” at the time of the misconduct.² The broker in question need not have been a registered broker. *See Jenny E. Coplan*, Initial Decision Release No. 595, at 2 n.3, 2014 WL 1713067 (May 1, 2014). Moreover, if Davis was a broker at the time of the misconduct, he will also be a “person controlling . . . such broker,” thus satisfying the requirement that he have been a person

²Although the misconduct here did not involve penny stocks, a penny stock bar is nevertheless authorized because Davis was associated with a broker at the time of the misconduct. *See George Louis Theodule*, Initial Decision Release No. 607, at 6 n.6, 2014 WL 2447731 (June 2, 2014).

associated with a broker. 15 U.S.C. § 78c(a)(18); *cf. Anthony J. Benincasa*, Admin. Proc. File No. 3-8825, 2001 WL 99813, *2 (Feb. 7, 2001) (individual acting as investment adviser would also control investment adviser and therefore meet definition of “person associated with an investment adviser”).

With respect to Davis’s broker status, Exchange Act Section 3(a)(4)(A) defines a “broker” as “any person engaged in the business of effecting transactions in securities for the account of others.” 15 U.S.C. § 78c(a)(4)(A). The definition connotes “a certain regularity of participation in securities transactions at key points in the chain of distribution.” *Massachusetts Financial Services, Inc. v. Securities Investor Protection Corp.*, 411 F. Supp. 411, 415 (D. Mass.), *aff’d*, 545 F.2d 754 (1st Cir. 1976). Recruitment of investors and receipt of transaction-based compensation, whether paid voluntarily or via misappropriation of funds, are key indicators of broker activity. *See SEC v. George*, 426 F.3d 786, 797 (6th Cir. 2005) (defendant in investment fraud scheme who “was regularly involved in communications with and recruitment of investors for the purchase of securities” held to be broker); *United States v. Elliott*, 62 F.3d 1304, 1310 (11th Cir. 1995) (Ponzi scheme defendant received transaction-based compensation when he commingled investors’ principal with his own funds); *SEC v. Parrish*, No. 11-cv-558, 2012 WL 4378114, *4 (D. Colo. Sept. 25, 2012) (defendant acted as unregistered broker where he directly solicited investors and received transaction-based compensation).

Here, the conviction establishes that Davis solicited investors on the representation that he would invest their funds in the foreign exchange market. Davis did this regularly, guaranteeing high returns to multiple investors. Davis received compensation by misappropriating money to pay personal expenses. Therefore, Davis was a broker and a person associated with a broker during the time of the misconduct.

d. Industry and Penny Stock Bars Are Appropriate Sanctions

In determining whether an administrative sanction is in the public interest, the Commission considers: (1) the egregiousness of a respondent's actions; (2) the isolated or recurrent nature of the violations; (3) the degree of scienter involved; (4) the respondent's assurances against future violations; (5) the respondent's recognition of the wrongful nature of his conduct; and (6) the likelihood the respondent's occupation will present opportunities for future violations. *See Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979); *Patrick G. Rooney*, Initial Decision Release No. 638, at 5, 2014 WL 3588060 (July 22, 2014).

Here, these factors all weigh in favor of industry and penny stock bars. First, Davis's actions were egregious. His conviction establishes that he knowingly and willfully executed a Ponzi scheme, fraudulently guaranteeing investors large short-term profits in foreign currency markets. However, instead of investing the money, Davis used it to pay earlier investors and spend on himself. He concealed his scheme by providing investors bogus documents giving the appearance their investments were profitable, and by making false excuses as to why he could not return their money. In short, Davis ran an egregious scam.

Second, this was not a one-time lapse in judgment. Davis's actions extended over a matter of months and involved multiple investors. Third, Davis's level of scienter was extremely high. He knew he was not engaged in currency trading and was simply misappropriating investor money and paying off earlier investors with new investors' money in classic Ponzi-scheme fashion. His scienter was so substantial it gave rise to a criminal conviction.

With respect to the fourth and fifth factors, not only has Davis given no assurances he will avoid *future* violations of the law, he has not even accepted responsibility for his *past* conduct. In his criminal trial, he told a tale about being the victim of a fraud—a story totally

belied by the documentary evidence. (*See supra* note 1). Moreover, based on his answer in this proceeding, he continues to deny his guilt.

Sixth, although Davis is in pretrial custody awaiting trial on his most recent fraud indictment,³ even if convicted and sentenced in his new case he will eventually get out, and unless he is barred from the securities industry he will have the chance to reoffend.

Finally, it serves the public interest to collaterally bar Davis from all association with the securities industry. The Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted on July 21, 2010, added collateral bars as sanctions under Exchange Act Section 15(b)(6). The Commission has held that Dodd-Frank's collateral bars "are prospective remedies whose purpose is to protect the investing public from future harm," and therefore applying the bars to address pre-Dodd-Frank conduct is "not impermissibly retroactive." *John W. Lawton*, Advisers Act Release No. 3513, at 16, 2012 WL 6208750 (Dec. 13, 2012). Accordingly, the Law Judge should bar Davis from the securities industry, even though his conduct occurred prior to Dodd-Frank's enactment.

