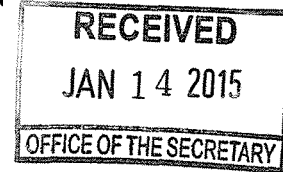


UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

HARD COPY

ADMINISTRATIVE PROCEEDING  
File No. 3-16167



In the Matter of  
  
RANDAL KENT HANSEN  
  
Respondent.

RENEWED MOTION FOR  
SUMMARY DISPOSITION  
PURSUANT TO RULE 250 OF THE  
COMMISSION RULES OF  
PRACTICE

The Division of Enforcement hereby files its Renewed Motion for Summary Disposition against Respondent Randal Kent Hansen.

**I. INTRODUCTION**

On December 29, 2014, the Court found that the Division had proven a qualifying criminal conviction of Hansen and invited the Division to file this motion to address the remaining two statutory requirements that must be satisfied in order to impose a collateral bar against Hansen. The Court found that Hansen's conviction and the underlying indictment was insufficient to prove that, at the time of his misconduct, Hansen was associated with a broker, dealer, or investment adviser, and that imposition of the bar would be in the public interest. Accordingly the Division files this Renewed Motion for Summary Disposition in which it provides additional undisputed evidence addressing those two requirements.

In support of its Motion, the Division submits the Minute Entry in *United States v. Randal Kent Hansen*, Case No. 4:13CR40053-1, before the United States District Court for the District of South Dakota, attached as Exhibit 1; the May 19, 2014 Judgment and June 10, 2014 Amended Judgment, attached as Exhibit 2; excerpts of Hansen's testimony in *US v. Hansen*,

attached as Exhibit 3;<sup>1</sup> the transcript of the sentencing hearing in *US v. Hansen*, attached as Exhibit 4; excerpts of Tara Hansen’s testimony in *US v. Hansen*, attached as Exhibit 5;<sup>2</sup> and excerpts of Anthony Johnson’s testimony in *US v. Hansen*, attached as Exhibit 6.

## **II. HANSEN ACTED AS AND WAS ASSOCIATED WITH A BROKER-DEALER AND AN INVESTMENT ADVISER AT THE TIME OF HIS MISCONDUCT.**

Sections 15(b)(6) of the Securities Exchange Act of 1934 (“Exchange Act”) and 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) require that Hansen be associated with a broker-dealer and investment adviser, respectively, to justify the imposition of sanctions. 15 U.S.C. §§ 78o(b)(4)(B)(i)-(iv), (6)(A)(ii), 80b-3(e)(2)(A)-(D), 80b-3(f).

### **A. Hansen Acted as a Broker-Dealer.**

Section 3(a)(4) of the Exchange Act 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). Activities of a broker are characterized by “a certain regularity of participation in securities transactions at key points in the chain of distribution.” *Mass. Fin. Servs., Inc. v. Sec. Investor Prot. Corp.*, 411 F. Supp. 411, 415 (D. Mass. 1976), *aff’d*, 545 F.2d 754 (1st Cir. 1976). Actions indicating that a person is “effecting” securities transactions include soliciting investors; providing either advice or a valuation as to the merit of an investment; actively finding investors; handling customer funds and securities; and participating in the order-taking or order-routing process. *SEC v. Martino*, 255 F. Supp. 2d 268, 283 (S.D. N.Y. 2003); *SEC v. Bengner*, 697 F. Supp. 2d 932, 945 (N.D. Ill. 2010); *SEC v. Kramer*, 778 F. Supp. 2d 1320, 1334 (M.D. Fla. 2011).

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<sup>1</sup> Hansen’s trial testimony is an admission of a party-opponent and is admissible in this proceeding. *See* Fed. R. Evid. 801(d)(2)(A); *United States v. Hanrahan*, 508 F. 3d 962, 967(10th Cir. 2007).

<sup>2</sup> Transcripts of prior trial testimony may be considered on a motion for summary judgment. *Kelley v. Price–Macemon, Inc.*, 992 F.2d 1408, 1415 n. 12 (5th Cir.1993) (*citing Langston v. Johnson*, 478 F.2d 915, 918 (D.C. Cir.1973).

The interests sold in Hansen's scheme were securities because they contain the essential elements of an "investment contract." Section 3(a)(10) of the Exchange Act defines "security" to include, among other things, "investment contracts." 15 U.S.C. § 78c(a)(10). An investment contract exists where: (1) a person invests his or her money, (2) in a common enterprise, and (3) is led to expect profits from the efforts of the promoter or a third party. *SEC v. W. J. Howey Co.*, 328 U.S. 293, 298-99 (1946). Hansen testified that the funds were "feeder funds" into which investor money would be pooled and then invested by a third party. Exhibit 3, Trial Transcript (Hansen) at pp. 847-854.<sup>3</sup> Feeder funds are commonly considered to be securities. *See, e.g., Roland v. Green*, 675 F.3d 504, 514 (5th Cir. 2012).

As established by Hansen's own testimony as well as his sentencing, Hansen effected transactions in the securities, as defined above, and, therefore, acted as a broker. Hansen set up the first feeder fund. Ex. 3 at p. 852-854. He was the one responsible for making redemptions to investors out of the funds. Ex. 3 at p. 883-884. He was also responsible for handling investor funds and statements. Ex. 3 at pp. 852-853, 907.

Hansen testified that he found investors, solicited investments from them, including all the initial investments in the fund, and recommended that investors invest in the funds. Ex. 3, at pp. 853-855, 864-865; *see also* Exhibit 4, Sentencing Hearing Transcript, at p. 14.

Specifically, Hansen testified,

Q. You mentioned that you looked forward to the opportunity to invest your

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<sup>3</sup> Hansen should not be allowed to recant his former testimony. *See S.W.S. Erectors, Inc. v. Infax, Inc.*, 72 F.3d 489, 496 (5th Cir.1996) ("Self-serving assertions contradicting previous testimony are insufficient evidence to overcome a summary judgment motion."); *Prosser v. Ross*, 70 F.3d 1005, 1008 (8th Cir.1995) (A "party cannot avoid summary judgment by contradicting his own earlier testimony," ); *Galvin v. Eli Lilly & Co.*, 488 F.3d 1026, 1030 (D.C.Cir.2007) ("Virtually every circuit has adopted a form of the so-called 'sham affidavit rule,' which precludes a party from creating an issue of material fact by contradicting prior sworn testimony unless the shifting party can offer persuasive reasons for believing the supposed correction is more accurate than the prior testimony.")

friends' money in something solid. Did you recommend this series of funds, and I'm talking about the Gibraltar Funds, the Capstone Funds, and the RAHFCO Funds, did you recommend these funds to friends of yours?

A. Yes.

Ex. 3 at p. 854.

Q. Who were the family members of yours that invested in this series of funds?

A. My daughter, my son, my nephews.

Q. Did all of these people invest on your recommendation?

A. Yes.

Q. People in the farm community around Turton, including the two gentlemen we just saw today and Ron Starr, did they invest, and Kevin Dettler, did they invest, as well?

A. They did. Ron actually approached me. I didn't approach him. But the rest of them. Ron was later. But, yes, the others were. Actually Kevin attended a meeting that Ward put on.

Ex. 3 at pp. 854-855.

When investors asked you questions about how the fund worked, did you explain to them how the fund worked? I'd like a yes or no, if I may have it, to begin with.

A. Yes.

Ex. 3 at pp. 855-856.

A. Anthony at the time was still a broker, as far as I knew. When we started RAHFCO Funds, we were converting money from Capstone. I sent a letter to everybody saying, "Do you want your money back? That's fine. We're going to proceed on with the funds." I didn't know if anybody would proceed on with the funds.

Ex. 3 at p. 864.<sup>4</sup>

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<sup>4</sup> Hansen created a series of "funds" to collect investor money:

Just explain, as best you can, the origin of the various RAHFCO entities.

A. Okay. Capstone was rolled into RAHFCO.

Q. Let me stop you there. Maybe I can make it easier and avoid any problems. When you say RAHFCO, what was the first RAHFCO Fund which was designed to obtain all the monies that were previously invested into Capstone?

A. RAHFCO Funds LP.

Q. Was there another RAHFCO company which was set up in order to act as the manager of RAHFCO Funds LP?

A. Yes, there was.

Q. Was it formed at about the same time?

A. Yes, it was.

Q. What was the name of the management fund?

A. RAHFCO Management.

Q. Did there come a time when a company called RAHFCO Growth was formed?

A. Yes.

Q. Can you estimate for the ladies and gentlemen of the jury when that happened?

A. I'm thinking it was like 2008. Maybe later in 2008 or 9.

Q. What was it that prompted you to form an additional company named RAHFCO Growth?

A. Two things. Number one, you are only allowed so many people in a fund. We were approaching that in RAHFCO Funds. Secondly, we had a very high hurdle rate in RAHFCO Funds, and we weren't making any money, despite all the work we were doing. RAHFCO Growth had a much lower hurdle rate, so there was a possibility we could make some money.

Ex. 3 at pp 861-862

The Court in *US v. Hansen* also found that “the initial money that went into RAHFCO was from other investments that Mr. Hansen had worked on.” Ex. 4 at p. 14.

Hansen also communicated with investors about their investments in the funds. For instance Hansen testified that he assured investors about the safety of the funds:

Q. She was an investor in RAHFCO Fund. Right?

A. Yes.

Q. She is somebody that liked to e-mail. Maybe she called you a lot, too. I'm not sure.

A. Yes.

Q. Your response to her, you wrote, "We never are allowed to risk more than 5 percent of our funds every month." Right?

A. That's correct.

Q. "That means that 95 percent of your funds are either in cash or Government bonds during the month."

A. That was my understanding.

Q. That's what you told her. Right?

A. I may have, yes. That may have been a mistake on my part, too.

Ex. 3 at pp. 914-915.

Acting as a broker-dealer is a sufficient prerequisite to associational bars. *See Vladislav Steven Zubkis*, Rel. No. 34-52876, 2005 WL 3299148 (December 2, 2005); *see also David F. Bandimere*, Rel. No. ID - 507, 2013 WL 5553898 (October 8, 2013); *Edward J. Driving Hawk, Sr.*, Rel. No. ID - 399, 2010 WL 2685821 (July 7, 2010).

**B. Hansen was Associated with a Broker-Dealer.**

In addition to acting as a broker, as described above, Hansen was also associated with a Broker-Dealer. RAHFCO Management effected transactions in the securities at issue. RAHFCO Management was set up to manage the RAHFCO Hedge Funds. Ex. 3 at p. 861-862. In connection with managing those funds, RAHFCO Management employees received investors' funds and deposited those funds into RAHFCO accounts. *See Exhibit 5, Trial Transcript (Tara Hansen)* at pp. 322-325. “Effecting” securities transactions includes handling

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customer funds and securities and participating in the order-taking or order-routing process. *SEC v. Martino*, 255 F. Supp. 2d 268, 283 (S.D. N.Y. 2003); *SEC v Bengner*, 697 F. Supp. 2d 932, 945 (N.D. Ill. 2010); *SEC v. Kramer*, 778 F. Supp. 2d 1320, 1334 (M.D. Fla. 2011). Hansen was the president of RAHFCO Management. Ex. 3, at p. 896. His solicitation of investments caused RAHFCO Management to effect transactions in securities. Ex. 3, at pp. 853–855, 864-865; *see also* Ex. 4, at p. 14.

Although RAHFCO Management was not a registrant, the Commission has authority to bar persons from the securities industry based on their association with unregistered brokers. *See Tzemach David Netzer Korem*, Release No. 34-70044, 2013 WL 3864511 (July 26, 2013) (“It is well established that we are authorized to sanction an associated person of an unregistered broker-dealer or investment adviser in a follow-on administrative proceeding.”). As the president, Hansen was “associated with” RAHFCO Management. *See* 15 U.S.C. § 78c(a)(18).

**C. Hansen Acted as and was Associated with an Investment Adviser.**

Hansen acted as an investment adviser in connection with his management of the relevant hedge funds and as an associated person of RAHFCO Management, the general manager of the funds. Again, the fact that neither he nor RAHFCO Management was registered with the Commission is unimportant. *See Netzer Korem*, 2013 WL 3864511 (“It is well established that we are authorized to sanction an associated person of an unregistered broker-dealer *or investment adviser* in a follow-on administrative proceeding.”).

Section 202(a)(11) of the Advisers Act defines an investment adviser as any person who (a) for compensation (b) engages in the business of advising others as to the value of securities or the advisability of investing in, purchasing, or selling securities.<sup>5</sup> 15 U.S.C. § 80b-2(a)(11).

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<sup>5</sup> Section 202(a)(16) in turn defines “person” as a natural person or a company. 15 U.S.C. § 80b-2(a)(16).

Hansen held himself out as the principal manager and general partner of the hedge fund. Ex. 4, at p. 62-63. Hansen testified that he controlled the funds' operations and activities. Ex. 3, at pp. 901-902. Hansen admitted that the Private Placement Memoranda for the funds represented that he had the primary responsibility for researching, selecting, and monitoring the funds' investments. Ex.3, at pp. 902-903. By advising the funds as to their investments Hansen was acting as an investment adviser. Hansen received compensation for doing so. Hansen admitted that he and his partner received "draws" from the funds. Ex. 3, at p. 879. His partner explained that he and Hansen took a one and one half percent fee of the total fund amount per year, accrued monthly. Exhibit 6, Trial Transcript (Johnson) at pp. 610-611.

### **III. HANSEN WAS CONVICTED.**

The Court has already found that this conviction satisfies the second requirement of 15 U.S.C. §§ 78o(b)(4)(B)(i)-(iv), (6)(A)(ii), 80b-3(e)(2)(A)-(D), 80b-3(f). Order at p. 2. As alleged in the OIP, on January 22, 2014, Hansen was convicted of mail and wire fraud in *United States v. Randal Kent Hansen*, Case No. 4:13CR40053-1, before the United States District Court for the District of South Dakota. OIP § II.2; *see also* Minute Entry, attached as Exhibit 1. On May 19, 2014 and June 10, 2014, Judgment and Amended Judgment in the criminal case was entered against Hansen. OIP § II.2; *see also* Judgments, attached as Exhibit 2. As set forth in those Judgments, Hansen was convicted of twenty-one counts of mail fraud in violation of Title 18 United States Code, Section 1341, four counts of wire fraud in violation of Title 18 United States Code, Section 1343, and one count of conspiracy to commit wire fraud and mail fraud in violation of Title 18 United States Code, Section 1349. *Id.* Hansen was sentenced to a prison term of 108 months followed by three years of supervised release and ordered to make restitution in the amount of \$17,514,258.89. *Id.*

#### IV. BARS ARE IN THE PUBLIC INTEREST.

The Commission considers the following factors when determining whether sanctions are in the public interest: the egregiousness of the respondent's actions; the isolated or recurrent nature of the infraction; the degree of scienter involved; the sincerity of the respondent's assurances against future violations; the respondent's recognition of the wrongful nature of his or her conduct; and the likelihood that the respondent's occupation will present opportunities for future violations (the *Steadman* factors). See *Vladimir Boris Bugarski*, Rel. No. 34-66842, 2012 WL 1377357 at \* 4 & n. 18 (Apr. 20, 2012) (citing *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd* on other grounds, 450 U.S. 91 (1981)). The Commission also considers the extent to which the sanction will have a deterrent effect. See *Shield Management Company*, Rel. No. 34-53201, 2006 WL 231642 at \* 8 & n.46 (Jan. 31, 2006). Consideration of the *Steadman* factors demonstrates that Hansen's conduct warrants a severe sanction. The Commission has stated that "conduct that violates the antifraud provisions of the federal securities laws is especially serious and subject to the severest of sanctions." *Chris G. Gunderson*, Release No. 34-61234, 2009 WL 4981617 at \* 5 (Dec. 23, 2009) (internal citation omitted). Moreover, considerations of both specific and general deterrence support the imposition of permanent bars.

##### **A. Hansen's Violations are Egregious.**

Hansen was convicted of twenty-six counts of mail and wire fraud for stealing over \$17 million of investors' funds in a Ponzi scheme. See Ex. 2. The Court in *US v. Hansen* found that Hansen's scheme was a Ponzi scheme. Ex.4, at p. 18. Moreover, the Court found that Hansen's conduct was sufficiently egregious to warrant an upward departure from the sentencing guidelines. *Id.* Hansen's fraudulent scheme was egregious: it violated bedrock antifraud principles that apply throughout the securities industry, including the "philosophy of full disclosure" of accurate and non-misleading information to investors; the obligation to deal fairly



with investors; and the prohibition on self-dealing.” See *Ross Mandell*, Rel. No. 34-71668, 2014 WL 907416 at \* 4 (March 7, 2014) (internal citations omitted); Ex.4, at p. 62- 64.

**B. Hansen’s Violations were Recurrent.**

Hansen conducted his violative scheme for over five years, resulting in over \$17 million in investor losses. Ex. 2; Ex. 4, at p.18. His conviction for twenty-six separate counts related to his scheme demonstrates that his violations were not isolated. See Ex. 2.

**C. Hansen’s Conduct Showed a High Degree of Scierter.**

As the criminal court found, Hansen’s violations were knowing and intentional. Ex. 4, at p. 15 (“That to me shows a material withholding of information that was done with knowledge by Mr. Hansen. It was false and it was intended to mislead and defraud the investors. So all of those things combined shows that Mr. Hansen had knowledge that the information was false, and it was intended to defraud from the very beginning.”). Intentional conduct demonstrates a high degree of scierter. See, e.g., *Toby G. Scammell*, Rel. No. 3961, 2014 WL 5493265 at \*6 (March 17, 2014).

**D. Hansen has Failed to Recognize the Wrongful Nature of his Conduct.**

Hansen has not provided any assurance against future violations or indication that he has recognized the wrongful nature of his conduct. In fact, Hansen’s Answer shows that, despite his criminal conviction, he fails to accept any responsibility for investor losses or his part in them. Answer at ¶¶ 2 – 4.