IV. Conclusion

For the reasons discussed above, the Division asks the Law Judge to sanction Davis by issuing a penny stock bar and barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent or NRSRO.

July 29, 2014

Respectfully submitted,



Andrew O. Schiff
Senior Trial Counsel
Direct Line: (305) 982-6390
schiffa@sec.gov

³*United States v. Davis*, No. 6:14-cr-00043 (M.D. Fla.) (indictment returned Feb. 26, 2014).

DIVISION OF ENFORCEMENT
SECURITIES AND EXCHANGE COMMISSION
801 Brickell Avenue, Suite 1800
Miami, FL 33131
Phone: (305) 982-6300
Fax: (305) 536-4154

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2011 JAN 19 PM 1:56

CLERK, US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES OF AMERICA

v.

CASE NO. 6:10-cr-190-Orl-22GJK

18 U.S.C. § 1343

BLAYNE DAVIS

18 U.S.C. § 981(a)(1)(C) - Forfeiture

28 U.S.C. § 2461(c) - Forfeiture

SUPERSEDING INDICTMENT

The Grand Jury charges:

COUNTS ONE THROUGH FIVE

A. Scheme and Artifice

1. Beginning at a time unknown to the Grand Jury, but beginning by at least in or about 2005, and continuing thereafter through and including in or about October 2006, in Orange County, Florida, in the Middle District of Florida, and elsewhere,

BLAYNE DAVIS

the defendant herein, did knowingly and willfully devise and execute a scheme and artifice to defraud, and for obtaining money and property, by means of false and fraudulent pretenses, representations and promises, which scheme and artifice to defraud is described as follows:

B. Manner and Means

2. It was a part of the scheme and artifice that defendant BLAYNE DAVIS would obtain money, and attempt to obtain money, from individuals and others through offering investment opportunities that guaranteed rates of return of between 15 percent



to 40 percent that were payable in a short period of time, that is, between 7 to 45 days.

3. It was a further part of the scheme and artifice that the investments offered by defendant BLAYNE DAVIS were not legitimate investments, but were a "Ponzi" scheme by which money from later investors would be paid to earlier investors.

4. It was a further part of the scheme and artifice that, in reliance on the misrepresentations made by defendant BLAYNE DAVIS, investors provided defendant BLAYNE DAVIS with money in the form of checks and wire transfers that were sent by use of interstate wires.

5. It was a further part of the scheme and artifice that defendant BLAYNE DAVIS provided investors with spreadsheets that falsely represented that their investments were earning rates of return of between 20 to 30 percent as calculated on a monthly basis.

6. It was a further part of the scheme and artifice that defendant BLAYNE DAVIS did not invest the money that he received from investors, but instead used money from later investors to pay earlier investors and used significant portions of the money for his own personal use.

7. It was a further part of the scheme and artifice that defendant BLAYNE DAVIS would lull, and attempt to lull, investors into believing that they would be able to obtain their money back, including interest, by falsely representing to investors the reasons why they had not received their money.

8. It was a further part of the scheme and artifice that defendant BLAYNE DAVIS would cover-up, and attempt to cover-up, the scheme and artifice to defraud by engaging in the following:

- a. Misrepresenting that he had attempted to wire transfer money to investors; and
- b. Misrepresenting that there were restrictions on his ability to obtain money from the funds where the money had allegedly been invested.

9. It was a further part of the scheme and artifice that defendant BLAYNE DAVIS would receive over \$250,000 from at least nine victims as a result of devising and executing the scheme and artifice to defraud.

10. It was a further part of the scheme and artifice that defendant BLAYNE DAVIS would use interstate wires to communicate with customers by electronic mail, facsimile, and telephone.

C. Wires

11. On or about the dates set forth below, in Orange County, Florida, in the Middle District of Florida, and elsewhere,

BLAYNE DAVIS

the defendant herein, for the purpose of executing the aforesaid scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, did knowingly transmit and cause to be transmitted by means of wire, radio, and television communications in interstate and foreign commerce, as set forth below:

Count	Date	Wire Transmission
One	12/19/2005	Wire transfer in the amount of \$10,000 from Navy Federal Credit Union account in the name of "R.B.," via the Fedwire Funds Transfer System in New Jersey, to a Suntrust Bank account in the name of Davis Acquisitions, Inc.
Two	2/09/06	Wire transfer in the amount of \$17,475 from a Bank of America account in the name of "J.S.G.," via the Fedwire Funds Transfer System in New Jersey, to a Suntrust Bank account in the name of Blayne Davis
Three	5/30/06	Wire transfer in the amount of \$34,000 from an AmSouth Bank account in the name of "S.R.A.," via the Fedwire Funds Transfer System in New Jersey, to a RBC Centura Bank account in the name of Blayne Davis
Four	6/30/06	Wire transfer in the amount of \$6,000 from a Wachovia Bank account in the name of "C.A.," via the Fedwire Funds Transfer System in New Jersey, to a RBC Centura Bank account in the name of Blayne Davis
Five	6/30/06	Wire transfer in the amount of \$17,000 from a MacDill Air Force Base Federal Credit Union account in the name of "R.M.," via the Fedwire Funds Transfer System in New Jersey, to a RBC Centura Bank account in the name of Blayne Davis

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

FORFEITURE

1. The allegations contained in Counts One through Five of this Superseding Indictment are hereby realleged and incorporated by reference for the purpose of alleging forfeitures pursuant to the provisions of Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c).

2. From his engagement in the violations alleged in Counts One through Five of this Superseding Indictment, punishable by imprisonment for more than one year, the defendant,


BLAYNE DAVIS

shall forfeit to the United States of America, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), all of his interest in any property constituting or derived from proceeds obtained directly or indirectly as a result of the said violations.

3. If any of the property described above, as a result of any act or omission of the defendant:

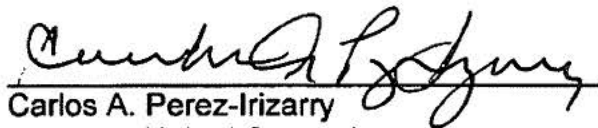
- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America shall be entitled to forfeiture of substitute property under the provisions of Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c).

A TRUE BILL,

Foreperson

ROBERT E. O'NEILL
United States Attorney

By: 
David L. Haas
Assistant United States Attorney

By: 
Carlos A. Perez-Irizarry
Assistant United States Attorney
Acting Chief, Orlando Division

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:10-cr-190-Orl-22GJK

BLAYNE DAVIS

VERDICT

1. **Count One of the Superseding Indictment**

As to the offense of wire fraud, as charged in Count One of the Superseding Indictment, in violation of 18 U.S.C. § 1343,

We, the Jury, find the defendant, **BLAYNE DAVIS**:

Guilty _____ Not Guilty X

2. **Count Two of the Superseding Indictment**

As to the offense of wire fraud, as charged in Count Two of the Superseding Indictment, in violation of 18 U.S.C. § 1343,

We, the Jury, find the defendant, **BLAYNE DAVIS**:

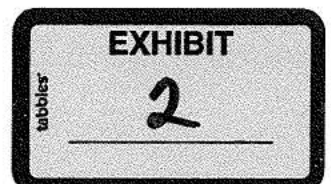
Guilty _____ Not Guilty X

3. **Count Three of the Superseding Indictment**

As to the offense of wire fraud, as charged in Count Three of the Superseding Indictment, in violation of 18 U.S.C. § 1343,

We, the Jury, find the defendant, **BLAYNE DAVIS**:

Guilty X Not Guilty _____



4. **Count Four of the Superseding Indictment**

As to the offense of wire fraud, as charged in Count Four of the Superseding Indictment, in violation of 18 U.S.C. § 1343,

We, the Jury, find the defendant, **BLAYNE DAVIS**:

Guilty X Not Guilty _____

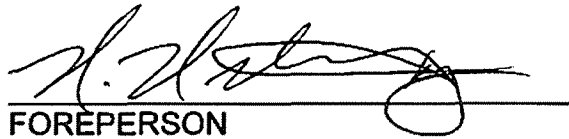
5. **Count Five of the Superseding Indictment**

As to the offense of wire fraud, as charged in Count Five of the Superseding Indictment, in violation of 18 U.S.C. § 1343,

We, the Jury, find the defendant, **BLAYNE DAVIS**:

Guilty X Not Guilty _____

SO SAY WE ALL, this 8 day of March , 2011.


FOREPERSON

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 6:10-cr-190-Orl-22GJK

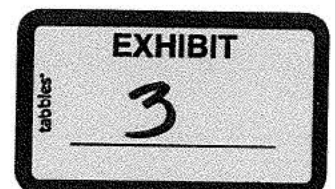
BLAYNE DAVIS

COURT'S INSTRUCTIONS
TO THE JURY

Members of the Jury:

It's my duty to instruct you on the rules of law that you must use in deciding this case. After I've completed these instructions you will go to the jury room and begin your discussions – what we call your deliberations.

You must decide whether the Government has proved the specific facts necessary to find the Defendant guilty beyond a reasonable doubt.



B-2.1

Your decision must be based only on the evidence presented here. You must not be influenced in any way by either sympathy for or prejudice against the Defendant or the Government.

You must follow the law as I explain it – even if you do not agree with the law – and you must follow all of my instructions as a whole. You must not single out or disregard any of the Court's instructions on the law.

The indictment or formal charge against a defendant isn't evidence of guilt. The law presumes every defendant is innocent. The Defendant does not have to prove his innocence or produce any evidence at all. The Government must prove guilt beyond a reasonable doubt. If it fails to do so, you must find the Defendant not guilty.

B-3

The Government's burden of proof is heavy, but it doesn't have to prove a Defendant's guilt beyond all possible doubt. The Government's proof only has to exclude any "reasonable doubt" concerning the Defendant's guilt.

A "reasonable doubt" is a real doubt, based on your reason and common sense after you've carefully and impartially considered all the evidence in the case.

"Proof beyond a reasonable doubt" is proof so convincing that you would be willing to rely and act on it without hesitation in the most important of your own affairs. If you are convinced that the Defendant has been proved guilty beyond a reasonable doubt, say so. If you are not convinced, say so.