**E. The Likelihood that Hansen will Engage in Future Violations is High.**

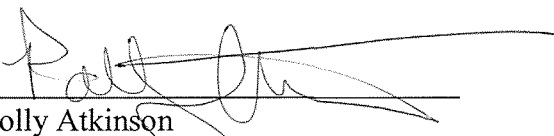
In his Answer, Hansen attempts to blame others for his fraudulent conduct and claims to be a victim. Answer at ¶¶ 1, 5, and unnumbered paragraphs. Hansen’s “attempts to deflect responsibility for his fraudulent scheme demonstrate either a fundamental misunderstanding of his responsibilities as a securities professional or that he “hold[s] those obligations in

contempt.”” *Ross Mandell*, 2014 WL 907416 at \* 5 (internal citations omitted). In either case, these attempts reveal a serious risk he would commit further misconduct if permitted in any area of the industry. *Id.*

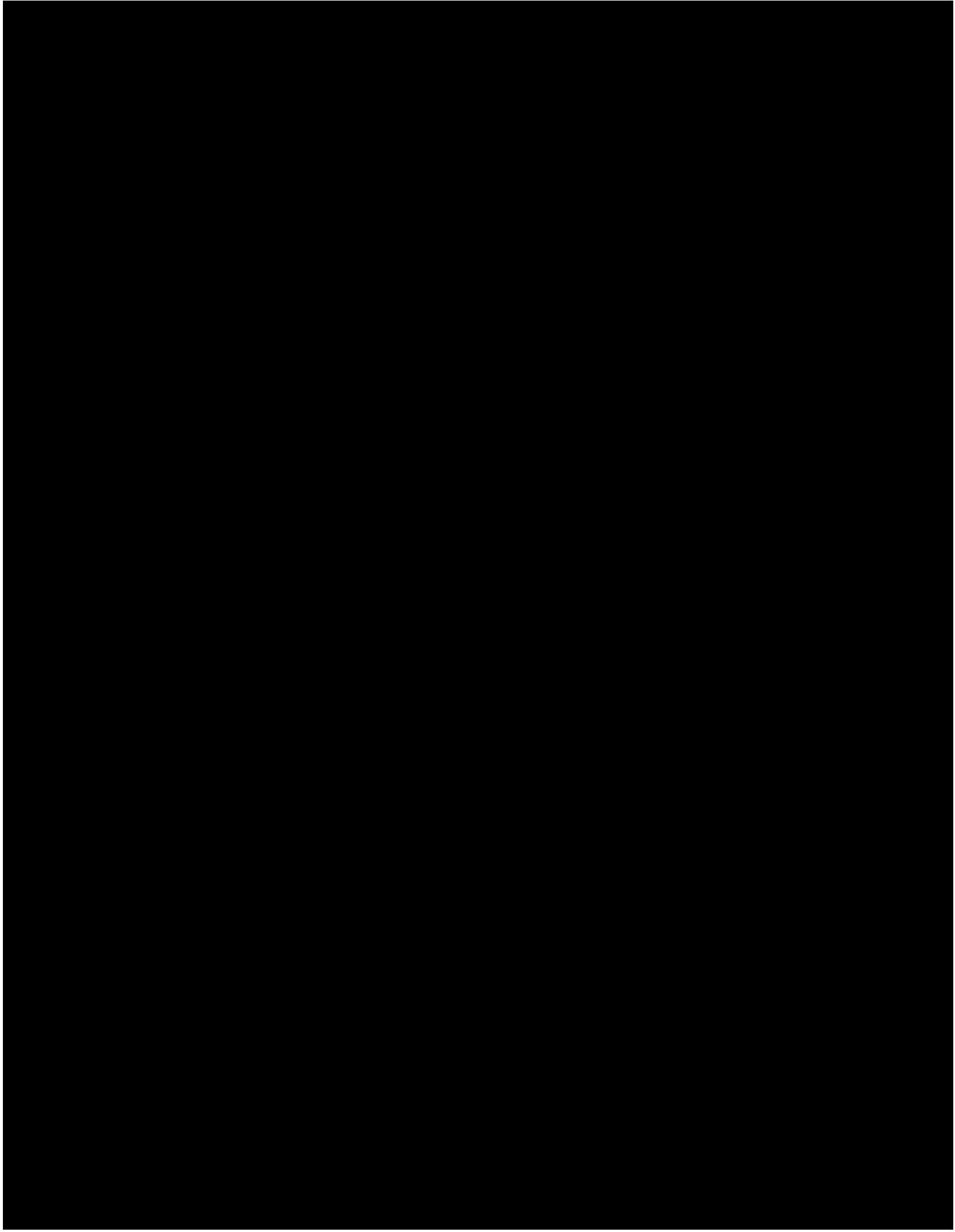
#### F. CONCLUSION

For the foregoing reasons, the Division requests that collateral bars be entered against Hansen under Exchange Act Section 15(b) and Advisers Act Section 203(f) barring him from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Respectfully submitted this 12th day of January, 2015.



Polly Atkinson  
Division of Enforcement  
Securities and Exchange Commission  
Denver Regional Office  
1961 Stout Street, Ste. 1700  
Denver, CO 80294



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**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION**

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Karen E. Schreier United States District Judge Presiding

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Courtroom Deputy - DJP  
Courtroom - SF #2

Court Reporter – Connie  
Heckenlaible/Jill Connelly  
Start Date – January 13, 2014

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4:13-CR-40053-01

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UNITED STATES OF AMERICA

Plaintiff,

vs.

RANDAL KENT HANSEN,

Defendant.

Jeff Clapper

Maurice H. Sercarz, Richard L. Travis

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TIME TRIAL SCHEDULED TO BEGIN: 9:00 AM

TIME:

*Connie Heckenlaible Court Reporter only for 1/13/14; Jill Connelly reporter for rest of trial.*

9:00 AM Enter jury trial proceedings before the Hon. Karen E. Schreier, United States District Judge, Sioux Falls, SD.

Jurors are given the Affirmation to Veniremen by the Courtroom Deputy.

Court conducts voir dire.

10:20 AM Court in recess for 15 minutes.

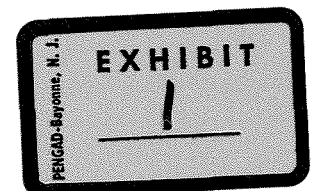
10:40 AM Jurors return and trial resumes.

Mr. Clapper, on behalf of the United States, conducts voir dire.

Mr. Sercarz, on behalf of the Defendant, conducts voir dire.

Counsel exercise their peremptory challenges.

Comes now the jury consisting of 13 jurors chosen to try the case.



Counsel agree these are the jurors chosen to try the case.

Jurors are given the Affirmation to try the case.  
Court excuses jurors still in the back of the courtroom.

11:55 AM Jurors admonished and Court in recess until 1:00 PM.

Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Attorney Sercarz makes a sequestration motion as to all witnesses except the government agents. Granted.

11:56 AM Court in recess until 1:00 PM.

1:00 PM Comes now Mr. Clapper, AUSA, and reads the charges to the jury.

Court reads preliminary instructions to the jury.

Mr. Clapper, on behalf of Plaintiff, makes opening statement to the jury.  
Mr. Sercarz, on behalf of Defendant, makes opening statement to the jury.

**Matt Miller** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. No cross.

**James Keller** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper.

3:00 PM Jurors admonished and Court in recess for 20 minutes.

Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Discussion regarding objection raised by Attorney Sercarz.

3:02 PM Court in recess until 3:20 PM.

3:20 PM Jurors return and trial resumes. James Keller resumes the stand. Attorney Clapper resumes direct. Cross by Attorney Travis. Redirect by Attorney Clapper.

**Pamela Dunn** is called and sworn as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Sercarz. Redirect by Attorney Clapper. Recross by Attorney Sercarz.

4:55 PM Jurors admonished and Court in recess until 9:00 AM.

**TUESDAY JANUARY 14, 2014:**

8:50 AM Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Discussion regarding an issue that has come up overnight with one of the jurors. The Court recommends the juror be excused. No objection by either side. The juror is excused..

8:54 AM Jurors return and trial resumes.

**Dan Harvey** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Travis. Redirect by Attorney Clapper.

**Donna Harvey** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Travis.

**Kevin Dettler** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Sercarz.

**Kuprian Frolov** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper.

10:27 AM Jurors excused and Court in recess for 15 minutes.

Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Discussion regarding an objection to testimony.

10:37 AM Court in recess.

10:48 AM Jurors return and trial resumes.

Mr. Frolov resumes the stand. Mr. Clapper resumes direct. Cross by Attorney Sercarz. Redirect by Attorney Clapper. Recross by Attorney Sercarz.

11:30 AM Jurors excused and Court in recess until 1:00 PM.

1:00 PM Jurors return and trial resumes.

**Harold Rodenbiker** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Travis. Redirect by Attorney Clapper.

2:10 PM Jurors admonished and Court in recess for 10 minutes.