B-4

As I said before, you must consider only the evidence that I have admitted in the case. Evidence includes the testimony of witnesses and the exhibits admitted. But, anything the lawyers say is not evidence and isn't binding on you.

You shouldn't assume from anything I've said that I have any opinion about any factual issue in this case. Except for my instructions to you on the law, you should disregard anything I may have said during the trial in arriving at your own decision about the facts.

Your own recollection and interpretation of the evidence is what matters.

In considering the evidence you may use reasoning and common sense to make deductions and reach conclusions. You shouldn't be concerned about whether the evidence is direct or circumstantial.

"Direct evidence" is the testimony of a person who asserts that he or she has actual knowledge of a fact, such as an eyewitness.

"Circumstantial evidence" is proof of a chain of facts and circumstances that tend to prove or disprove a fact. There's no legal difference in the weight you may give to either direct or circumstantial evidence.

B-5

When I say you must consider all the evidence, I don't mean that you must accept all the evidence as true or accurate. You should decide whether you believe what each witness had to say, and how important that testimony was. In making that decision you may believe or disbelieve any witness, in whole or in part. The number of witnesses testifying concerning a particular point doesn't necessarily matter.

To decide whether you believe any witness I suggest that you ask yourself a few questions:

- Did the witness impress you as one who was telling the truth?
- Did the witness have any particular reason not to tell the truth?
- Did the witness have a personal interest in the outcome of the case?
- Did the witness seem to have a good memory?
- Did the witness have the opportunity and ability to accurately observe the things he or she testified about?
- Did the witness appear to understand the questions clearly and answer them directly?
- Did the witness's testimony differ from other testimony or other evidence?

B-6.3

You should also ask yourself whether there was evidence that a witness testified falsely about an important fact. And ask whether there was evidence that at some other time a witness said or did something, or didn't say or do something, that was different from the testimony the witness gave during this trial.

But keep in mind that a simple mistake doesn't mean a witness wasn't telling the truth as he or she remembers it. People naturally tend to forget some things or remember them inaccurately. So, if a witness misstated something, you must decide whether it was because of an innocent lapse in memory or an intentional deception. The significance of your decision may depend on whether the misstatement is about an important fact or about an unimportant detail.

A defendant has a right not to testify. But since the Defendant did testify, you should decide whether you believe the Defendant's testimony in the same way as that of any other witness.

S-4(M)

During the trial, you heard evidence of acts by the Defendant that he is not charged with in this indictment. You must not consider any of this evidence to decide whether the Defendant committed the wire fraud charged in the indictment. But you may consider this evidence for other very limited purposes.

If evidence leads you to decide beyond a reasonable doubt that the Defendant committed the other acts, you may consider the evidence of other acts done not charged in the indictment to decide whether the Defendant had the state of mind or intent necessary for the crimes charged, acted according to a plan or to prepare to commit a crime, or committed the charged acts by accident or mistake.

S-5

You've been permitted to take notes during the trial. Most of you – perhaps all of you – have taken advantage of that opportunity.

You must use your notes only as a memory aid during deliberations. You must not give your notes priority over your independent recollection of the evidence. And you must not allow yourself to be unduly influenced by the notes of other jurors.

I emphasize that notes are not entitled to any greater weight than your memories or impressions about the testimony.

B-8

The indictment charges five separate crimes, called "counts," against the Defendant. Each count has a number. You'll be given a copy of the indictment to refer to during your deliberations.

Counts One, Two, Three, Four and Five charge that the Defendant knowingly and willfully devised and executed a scheme and artifice to defraud.

O-51

It's a Federal crime to use interstate wire, radio, or television communications to carry out a scheme to defraud someone else.

The Defendant can be found guilty of this crime only if all the following facts are proved beyond a reasonable doubt:

- (1) the Defendant knowingly and willfully devised or participated in a scheme to defraud, or to obtain money or property by using false pretenses, representations, or promises;
- (2) the false pretenses, representations, or promises were about a material fact;
- (3) the Defendant acted with the intent to defraud; and
- (4) the Defendant transmitted or caused to be transmitted by wire some communication in interstate commerce to help carry out the scheme to defraud.

The term "scheme to defraud" includes any plan or course of action intended to deceive or cheat someone out of money or property by using false or fraudulent pretenses, representations, or promises.

A statement or representation is "false" or "fraudulent" if it is about a material fact that the speaker knows is untrue or makes with reckless indifference to the truth, and makes with the intent to defraud. A statement or representation may be "false" or "fraudulent" when it is a half truth, or

effectively conceals a material fact, and is made with the intent to defraud.

A "material fact" is an important fact that a reasonable person would use to decide whether to do or not do something. A fact is "material" if it has the capacity or natural tendency to influence a person's decision. It doesn't matter whether the decision-maker actually relied on the statement or knew or should have known that the statement was false.

The "intent to defraud" is the specific intent to deceive or cheat someone, usually for personal financial gain or to cause financial loss to someone else.