2:30 PM Jurors return and trial resumes.

Harold Rodenbiker resumes the stand. Attorney Clapper resumes direct. Cross by Attorney Travis.

**Tom Schneider** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper.

3:22 PM Jurors admonished and Court in recess for 10 minutes.

3:34 PM Jurors return and trial resumes. Tom Schneider resumes the stand. Attorney Clapper resumes direct. Cross by Attorney Travis.

**Ronald Starr** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Sercarz. Redirect by Attorney Clapper.

4:25 PM Jurors admonished and Court in recess until 9:00 AM.

**WEDNESDAY, JANUARY 15, 2014:**

9:00 AM **Annette Johnson** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Sercarz. Redirect by Attorney Clapper. Recross by Attorney Sercarz.

**Terra Jo Hansen-Leinen** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Sercarz. Redirect by Attorney Clapper. Recross by Attorney Sercarz.

10:12 AM Jurors admonished and Court in recess for 15 minutes.

10:28 AM Jurors return and trial resumes.

**Dietmar Rose** is called and sworn as a witness on behalf of the Plaintiff. Direct by Attorney Clapper.

11:50 AM Jurors admonished and Court in recess until 1:00 PM

1:00 PM Jurors return and trial resumes.

Dietmar Rose resumes the stand. Attorney Clapper resumes direct. Cross by Attorney Sercarz. Redirect by Attorney Clapper.

2:02 PM Jurors admonished and Court in recess for 10 minutes.

2:20 PM Jurors return and trial resumes.

**Russell Clement** is called and affirmed as a witness on behalf of the Plaintiff via videoconference from Denver, CO. Direct by Attorney Clapper. Cross by Attorney Sercarz. Redirect by Attorney Clapper.

3:45 PM Jurors admonished and court in recess for 10 minutes.

4:00 PM Jurors return and trial resumes.

**Sarathi Giridhar** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Sercarz. Redirect by Attorney Clapper. Recross by Attorney Sercarz. Redirect by Attorney Clapper.

5:20 PM Jurors admonished and Court in recess until 9:00 AM.

Outside the presence of the jurors and in the presence of counsel, the following proceedings were held: Attorney Clapper gives the Court an update as to the timing of the rest of the government's case.

5:25 PM Court in recess.

**THURSDAY, JANUARY 16, 2014:**

9:00 AM Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Counsel for the USA moves to amend the Indictment as to Counts 12, 18, 21, 23, 27, and 29 regarding origination of K1's being from Aberdeen instead of Sioux Falls. No objection by the Defendant. The Motion is granted.

9:03 AM Jurors return and trial resumes.

**Susan Meidinger** is called and sworn as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Sercarz. Redirect by Attorney Clapper. Recross by Mr. Sercarz.

10:00 AM Jurors admonished and Court in recess for 15 minutes.

10:20 AM Jurors return and trial resumes.

**Erin McIntyre** is called and sworn as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Travis. Redirect by Attorney Clapper.

**Anthony Johnson** is called and sworn as a witness on behalf of the Plaintiff. Direct by Attorney Clapper.

12:00 PM Jurors admonished and Court in recess until 1:05 PM.



- 1:10 PM Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Discussion regarding weather and remainder of the day.
- 1:12 PM Jurors return and trial resumes.  
Anthony Johnson resumes the stand. Attorney Clapper resumes direct.
- 2:27 PM Jurors admonished and court in recess for 15 minutes.
- 2:43 PM Jurors return and trial resumes.  
Anthony Johnson resumes the stand. Cross by Attorney Sercarz.
- 4:22 PM Jurors admonished and Court in recess until 9:00 AM.  
Court in recess for five minutes.
- 4:30 PM Outside the presence of the jurors and in the presence of counsel, the following proceedings were held: Discussion regarding impeachment of witness. Discussion regarding remainder of trial. Discussion regarding closing statements. Each side gets 1 ½ hours. Discussion regarding proposed jury instructions.
- 4:45 PM Court in recess.

**FRIDAY, JANUARY 17, 2014:**

- 9:00 AM Jurors return and trial resumes.  
Anthony Johnson resumes the stand. Attorney Sercarz resumes cross. Redirect by Attorney Clapper. Recross by Attorney Sercarz.
- 10:06 AM Jurors admonished and Court in recess for 15 minutes.
- 10:21 AM Jurors return and trial resumes.  
**Scott Abdallah** is called and affirmed as a witness on behalf of the Plaintiff. Direct by Attorney Clapper. Cross by Attorney Sercarz.

**GOVERNMENT RESTS.**

10:36 AM Jurors admonished and Court in recess for 10 minutes.

Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Attorney Sercarz, on behalf of the Defendant, makes a motion pursuant to Rule 29(a) for an order of acquittal and states the reasons therefore. Response by Attorney Clapper. The Court denies the motion and states the reasons therefore.

Attorney Clapper addresses the Court regarding one of the Defendant's potential witnesses and a corresponding exhibit. Response by Attorney Sercarz. Response by Attorney Clapper. Further discussion. The Court rules on the admission of the exhibit and addresses redactions. Clarifications by Attorney Sercarz. Further discussion.

11:05 AM Jurors return and trial resumes.

**Garrett Dykstra** is called and affirmed as a witness on behalf of the Defendant. Direct by Attorney Sercarz. No cross.

**Darroll Remily** is called and affirmed as a witness on behalf of the Defendant. Direct by Attorney Sercarz. No cross.

**Randal Hansen** is called and affirmed as a witness on behalf of the Defendant. Direct by Attorney Sercarz.

12:00 PM Jurors admonished and court in recess until 1:15 PM.

1:20 PM Jurors return and trial resumes.

Randal Hansen resumes the stand. Attorney Sercarz resumes direct.

Cross by Attorney Clapper.

3:00 PM Jurors admonished and Court in recess for 15 minutes.

3:20 PM Jurors return and trial resumes.

Randal Hansen resumes the stand. Attorney Clapper resumes cross. Redirect by Attorney Sercarz. Recross by Attorney Clapper.

**Jason Zanderson** is called and affirmed as a witness on behalf of the Defendant. Direct by Attorney Sercarz. No cross.

**DEFENDANT RESTS.**

**NO REBUTTAL.**

4:25 pm Jurors admonished and excused until 9:00 AM on Tuesday, January 21.

Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Attorney Sercarz, on behalf of the Defendant, renews his motion pursuant to Rule 29(a). Denied.

4:25 PM Court in recess for 10 minutes.

4:35 PM Outside the presence of the jury and in the presence of counsel, the following proceedings were held: Settling of jury instructions.

Discussion regarding closing statements.

5:10 PM Court in recess until Tuesday, January 21, at 9:00 AM.

**TUESDAY, JANUARY 21, 2014:**

8:35 AM Outside the presence of the jury and in the presence of counsel, the following proceedings were held:

Attorney Sercarz addresses the Court regarding additional proposed jury instruction. Response by Attorney Clapper. Comments by the Court. Further discussion. The Court refuses Defendant's proposed instruction 15. The Court will give Pattern 4.02. The Court notes a change to instruction no. 5.

8:50 AM Court in recess.

9:10 AM Jurors return and trial resumes.

The Court now instructs the jury as to the law applicable in this case.

9:45 AM Jurors admonished and Court in recess for 10 minutes

9:57 AM Jurors return and trial resumes.

Attorney Clapper, on behalf of Plaintiff, makes initial closing argument to the jury.

11:00 AM Jurors admonished and Court in recess for 10 minutes.

11:16 AM Jurors return and trial resumes.

Attorney Sercarz, on behalf of Defendant, makes closing argument to the jury. Attorney Clapper makes final closing argument to the jury.

Court Security Officer is affirmed by the courtroom deputy.

1:15 PM Jury retires to jury room to begin deliberations.

Outside the presence of the jury and in the presence of counsel, the following proceedings were held.

Counsel for both parties agree the exhibits in the possession of the Clerk are the proper exhibits to go to the jury. Exhibits and jury instructions are brought to the jury.

1:25 PM Court in recess.

2:58 PM Comes now the jury with a question re: clarification on page 5 of the jury instructions. Counsel are provided with a copy of the question and the Court's proposed response.

Discussion regarding response. Proposed response handed to CSO to give to jurors.

3:12 PM Court in recess.

4:53 PM Jurors return. Jurors are admonished and sent home for the day, and will resume deliberations at 9:00 AM.

4:55 PM Court in recess.

**WEDNESDAY, JANUARY 22, 2014:**

12:25 PM Comes now the jury with a verdict: Guilty on all counts. The Court polls all jurors and they indicate they have reached a unanimous verdict on all counts. Neither side desires the jury to be individually lpolled.

The Court goes over the PSR process with the Defendant and notes the Court will send out a sentencing schedule.

Attorney Clapper does not oppose release pending sentencing under the same terms and conditions Defendant is currently released on. The Court orders the Defendant released until sentencing, and Defendant agrees to abide by all of his current terms and conditions of release.

Discussion regarding open Count.

12:35 PM Court in recess.

**FILED**

MAY 21 2014

*[Signature]*  
CLERK

AO 245B (Rev. 09/11) Judgment in a Criminal Case  
Sheet 1

# UNITED STATES DISTRICT COURT

District Of South Dakota, Southern Division

UNITED STATES OF AMERICA

v.

Randal Kent Hansen

**JUDGMENT IN A CRIMINAL CASE**

Case Number: 4:13CR40053-1

USM Number: 12872-273

Richard L. Travis, Maurice H. Sercarz  
Defendant's Attorney

### THE DEFENDANT:

- pleaded guilty to count(s)
- pleaded nolo contendere to count(s) which was accepted by the Court.
- was found guilty on count(s) 1ss - 13ss and 17ss -- 29ss of the Second Superseding Indictment. after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

| <u>Title &amp; Section</u> | <u>Nature of Offense</u>                       | <u>Offense Ended</u> | <u>Count</u>                      |
|----------------------------|--|----------------------|-----------------------------------|
| 18 U.S.C. § 1349           | Conspiracy to Commit Wire Fraud and Mail Fraud | 05/31/2011           | 1ss                               |
| 18 U.S.C. § 1343           | Wire Fraud                                     | 04/08/2011           | 2ss-5ss                           |
| 18 U.S.C. § 1341           | Mail Fraud                                     | 09/30/2010           | 6ss                               |
| 18 U.S.C. § 1341           | Mail Fraud                                     | 04/20/2009           | 7ss                               |
| 18 U.S.C. § 1341           | Mail Fraud                                     | 08/23/2010           | 8ss                               |
| 18 U.S.C. § 1341           | Mail Fraud                                     | 12/31/2010           | 9ss, 13ss, 17ss, 20ss, 26ss, 28ss |

The defendant is sentenced as provided in this Judgment. The sentence is imposed pursuant to the statutory and constitutional authority vested in this Court.

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count(s) 14ss-16ss and 30ss of the Second Superseding Indictment were  are dismissed on the motion of the United States.

It is ordered that the defendant must 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 must notify the Court and United States attorney of material changes in economic circumstances.

05/19/2014

Date of Imposition of Judgment

*Karen E. Schreier*

Signature of Judge

Karen E. Schreier, United States District Judge

Name and Title of Judge

May 21, 2014

Date



AO 245B (Rev. 09/11) Judgment in a Criminal Case  
Sheet 1A

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DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

**ADDITIONAL COUNTS OF CONVICTION**

| <u>Title &amp; Section</u> | <u>Nature of Offense</u> | <u>Offense Ended</u> | <u>Count</u>                       |
|----------------------------|--------------------------|----------------------|------------------------------------|
| 18 U.S.C. § 1341           | Mail Fraud               | 10/27/2008           | 10ss                               |
| 18 U.S.C. § 1341           | Mail Fraud               | 10/20/2009           | 11ss                               |
| 18 U.S.C. § 1341           | Mail Fraud               | 04/08/2011           | 12ss, 18ss, 21ss, 23ss, 27ss, 29ss |
| 18 U.S.C. § 1341           | Mail Fraud               | 07/14/2008           | 19ss                               |
| 18 U.S.C. § 1341           | Mail Fraud               | 02/17/2009           | 22ss                               |
| 18 U.S.C. § 1341           | Mail Fraud               | 07/22/2008           | 24ss-25ss                          |

AO 245B (Rev. 09/11) Judgment in Criminal Case  
Sheet 2 -- Imprisonment

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

**IMPRISONMENT**

- The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 108 months on each count. All terms of custody shall run concurrently.
- The Court makes the following recommendations to the Bureau of Prisons:  
The Court recommends the defendant be able to serve his term of imprisonment at the Yankton Federal Prison Camp in Yankton, SD.
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district or the U.S. Bureau of Prisons as directed:
  - at on or before 10:00  a.m.  p.m. on 06/06/2014
  - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
  - before 2 p.m. on \_\_\_\_\_
  - as notified by the United States Marshal.
  - as notified by the Probation or Pretrial Services Office.

**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 UNITED STATES MARSHAL

AO 245B (Rev. 09/11) Judgment in a Criminal Case  
Sheet 3 — Supervised Release

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: 3 years on each count. The terms of supervised release shall run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

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

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.

- The above drug testing condition is suspended based on the Court's determination the defendant poses a low risk of future substance abuse. *(Check, if applicable.)*
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. *(Check, if applicable.)*
- The defendant shall cooperate in the collection of DNA as required by statute. *(Check, if applicable.)*
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense. *(Check, if applicable.)*
- The defendant shall participate in an approved program for domestic violence. *(Check, if applicable.)*

If this Judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pays in accordance with the Schedule of Payments sheet of this Judgment.

The defendant must comply with the standard conditions that have been adopted by this Court, as well as with any 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 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 of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 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; and
- 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.



AO245B (Rev. 09/11) Judgment in a Criminal Case  
Sheet 3C — Supervised Release

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DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

**SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall provide the probation office with access to any requested financial information.
2. The defendant shall apply all monies received from income tax refunds, judgments, and any other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.
3. The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation office unless the defendant is in compliance with any payment schedule established.

AO 245B (Rev. 09/11) Judgment in a Criminal Case  
Sheet 5 — Criminal Monetary Penalties

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

|               |                   |             |                    |
|---------------|-------------------|-------------|--------------------|
|               | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
| <b>TOTALS</b> | \$2,600           | Waived      |                    |

- The determination of restitution is deferred until 06/02/2014.  
An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.
- 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 before the United States is paid.

|                      |                    |                            |                               |
|----------------------|--------------------|----------------------------|-------------------------------|
| <u>Name of Payee</u> | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|----------------------|--------------------|----------------------------|-------------------------------|

**TOTALS** \$ \_\_\_\_\_ \$ \_\_\_\_\_

- Restitution amount ordered pursuant to Plea Agreement \$ \_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine 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 Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The Court determined that the defendant does not have the ability to pay interest and it is ordered that:
  - the interest requirement is waived for the  fine  restitution.
  - the interest requirement for the  fine  restitution is modified as follows:

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

AO245B (Rev. 09/11) Judgment in a Criminal Case  
 Sheet 5 — Schedule of Payments

DEFENDANT: Randal Kent Hansen  
 CASE NUMBER: 4:13CR40053-1

**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A  Lump sum payment of \$ 2,600.00 due immediately, balance due
  - not later than \_\_\_\_\_, or
  - in accordance with  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this Judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment of the total restitution and other criminal monetary penalties shall be due in regular quarterly installments of \$25 or 25% of the deposits in the defendant's inmate trust account while the defendant is in custody, or 10% of the defendant's inmate trust account while serving custody at a Residential Reentry Center. Any portion of the monetary obligation(s) not paid in full prior to the defendant's release from custody shall be due in monthly installments of \$20,000, such payments to begin 60 days following the defendant's release.
- F  Special instructions regarding the payment of criminal monetary penalties:

Unless the Court has expressly ordered otherwise, if this Judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several
  - Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

UNITED STATES DISTRICT COURT

District Of South Dakota, Southern Division

UNITED STATES OF AMERICA

AMENDED JUDGMENT IN A CRIMINAL CASE

V.

Randal Kent Hansen

Case Number: 4:13CR40053-1

USM Number: 12872-273

Richard L. Travis, Maurice H. Sercarz

Defendant's Attorney

Date of Original Judgment: 05/19/2014

(Or Date of Last Amended Judgment)

Reason for Amendment:

- Modification of Resitution Order (18 U.S.C. § 3664)

THE DEFENDANT:

- pleaded guilty to count(s)
pleaded nolo contendere to count(s) which was accepted by the Court.
was found guilty on count(s) 1ss - 13ss and 17ss -- 29ss of the Second Superseding Indictment. after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Table with 4 columns: Title & Section, Nature of Offense, Offense Ended, Count. Rows include 18 U.S.C. § 1349, 18 U.S.C. § 1343, 18 U.S.C. § 1341, 18 U.S.C. § 1341.

The defendant is sentenced as provided in this Judgment. The sentence is imposed pursuant to the statutory and constitutional authority vested in this Court.

- The defendant has been found not guilty on count(s)
Count(s) 14ss-16ss and 30ss of the Second Superseding Indictment were are dismissed on the motion of the United States.

It is ordered that the defendant must 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.