The Government does not have to prove all the details alleged in the indictment about the precise nature and purpose of the scheme. It also doesn't have to prove that the material transmitted by interstate wire was itself false or fraudulent; or that using the wire was intended as the specific or exclusive means of carrying out the alleged fraud; or that the Defendant personally made the transmission over the wire. And it doesn't have to prove that the alleged scheme actually succeeded in defrauding anyone.

To "use" interstate wire communications is to act so that something would normally be sent through wire communications in the normal course of business.

Each separate use of the interstate wire communications as part of the

scheme to defraud is a separate crime.

G-1

There is no necessity for the Government to prove actual financial loss. The Government merely needs to show that the accused intended to defraud the victims and that his communications were reasonably calculated to deceive persons of ordinary prudence and comprehension.

S-17

“Good faith” is a complete defense to a charge that requires intent to defraud. A defendant isn’t required to prove good faith. The Government must prove intent to defraud beyond a reasonable doubt.

An honestly held opinion or an honestly formed belief cannot be fraudulent intent – even if the opinion or belief is mistaken. Similarly, evidence of a mistake in judgment, an error in management, or carelessness can’t establish fraudulent intent.

But an honest belief that a business venture would ultimately succeed doesn’t constitute good faith if the Defendant intended to deceive others by making representations the Defendant knew to be false or fraudulent.

B-9.1A

You'll see that the indictment charges that a crime was committed "on or about" a certain date. The Government doesn't have to prove that the crime occurred on an exact date. The Government only has to prove beyond a reasonable doubt that the crime was committed on a date reasonably close to the date alleged.

The word "knowingly" means that an act was done voluntarily and intentionally and not because of a mistake or by accident.

The word "willfully" means that the act was committed voluntarily and purposely, with the intent to do something the law forbids; that is, with the bad purpose to disobey or disregard the law. While a person must have acted with the intent to do something the law forbids before you can find that the person acted "willfully," the person need not be aware of the specific law or rule that his conduct may be violating.

B-10.2

Each count of the indictment charges a separate crime. You must consider each crime and the evidence relating to it separately. If you find the Defendant guilty or not guilty of one crime, that must not affect your verdict for any other crime.

I caution you that the Defendant is on trial only for the specific crimes charged in the indictment. You're here to determine from the evidence in this case whether the Defendant is guilty or not guilty of those specific crimes.

You must never consider punishment in any way to decide whether the Defendant is guilty. If you find the Defendant guilty, the punishment is for the Judge alone to decide later.

B-11

Your verdict, whether guilty or not guilty, must be unanimous – in other words, you must all agree. Your deliberations are secret, and you'll never have to explain your verdict to anyone.

Each of you must decide the case for yourself, but only after fully considering the evidence with the other jurors. So you must discuss the case with one another and try to reach an agreement. While you're discussing the case, don't hesitate to reexamine your own opinion and change your mind if you become convinced that you were wrong. But don't give up your honest beliefs just because others think differently or because you simply want to get the case over with.

Remember that, in a very real way, you're judges – judges of the facts. Your only interest is to seek the truth from the evidence in the case.

B-12

When you get to the jury room, choose one of your members to act as foreperson. The foreperson will direct your deliberations and will speak for you in court.

A verdict form has been prepared for your convenience.

[Explain verdict]

Take the verdict form with you to the jury room. When you've all agreed on the verdict, your foreperson must fill in the form, sign it, date it, and carry it. Then you'll return it to the courtroom.

If you wish to communicate with me at any time, please write down your message or question and give it to the marshal. The marshal will bring it to me and I'll respond as promptly as possible – either in writing or by talking to you in the courtroom. But I caution you not to tell me how many jurors have voted one way or the other at that time.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA

-vs-

Case Number: 6:10-CR-190-ORL-22GJK

BLAYNE DAVIS

USM Number: 71521-279

Robert G. Bernhoff, Esq.
207 East Buffalo Street, Suite 600
Milwaukee, Wisconsin 53202

JUDGMENT IN A CRIMINAL CASE

The defendant was found guilty on Count Three, Four, Five of the Superseding Indictment. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Numbers</u>
18 U.S.C. §§ 1343 and 2	Wire Fraud	May 30, 2006	Three
18 U.S.C. §§ 1343 and 2	Wire Fraud	June 30, 2006	Four
18 U.S.C. §§ 1343 and 2	Wire Fraud	June 30, 2006	Five


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

The defendant has been found not guilty on counts One and Two of the Superseding Indictment. The Original Indictment is dismissed.

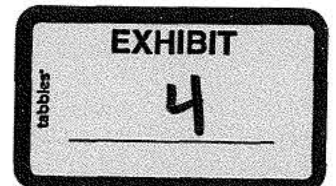
IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

Date of Imposition of Sentence:

11/1/2011


ANNE C. CONWAY
CHIEF UNITED STATES DISTRICT JUDGE

November 30, 2011



BLAYNE DAVIS
6:10-CR-190-ORL-22GJK

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **36 Months**. This term consists of terms of 36 months on each of Counts Three, Four and Five, all such terms to run concurrent.