06/10/2014

Date of Imposition of Judgment

Signature of Judge (Handwritten: Karen E. Schreier)

Karen E. Schreier, United States District Judge

Name and Title of Judge

Date (Handwritten: June 10, 2014)

FILED JUN 10 2014 (Handwritten signature and CLERK)

AO 245C (Rev. 09/11) Amended Judgment in a Criminal Case  
Sheet 1A

(NOTE: Identify Changes with Asterisks (\*\*))

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

**ADDITIONAL COUNTS OF CONVICTION**

| <u>Title &amp; Section</u> | <u>Nature of Offense</u> | <u>Offense Ended</u> | <u>Count</u>                          |
|----------------------------|--------------------------|----------------------|---------------------------------------|
| 18 U.S.C. § 1341           | Mail Fraud               | 08/23/2010           | 8ss                                   |
| 18 U.S.C. § 1341           | Mail Fraud               | 12/31/2010           | 9ss, 13ss, 17ss,<br>20ss, 26ss, 28ss  |
| 18 U.S.C. § 1341           | Mail Fraud               | 10/27/2008           | 10ss                                  |
| 18 U.S.C. § 1341           | Mail Fraud               | 10/20/2009           | 11ss                                  |
| 18 U.S.C. § 1341           | Mail Fraud               | 04/08/2011           | 12ss, 18ss, 21ss,<br>23ss, 27ss, 29ss |
| 18 U.S.C. § 1341           | Mail Fraud               | 07/14/2008           | 19ss                                  |
| 18 U.S.C. § 1341           | Mail Fraud               | 02/17/2009           | 22ss                                  |
| 18 U.S.C. § 1341           | Mail Fraud               | 07/22/2008           | 24ss-25ss                             |

AO 245C (Rev. 09/11) Amended Judgment in a Criminal Case  
Sheet 2 — Imprisonment

(NOTE: Identify Changes with Asterisks (\*))

DEFENDANT: Randal Kent Hansen  
CASE  
NUMBER: 4:13CR40053-1

**IMPRISONMENT**

- The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of : 108 months on each count. All terms of custody shall run concurrently.
  
- The Court makes the following recommendations to the Bureau of Prisons:  
The Court recommends the defendant be able to serve his term of imprisonment at the Yankton Federal Prison Camp in Yankton, SD.
  
- The defendant is remanded to the custody of the United States Marshal.
  
- The defendant shall surrender to the United States Marshal for this district or the U.S. Bureau of Prisons as directed:
  - at on or before 10:00  a.m.  p.m. on 06/06/2014
  - as notified by the United States Marshal.
  
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
  - before 2 p.m. on \_\_\_\_\_
  - as notified by the United States Marshal.
  - as notified by the Probation or Pretrial Services Office.

**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 UNITED STATES MARSHAL

AO 245C (Rev. 09/11) Amended Judgment in a Criminal Case  
Sheet 3 — Supervised Release

(NOTE: Identify Changes with Asterisks (\*))

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : 3 years on each count. The terms of supervised release shall run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

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

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.

- The above drug testing condition is suspended based on the Court's determination the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as required by statute. (Check, if applicable.)
- The defendant shall comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which the defendant resides, works, is a student, or was convicted of a qualifying offense. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this Judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this Judgment.

The defendant must comply with the standard conditions that have been adopted by this Court as well as with any 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 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 of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 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; and
- 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, personal history, or characteristics and shall permit the probation officer to make such notifications and confirm the defendant's compliance with such notification requirement.

AO 245C (Rev. 09/11) Amended Judgment in a Criminal Case  
Sheet 3C — Supervised Release

(NOTE: Identify Changes with Asterisks (\*))

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DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

### **SPECIAL CONDITIONS OF SUPERVISION**

1. The defendant shall provide the probation office with access to any requested financial information.
2. The defendant shall apply all monies received from income tax refunds, judgments, and any other anticipated or unexpected financial gains to the outstanding court-ordered financial obligation.
3. The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation office unless the defendant is in compliance with any payment schedule established.



AO 245C (Rev. 09/11) Amended Judgment in a Criminal Case  
Sheet 5 — Criminal Monetary Penalties

(NOTE: Identify Changes with Asterisks (\*))

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the following total criminal monetary penalties under the Schedule of Payments on Sheet 6.

|               | <u>Assessment</u> | <u>Fine</u> | <u>Restitution</u> |
|---------------|-------------------|-------------|--------------------|
| <b>TOTALS</b> | \$2,600           | Waived      | \$17,514,258.89    |

- The determination of restitution is deferred until  
An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- The defendant shall make restitution (including community restitution) to the following payees in the amount listed below.
- 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 before the United States is paid.

| <u>Name of Payee</u>                | <u>Total Loss*</u>      | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|-------------------------------------|-------------------------|----------------------------|-------------------------------|
| Paul Allen, Cortland Manor, NY      | \$133,929.00            | \$133,929.00               |                               |
| Michael Becker, Elyria, OH          | \$600,000.00            | \$600,000.00               |                               |
| Pat Bernardo, Albany, NY            | \$9,013.00              | \$9,013.00                 |                               |
| Les Boyer, Aransas Pass, TX         | \$349,314.00            | \$349,314.00               |                               |
| Charles Butz, Harwood, ND           | \$77,000.00             | \$77,000.00                |                               |
| Dennis Cimillo, Garrison, NY        | \$35,374.00             | \$35,374.00                |                               |
| Aelred Dettler, Langdon, ND         | \$146,921.00            | \$146,921.00               |                               |
| Arthur Dunn, Villa Park, CA         | \$777,666.00            | \$777,666.00               |                               |
| Garritt Dykstra, Doland, SD         | \$112,268.00            | \$112,268.00               |                               |
| Barbara Eisele, Bluffton, SC        | \$60,585.00             | \$60,585.00                |                               |
| William Eisele, Blythewood, SC      | \$66,249.00             | \$66,249.00                |                               |
| Ron Eldridge, Gilbert, AZ           | \$251,358.00            | \$251,358.00               |                               |
| Thomas Fellman, Fargo, ND           | \$100,000.00            | \$100,000.00               |                               |
| L. Norman Ferrier, Rapid City, SD   | \$835,564.00            | \$835,564.00               |                               |
| Rick Flanigan, Ft. Lauderdale, FL   | \$29,959.00             | \$29,959.00                |                               |
| Dennis Flaten, Langdon, ND          | \$74,421.00             | \$74,421.00                |                               |
| Jeffrey Freadrich, Saint George, UT | \$254,761.00            | \$254,761.00               |                               |
| <b>TOTALS</b>                       | <b>\$ 17,514,258.89</b> | <b>\$ 17,514,258.89</b>    |                               |

- Restitution amount ordered pursuant to Plea Agreement \_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of this Judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The Court determined that the defendant does not have the ability to pay interest, and it is ordered that:
  - the interest requirement is waived for the  fine  restitution.
  - the interest requirement for the  fine  restitution is modified as follows:

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

AO 245C (Rev. 09/11) Amended Judgment in a Criminal Case  
Sheet 5B — Criminal Monetary Penalties

(NOTE: Identify Changes with Asterisks (\*))

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1**ADDITIONAL RESTITUTION PAYEES**

| <u>Name of Payee</u>                      | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|---|--------------------|----------------------------|-------------------------------|
| Keith Freeland, West Fargo, ND            | \$105,163.00       | \$105,163.00               |                               |
| Gary Fritz, Fargo, ND                     | \$187,905.00       | \$187,905.00               |                               |
| Kuprian Frolov, Winger, MN                | \$520,879.86       | \$520,879.86               |                               |
| Diane Geist, Mesa, AZ                     | \$45,641.00        | \$45,641.00                |                               |
| Doug Geist, Mesa, AZ                      | \$228,471.00       | \$228,471.00               |                               |
| Joe Gettel, Lidgerwood, ND                | \$201,000.00       | \$201,000.00               |                               |
| Merle Gilbertson, Fargo, ND               | \$127,142.00       | \$127,142.00               |                               |
| Lori Hager, Fargo, ND                     | \$63,022.00        | \$63,022.00                |                               |
| Darrel Jensen, Redfield, SD               | \$100,000.00       | \$100,000.00               |                               |
| Susan Johnson, Huntington Beach, CA       | \$325,153.00       | \$325,153.00               |                               |
| James Keller, Medina, OH                  | \$477,814.00       | \$477,814.00               |                               |
| Tom Kerins, Gilbert, AZ                   | \$50,000.00        | \$50,000.00                |                               |
| William Kosloske, Meza AZ                 | \$142,870.00       | \$142,870.00               |                               |
| Mark Labrie, Frankfort, SD                | \$71,368.00        | \$71,368.00                |                               |
| Roy Lettellier, Meza, AZ                  | \$428,122.00       | \$428,122.00               |                               |
| Ralph Martin, Minot, ND                   | \$382,708.00       | \$382,708.00               |                               |
| Jerry McCaslin, Liberty, MO               | \$167,640.00       | \$167,640.00               |                               |
| Allen Meyerhoff, Davidsonville, MD        | \$195,137.00       | \$195,137.00               |                               |
| William O'Brein, III, Shreveport, LA      | \$217,323.00       | \$217,323.00               |                               |
| Robert Pray, Groton, SD                   | \$34,646.00        | \$34,646.00                |                               |
| Darrel Remily, Turton, SD                 | \$55,587.00        | \$55,587.00                |                               |
| Harold Rodenbiker, Fargo, ND              | \$246,693.00       | \$246,693.00               |                               |
| Dietmar Rose, Albuquerque, NM             | \$1,496,811.00     | \$1,496,811.00             |                               |
| Brent Schneider, Turton, SD               | \$175,877.00       | \$175,877.00               |                               |
| Gary Schneider, Turton, SD                | \$901,273.00       | \$901,273.00               |                               |
| Patti Schneider, Turton, SD               | \$42,741.00        | \$42,741.00                |                               |
| Sharon Schneider, Turton, SD              | \$48,804.00        | \$48,804.00                |                               |
| Thomas Schneider, Fargo, ND               | \$283,338.00       | \$283,338.00               |                               |
| Ronald Starr, Doland, SD                  | \$1,050,190.00     | \$1,050,190.00             |                               |
| Scot Stevenson, Scottsdale, AZ            | \$45,655.00        | \$45,655.00                |                               |
| Don Steward, Chelsea, SD                  | \$94,063.00        | \$94,063.00                |                               |
| Ralph Tysdal, Corrales, NM                | \$53,773.00        | \$53,773.00                |                               |
| Doug Van Hooser, Lisle, IL                | \$38,170.00        | \$38,170.00                |                               |
| Max Williams, Brentford, SD               | \$139,275.00       | \$139,275.00               |                               |
| Mildred Williams Trust, Sioux Falls, SD   | \$76,063.00        | \$76,063.00                |                               |
| Gary Wipf, Frankfort, SD                  | \$39,104.00        | \$39,104.00                |                               |
| Langston-Williams Law Corp, Santa Ana, CA | \$435,000.00       | \$435,000.00               |                               |
| Shawn Thelen, Huron, SD                   | \$52,268.00        | \$52,268.00                |                               |
| Greg Krech, Huron, SD                     | \$200,235.00       | \$200,235.00               |                               |
| Chris Boschee, Parkston, SD               | \$5,000.00         | \$5,000.00                 |                               |
| David Peterson, Mentor, MN                | \$499,920.00       | \$499,920.00               |                               |
| Marilyn Rose, Albuquerque, NM             | \$287,500.00       | \$287,500.00               |                               |
| Ryan Starr, Sioux Falls, SD               | \$5,000.00         | \$5,000.00                 |                               |

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

AO 245C (Rev. 09/11) Amended Judgment in a Criminal Case  
Sheet 5B — Criminal Monetary Penalties

(NOTE: Identify Changes with Asterisks (\*))

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1**ADDITIONAL RESTITUTION PAYEES**

| <u>Name of Payee</u>                                 | <u>Total Loss*</u> | <u>Restitution Ordered</u> | <u>Priority or Percentage</u> |
|--|--------------------|----------------------------|-------------------------------|
| Ahmed Abdullah, Fargo, ND                            | \$64,479.00        | \$64,479.00                |                               |
| Kay Abdullah, Fargo, ND                              | \$7,731.00         | \$7,731.00                 |                               |
| Wendell Bauste, Williston, ND                        | \$225,000.00       | \$225,000.00               |                               |
| Barbara Hilde, Kent, WA                              | \$100,000.00       | \$100,000.00               |                               |
| Robin Hilde, Kent, WA                                | \$100,000.00       | \$100,000.00               |                               |
| George Jacob, New York, NY                           | \$78,500.00        | \$78,500.00                |                               |
| Robert Johnson, Cortland Manor, NY                   | \$496,046.00       | \$496,046.00               |                               |
| Dorayn Kemnitz, Wayzata, MN                          | \$250,000.00       | \$250,000.00               |                               |
| Wilfredo Green, Elmsford, NY                         | \$60,000.00        | \$60,000.00                |                               |
| David Hager, Harvey, ND                              | \$95,690.00        | \$95,690.00                |                               |
| Donna Harvey, Aberdeen, SD                           | \$100,000.00       | \$100,000.00               |                               |
| David Federline, Caramel, NY                         | \$150,000.00       | \$150,000.00               |                               |
| Evangelos Vourliotis Rev Trust, Briarcliff Manor, NY | \$187,507.11       | \$187,507.11               |                               |
| Steven Krasner, Briarcliff Manor, NY                 | \$58,000.00        | \$58,000.00                |                               |
| Mike Miller, Sioux Falls, SD                         | \$1,282,578.92     | \$1,282,578.92             |                               |

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

AO 245C (Rev. 09/11) Amended Judgment in a Criminal Case  
Sheet 6 — Schedule of Payments

NOTE: Identify Changes with Asterisks (\*)

DEFENDANT: Randal Kent Hansen  
CASE NUMBER: 4:13CR40053-1

**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A  Lump sum payment of \$ 2,600.00 due immediately, balance due
  - not later than \_\_\_\_\_, or
  - in accordance with  C,  D,  E, or  F below; or
- B  Payment to begin immediately (may be combined with  C,  D, or  F below); or
- C  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this Judgment; or
- D  Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E  Payment of the total restitution and other criminal monetary penalties shall be due in regular quarterly installments of \$25 or 25% of the deposits in the defendant's inmate trust account while the defendant is in custody, or 10% of the defendant's inmate trust account while serving custody at a Residential Reentry Center. Any portion of the monetary obligation(s) not paid in full prior to the defendant's release from custody shall be due in monthly installments of \$20,000, such payments to begin 60 days following the defendant's release.
- F  Special instructions regarding the payment of criminal monetary penalties:

Unless the Court has expressly ordered otherwise, if this Judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- Joint and Several
 

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.
- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.



1 APPEARANCES: (Continued)

2 Mr. Richard L. Travis  
3 May & Johnson

4 [REDACTED]

5 -and-

6 Mr. Maurice H. Sercarz  
7 Sercarz & Riopelle LLP

8 [REDACTED]

9 [REDACTED] the Defendant

10 ALSO PRESENT: Defendant Randal Kent Hansen

11  
12 COURT REPORTER:

13 Jill Connelly, RMR, CRR  
14 U.S. Courthouse

15 [REDACTED]

16

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1 Q. I want to ask you about your relationship with  
2 Anthony Johnson. When did you meet him, if you recall?

3 A. Early 2000s. Maybe even before that.

4 Q. Do you remember the circumstances?

5 A. Yes. He cold called me on a brokerage  
6 investment.

7 Q. Would you happen to remember the kind of  
8 investment?

9 A. I do not remember, no.

10 Q. Did you make the investment he was soliciting in  
11 response to that call?

12 A. Yes, I did.

13 Q. Did you subsequently engage in other investments  
14 with Mr. Johnson?

15 A. Yes, many.

16 Q. Did there come a time when Mr. Johnson solicited  
17 your investment in something called the WAM Fund?

18 A. Yes.

19 Q. Tell the ladies and gentlemen of the jury what  
20 you understood that investment to be.

21 A. Mr. Johnson called me, and said --

22 MR. CLAPPER: Objection. Hearsay response,  
23 Your Honor.

24 THE COURT: Sustained.

25 BY MR. SERCARZ:

1 Q. Did Mr. Johnson describe the investment for you?

2 A. Yes.

3 Q. Did you subsequently enter into the investment?

4 A. Yes.

5 Q. What did you understand the investment to be?

6 A. The investment was a hedge fund started by the  
7 Watson family called WAM, Watson Asset Management Company.  
8 It was a hedge fund based on the S&P 500 where you would  
9 hold a basket of S&P 500s and sell puts and calls against  
10 it.

11 Q. Do you recall how much you invested in that fund?

12 A. I believe it was \$200,000.

13 Q. Do you recall approximately when you made that  
14 investment?

15 A. It would have to be around 2003.

16 Q. Did there come a time thereafter where you made  
17 an investment in something called Hudson Capital Partners?

18 A. Yes, we did.

19 Q. Who was it, without telling me what was said,  
20 that prompted you to make that investment?

21 A. Ward Onsa, Vincent Puma, and Anthony Johnson.

22 Q. I take it then that by the time you made that  
23 investment you had met Onsa and Puma?

24 A. Yes.

25 Q. Was this in connection with what we heard



1 referred to as a launch party or a pitch meeting for any  
2 other investments?

3 A. No.

4 Q. How did you meet Onsa and Puma?

5 A. They informed me the Watson family would now take  
6 investments of only five million dollars and that I was out  
7 of the Watson fund. It had been very profitable to me. So  
8 I called them and said, "Is there another way we can get  
9 into a fund like this?" They asked me to come in and visit  
10 with them about it, which I did.

11 MR. CLAPPER: Objection.

12 THE COURT: The objection is overruled.

13 A. At that time we discussed a fund. They said we  
14 would all form a fund, if we wanted to. I was not -- I was  
15 fairly confident, first of all, because I'm dealing with  
16 Mr. Vincent Puma, who owned a brokerage firm on  
17 Wall Street. He was also a loan man from Wall Street, an  
18 investment banker, had an insurance company. Told me he  
19 made \$2 million a year. I looked up on the Internet, and  
20 besides salaries, his company made \$2 million. He was  
21 voted Man of the Year for New Jersey.

22 The second individual was Ward Onsa. I was shown  
23 papers where he was audited and investigated by the Watson  
24 family, one of the richest families in America, and they  
25 committed to him to give him a hundred million dollars to

1 trade for them.