The Court recommends to the Bureau of Prisons the defendant be placed at the Federal Correction Institute ("FCI") Bastrop, Texas.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

BLAYNE DAVIS
6:10-CR-190-ORL-22GJK

Page 3 of 5

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 years**. This term shall consist of terms of 3 Years on each of Counts Three, Four and Five, all such terms to run concurrent. The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The mandatory drug testing requirement of the Violent Crime Control Act are waived. However, the Court orders the defendant to submit to random drug testing not to exceed 104 tests per year.

The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervision that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervision in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer **at least ten (10) days prior** to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. The defendant shall notify the probation officer within **seventy-two (72) hours** of being arrested or questioned by a law enforcement officer;

BLAYNE DAVIS
6:10-CR-190-ORL-22GJK

12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

The defendant shall also comply with the following additional conditions of supervised release:

1. The defendant shall participate in a mental health treatment program (outpatient and/or inpatient) and follow the probation officer's instructions regarding the implementation of this court directive. Further, the defendant shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Mental Health Treatment Services.
2. The defendant shall perform **75 hours** of community service as a condition of supervision in lieu of paying a fine.
3. The defendant shall be prohibited from incurring new credit charges, opening additional lines of credit, or making an obligation for any major purchases without approval of the Probation Officer. You shall provide the probation officer access to any requested financial information.
4. The defendant shall cooperate in the collection of DNA, as directed by the Probation Officer.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in the Schedule of Payments.

<u>Total Assessment</u>	<u>Total Fine</u>	<u>Total Restitution</u>
\$300.00 Due Immediately	Waived	**Yet to be determined

The defendant shall make restitution (including community restitution) to the following payees in the amount listed below. **Restitution is payable to the Clerk U.S. District Court at 401 W Central Blvd Suite 2-100 Orlando, FL 32801 for disbursement to the victims.**

<u>Name of Payee</u>	<u>Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
**Yet to be determined, see below.		**Yet to be determined, see below.	

** The mandatory restitution provisions of 18 U.S.C. § 3663A apply in this case. It is Ordered that the defendant shall make restitution to victims in an amount which shall determined at a later time by this Court.

The defendant shall pay interest of any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

BLAYNE DAVIS
6:10-CR-190-ORL-22GJK

Page 5 of 5

While in the Bureau of Prisons custody, the defendant shall (1) pay at least \$25.00 quarterly if you have a non-Unicor job or (2) pay at least 50% of your monthly earnings if you have a Unicor job. Upon release from custody, the defendant shall begin making payments of **\$150.00 per month** and this payment schedule shall continue until such time as the Court is notified by the defendant, the victim or the government that there has been a material change in his ability to pay.

*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FILED
2012 JAN 13 AM 11:05
U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

UNITED STATES OF AMERICA

-vs-

Case Number: 6:10-CR-190-ORL-22GJK

BLAYNE DAVIS

USM Number: 71521-279

Robert G. Bernhoft, Esq,
207 East Buffalo Street, Suite 600
Milwaukee, Wisconsin 53202

***AMENDED JUDGMENT IN A CRIMINAL CASE**

The defendant was found guilty on Counts Three, Four, Five of the Superseding Indictment. Accordingly, the court has adjudicated that the defendant is guilty of the following offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number</u>
18 U.S.C. §§ 1343 and 2	Wire Fraud	May 30, 2006	Three
18 U.S.C. §§ 1343 and 2	Wire Fraud	June 30, 2006	Four
18 U.S.C. §§ 1343 and 2	Wire Fraud	June 30, 2006	Five

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

The defendant has been found not guilty on counts One and Two of the Superseding Indictment. The Original Indictment is dismissed.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States attorney of any material change in the defendant's economic circumstances.

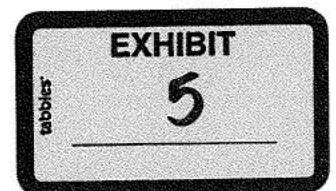
Date of Imposition of Sentence:

11/1/2011


ANNE C. CONWAY
CHIEF UNITED STATES DISTRICT JUDGE

January 12, 2012

**Amended to include the amounts of restitution owed.*



BLAYNE DAVIS
6:10-CR-190-ORL-22GJK

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **36 Months**. This term consists of terms of 36 months on each of Counts, Three, Four and Five, all such terms to run concurrent.

The Court recommends to the Bureau of Prisons the defendant be placed at the Federal Correction Institute ("FCI") Bastrop, Texas.

The defendant is remanded to the custody of the United States Marshal.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By: _____
Deputy U.S. Marshal

BLAYNE DAVIS
6:10-CR-190-ORL-22GJK

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 years**. This term shall consist of terms of 3 Years on each of Counts Three, Four and Five, all such terms to run concurrent. The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The mandatory drug testing requirement of the Violent Crime Control Act are waived. However, the Court orders the probation officer to conduct random drug testing not to exceed 104 tests per year.

The defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervision that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervision in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

1. The defendant shall not leave the judicial district without the permission of the court or probation officer;
2. The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
3. The defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
4. The defendant shall support his or her dependents and meet other family responsibilities;
5. The defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
6. The defendant shall notify the probation officer **at least ten (10) days prior** to any change in residence or employment;
7. The defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. The defendant shall notify the probation officer within **seventy-two (72) hours** of being arrested or questioned by a law enforcement officer;

BLAYNE DAVIS
6:10-CR-190-ORL-22GJK

- 12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

ADDITIONAL CONDITIONS OF SUPERVISED RELEASE

The defendant shall also comply with the following additional conditions of supervised release:

- 1. The defendant shall participate in a mental health treatment program (outpatient and/or inpatient) and follow the probation officer's instructions regarding the implementation of this court directive. Further, the defendant shall contribute to the costs of these services not to exceed an amount determined reasonable by the Probation Office's Sliding Scale for Mental Health Treatment Services.
- 2. The defendant shall perform **75 hours** of community service as a condition of supervision in lieu of paying a fine.
- 3. The defendant shall be prohibited from incurring new credit charges, opening additional lines of credit, or making an obligation for any major purchases without approval of the Probation Officer. You shall provide the probation officer access to any requested financial information.
- 4. The defendant shall cooperate in the collection of DNA, as directed by the Probation Officer.

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth in the Schedule of Payments.

<u>Total Assessment</u>	<u>Total Fine</u>	<u>Total Restitution</u>
\$300.00 Due Immediately	Waived	\$41,865.00

The defendant shall make restitution (including community restitution) to the following payees in the amount listed below. **Restitution is payable to the Clerk U.S. District Court at 401 W Central Blvd Suite 2-100 Orlando, FL 32801 for disbursement to the victims.**

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

The Defendant is hereby ordered to begin payment immediately and continue to make payments to the best of the defendant's ability until this obligation is satisfied. While in custody the defendant is directed to participate in the Bureau of Prisons Financial Responsibility Program, if eligible, and upon the defendant's release from custody the defendant shall adhere to a payment schedule as determined by the Probation Office.

BLAYNE DAVIS
6:10-CR-190-ORL-22GJK

Page 5 of 5

<u>Name of Payee</u>	<u>Total Amount Of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage Of Payment</u>
██████████	\$1,500.00	\$1,500.00	
██████████	\$31,265.00	\$31,265.00	
██████████	\$8,100.00	\$8,100.00	
████████████████████	\$1,000.00	\$1,000.00	

The mandatory restitution provisions of 18 U.S.C. § 366A apply in this case. It is Ordered that the defendant shall make restitution to victims in the amounts as listed above.

The defendant shall pay interest of any fine or restitution of more than \$2,500.00, unless the fine or restitution is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on the Schedule of Payments may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

While in the Bureau of Prisons custody, the defendant shall (1) pay at least \$25.00 quarterly if you have a non-Unicor job or (2) pay at least 50% of your monthly earnings if you have a Unicor job. Upon release from custody, the defendant shall begin making payments of **\$150.00 per month** and this payment schedule shall continue until such time as the Court is notified by the defendant, the victim or the government that there has been a material change in his ability to pay.

*Findings for the total amount of losses are required under Chapters 109A, 110, and 113A of title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

2255, OrIP-3

**U.S. District Court
Middle District of Florida (Orlando)
CIVIL DOCKET FOR CASE #: 6:12-cv-01870-ACC-GJK**

Davis v. United States of America
Assigned to: Chief Judge Anne C. Conway
Referred to: Magistrate Judge Gregory J. Kelly
Cause: 28:2255 Motion to Vacate Sentence

Date Filed: 12/14/2012
Jury Demand: None
Nature of Suit: 510 Prisoner: Vacate Sentence
Jurisdiction: U.S. Government Defendant

Plaintiff

Blayne Davis

represented by **Blayne Davis**
2014-2936



PRO SE

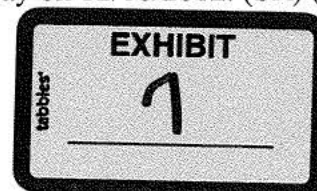
V.

Defendant

USA

represented by **David L. Haas**
US Attorney's Office - FLM
Suite 300
400 W. Washington St.
Orlando, FL 32801
407/648-7500
Fax: 407/648-7643
Email: David.Haas@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
12/14/2012	<u>1</u>	Application for MOTION to vacate, set aside or correct sentence (2255) Criminal Case No. 6:10-cr-190-ORL-22-GJK filed by Blayne Davis. (Attachments: # <u>1</u> Exhibit)(AA) Modified on 12/14/2012 (AA). (Entered: 12/14/2012)
12/14/2012	2	STRICKEN PER <u>6</u> Order: MEMORANDUM in support re <u>1</u> Motion to vacate/set aside/correct sentence (2255) filed by Blayne Davis. (AA) Modified on 1/30/2013 (AA). (Entered: 12/14/2012)
12/14/2012	<u>3</u>	MOTION for Expedited Relief of Petition on Personal Recognizance Bond by Blayne Davis. (Attachments: # <u>1</u> Attachment)(AA) (Entered: 12/14/2012)
12/18/2012	<u>4</u>	ORDER denying <u>3</u> Motion for Expedited Release of Petitioner on Personal Recognizance Bond Pending Appeal. Signed by Chief Judge Anne C. Conway on 12/18/2012. (SR) (Entered: 12/18/2012)



		12/18/2012)
12/19/2012	<u>5</u>	NOTICE of Appearance by David L. Haas on behalf of United States of America (Haas, David) (Entered: 12/19/2012)
01/28/2013	<u>6</u>	ORDER. Petitioner shall have 21 days to file an amended motion to vacate, set aside, or correct sentence on the appropriate form. 2 Memorandum in support is stricken, deleted and returned to the petitioner. Signed by Magistrate Judge Gregory J. Kelly on 1/28/2013. (LAK) (Entered: 01/28/2013)
02/11/2013	<u>7</u>	AMENDED MOTION to Vacate, Set Aside or Correct Sentence (2255) Criminal Case No. 6-10-cr-190-ORL-22 filed by Blayne Davis.(AA) (Entered: 02/11/2013)
02/11/2013	<u>8</u>	MOTION for Leave to File Excess Pages of Memorandum of Law by Blayne Davis. (Attachments: # <u>1</u> Memorandum of Law)(AA) (Entered: 02/11/2013)
02/15/2013	<u>9</u>	ORDER denying as moot <u>1</u> Motion to vacate/set aside/correct sentence (2255). The Clerk of Court is directed to file a copy of this Order in criminal case number 6:10-cr-190-Orl-22GJK and to terminate the motion to vacate, set aside, or correct sentence (Criminal Case Doc. No. 165) pending in that case. Additionally, the Clerk shall file and docket a copy of Petitioner's amended motion to vacate (Doc. No. 7) in the criminal case. Signed by Magistrate Judge Gregory J. Kelly on 2/15/2013. (SR) (Entered: 02/15/2013)
02/19/2013	<u>10</u>	MOTION for Evidentiary Hearing re <u>7</u> MOTION to Vacate, Set Aside or Correct Sentence (2255) Criminal Case No. 6-10-cr-190-ORL-22 by Blayne Davis. (RDO) (Entered: 02/20/2013)
02/21/2013	<u>11</u>	ORDER granting <u>8</u> Motion for Leave to File Excess Pages. Petitioner may file a memorandum of law within THIRTY (30) DAYS from the date of this Order which does not exceed forty (40) pages in length. Signed by Magistrate Judge Gregory J. Kelly on 2/21/2013. (SR) (Entered: 02/21/2013)
02/25/2013	<u>12</u>	ORDER denying without prejudice <u>10</u> Motion for Hearing. Signed by Magistrate Judge Gregory J. Kelly on 2/25/2013. (SR) (Entered: 02/25/2013)
03/14/2013	<u>13</u>	MEMORANDUM in support re <u>7</u> Motion to Vacate/Set Aside/Correct Sentence (2255) filed by Blayne Davis. (Attachments: # <u>1</u> Exhibits)(MAA) (Entered: 03/14/2013)
04/04/2013	<u>14</u>	ORDER directing USA to respond within SIXTY (60) DAYS from the date of this Order to <u>7</u> AMENDED MOTION to Vacate, Set Aside or Correct Sentence (2255) Criminal Case No. 6-10-cr-190-ORL-22. Signed by Magistrate Judge Gregory J. Kelly on 4/4/2013. (SR) (Entered: 04/04/2013)
05/28/2013	<u>15</u>	RESPONSE in Opposition re <u>7</u> MOTION to Vacate, Set Aside or Correct Sentence (2255) Criminal Case No. 6-10-cr-190-ORL-22 filed by USA. (Haas, David) (Entered: 05/28/2013)
06/03/2013	<u>16</u>	REPLY to Response/Answer to re <u>1</u> MOTION to vacate, set aside or correct sentence (2255) Criminal Case No. 6:10-cr-190-ORL-22-GJK filed by Blayne Davis. (RDO) (Entered: 06/04/2013)
06/17/2013	<u>17</u>	REQUEST/MOTION for certificate of appealability by Blayne Davis. (RDO) (Entered: 06/17/2013)
06/20/2013	<u>18</u>	ORDER denying without prejudice <u>17</u> Motion for Certificate of Appealability signed by Magistrate Judge Gregory J. Kelly on 6/20/2013. (AKJ) (Entered: 06/20/2013)

07/01/2013	<u>19</u>	ORDER. Petitioner shall have 30 days to file an amended reply to the Government's response to motion. Signed by Magistrate Judge Gregory J. Kelly on 7/1/2013. (LAK) (LAK). (Entered: 07/01/2013)
07/12/2013	<u>20</u>	AMENDED REPLY to Response to <u>1</u> MOTION to vacate, set aside or correct sentence (2255) Criminal Case No. 6:10-cr-190-ORL-22-GJK filed by Blayne Davis. (Attachments: # <u>1</u> Exhibit 1)(RDO) (Entered: 07/12/2013)
12/06/2013	<u>21</u>	MOTION for miscellaneous relief, specifically for Ruling by Blayne Davis. (RDO) (Entered: 12/06/2013)
12/10/2013	<u>22</u>	ORDER denying <u>21</u> Motion for Ruling. Signed by Chief Judge Anne C. Conway on 12/10/2013. (SR) (Entered: 12/10/2013)
07/07/2014	<u>23</u>	NOTICE of change of address by Blayne Davis (RDO) (Entered: 07/07/2014)

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