2 The third person, of course, was Anthony Johnson  
3 who I had known for many years.

4 I still was a little hesitant, so I made an  
5 agreement with them that I would put \$250,000 into a blind  
6 trust, and in six months if the profits were nice, we would  
7 proceed to do a partnership. So I put \$250,000 into a  
8 blind trust. They said they would double the money. At  
9 the end of six months they hadn't doubled the money, but  
10 they had done very well.

11 MR. CLAPPER: Objection. Narrative response.

12 THE COURT: Sustained.

13 BY MR. SERCARZ:

14 Q. What was it that led you to take your money out  
15 of the blind trust and to put it into a fund and become a  
16 partner in a fund?

17 A. I never did take it out of the blind trust at  
18 that time.

19 Q. All right. What happened next that caused you to  
20 be involved in the fund?

21 A. They proposed that we do a partnership and pool  
22 money to start a new fund with Mr. Onsa.

23 Q. Do you remember the name of that fund?

24 A. Originally I think it was like a Gibraltar  
25 Trading Company.

1 Q. Can you give the ladies and gentlemen of the jury  
2 a sense of the year this took place?

3 A. Probably 2004.

4 Q. And just to go back, the WAM Fund was in 2003 or  
5 thereabouts?

6 A. 2002 or 3, yes.

7 Q. Now, did the original Gibraltar investment, in  
8 which you were a partner, remain in existence for very  
9 long?

10 A. I contacted an attorney that I knew,  
11 Mr. E.A. Bedford. I just recently invested with him in a  
12 well, salt water disposal well. He set that up in a very  
13 interesting tax situation. I asked him if he could do that  
14 with this.

15 MR. CLAPPER: Objection. Hearsay, Your Honor.

16 THE COURT: Anything that Mr. Bedford told him  
17 would be hearsay. At this point he's only talked about  
18 what he said. So the objection is overruled unless he goes  
19 further.

20 BY MR. SERCARZ:

21 Q. Let me lead you a little bit to avoid some of  
22 these problems. Do you remember why, without telling me  
23 what the conversation was, you got a hold of Mr. Bedford in  
24 connection with this partnership? Don't answer by telling  
25 me what he said. Just give us the explanation of why that

1 prompted you to get a hold of Mr. Bedford.

2 A. He had good tax ability.

3 Q. As a result of your conversations with  
4 Mr. Bedford, was a structure set up for a fund?

5 A. Yes.

6 Q. What was the name of that fund?

7 A. I believe it was Gibraltar Trading.

8 Q. The structure that was set up for Gibraltar  
9 Trading, was it a permanent structure, or was it one that  
10 expired after a period of time?

11 A. It expired.

12 Q. How long a period of time did it take to expire?

13 A. I thought it was nine months, and after that you  
14 couldn't add anymore people to it.

15 Q. Did the fund itself expire by its own terms after  
16 18 months?

17 A. No. It was in permanent existence.

18 Q. Did there come a time when the name of the fund  
19 was changed?

20 A. There came a time when it was changed. We  
21 continued to add more funds as these funds ran out.  
22 Eventually our partnership consisted of four people, four  
23 different designations. Mine was the bookkeeping. Ward  
24 was the trading. Vincent was to oversee the trades.  
25 Hudson, the main broker dealer, would take place at his

1 place. Anthony was to raise money.

2 Q. We've heard testimony from other witnesses in  
3 this courtroom that the Capstone Funds, the GTO Funds, and  
4 eventually the RAHFCO Funds were feeder funds. Is that  
5 consistent with your understanding?

6 A. Yes.

7 Q. Can you explain how you understood that it would  
8 work between a feeder fund like Capstone, GTO, or RAHFCO,  
9 and the fund into which the money was being fed?

10 A. Yes. It was to go to Hudson. Hudson would  
11 oversee it, give it to Ward Onsa for trading, and then we  
12 would hold the books at GTO or whatever it was. If we  
13 wanted money back, I would ask Anthony. Anthony would ask  
14 Vincent. Vincent would get the money from Ward, and it  
15 would be sent back.

16 Q. You told the ladies and gentlemen of the jury  
17 you've been a farmer for 51 years.

18 A. Yes.

19 Q. You were a full-time farmer in 2003, 2004, 2005?

20 A. Yes.

21 Q. Tell the ladies and gentlemen of the jury why you  
22 agreed to undertake the responsibility of being a partner  
23 and taking on the bookkeeping function in these funds.

24 A. Yes. I have some faults. One of mine is I'm a  
25 workaholic. Okay? I farm, but in the wintertimes we're

1 off. I'm always looking for something to do. This was  
2 part of the deal.

3 I also felt the people I was dealing with were  
4 exemplary. I had lost money in several investments, so had  
5 my other fellow farmers. Here we had a chance to invest  
6 with one of the wealthiest families in the world, with a  
7 person who owned a place on Wall Street. I was excited  
8 about just being part of it and being able to invest my  
9 money in something solid and my friends' money in something  
10 solid.

11 Q. You mentioned that you looked forward to the  
12 opportunity to invest your friends' money in something  
13 solid. Did you recommend this series of funds, and I'm  
14 talking about the Gibraltar Funds, the Capstone Funds, and  
15 the RAHFCO Funds, did you recommend these funds to friends  
16 of yours?

17 A. Yes.

18 Q. Did you recommend investments in these funds to  
19 family members of yours?

20 A. First family members, yes. Then a couple  
21 friends. Then they heard about it, and more friends wanted  
22 to get in. That's kind of how that developed.

23 Q. Who were the family members of yours that  
24 invested in this series of funds?

25 A. My daughter, my son, my nephews.

1 Q. Did all of these people invest on your  
2 recommendation?

3 A. Yes.

4 Q. People in the farm community around Turton,  
5 including the two gentlemen we just saw today and Ron  
6 Starr, did they invest, and Kevin Dettler, did they invest,  
7 as well?

8 A. They did. Ron actually approached me. I didn't  
9 approach him. But the rest of them. Ron was later. But,  
10 yes, the others were. Actually Kevin attended a meeting  
11 that Ward put on.

12 Q. Was your recommendation at all influential to  
13 your knowledge in their decision to invest?

14 A. Excuse me?

15 Q. Was your recommendation influential in their  
16 decision to invest?

17 MR. CLAPPER: Objection. Speculation.

18 THE COURT: Sustained.

19 MR. SERCARZ: I'll withdraw it.

20 BY MR. SERCARZ:

21 Q. We've heard testimony in this courtroom about the  
22 Private Placement Memorandum and the description of the way  
23 the fund was supposed to work. When investors asked you  
24 questions about how the fund worked, did you explain to  
25 them how the fund worked? I'd like a yes or no, if I may

1 have it, to begin with.

2 A. Yes.

3 Q. Was your explanation consistent with the  
4 explanation in the Private Placement Memorandum as far as  
5 you knew?

6 A. Yes.

7 Q. Did you believe that's the way the funds actually  
8 worked?

9 A. Absolutely.

10 MR. CLAPPER: Objection as to "believe."

11 THE COURT: Overruled. The answer will stand.

12 A. Yes, absolutely.

13 BY MR. SERCARZ:

14 Q. I want to talk to you a little bit about your  
15 dealings with accountants. We heard testimony in this  
16 courtroom from Sue or Susan Meidinger. Do you remember  
17 that testimony?

18 A. Yes.

19 Q. Tell the ladies and gentlemen of the jury, as  
20 best you recall, of how you became involved with  
21 Miss Meidinger.

22 A. I had an accountant in Aberdeen I wasn't happy  
23 with. Somebody suggested Sue. I went over to Sue. We  
24 became great friends and worked together for many years.

25 Q. What is your understanding of what it is that



1 Q. We'll get to them in a moment. Can you give the  
2 ladies and gentlemen of the jury your best recollection of  
3 when RAHFCO was formed?

4 A. RAHFCO was formed April 1 of 2007.

5 Q. I would like you to explain for the ladies and  
6 gentlemen of the jury the various RAHFCO entities and how  
7 they were formed.

8 A. Okay. The book work for me became intense, and  
9 we had at that time a company called Capstone. I told them  
10 I can't keep up. We have several companies. I can't keep  
11 up with the book work. Vincent said we need to do --

12 MR. CLAPPER: Objection. Hearsay.

13 THE COURT: Sustained.

14 BY MR. SERCARZ:

15 Q. Don't tell me what Vincent said, in so many  
16 words. Just explain, as best you can, the origin of the  
17 various RAHFCO entities.

18 A. Okay. Capstone was rolled into RAHFCO.

19 Q. Let me stop you there. Maybe I can make it  
20 easier and avoid any problems. When you say RAHFCO, what  
21 was the first RAHFCO Fund which was designed to obtain all  
22 the monies that were previously invested into Capstone?

23 A. RAHFCO Funds LP.

24 Q. Was there another RAHFCO company which was set up  
25 in order to act as the manager of RAHFCO Funds LP?

1 A. Yes, there was.

2 Q. Was it formed at about the same time?

3 A. Yes, it was.

4 Q. What was the name of the management fund?

5 A. RAHFCO Management.

6 Q. Did there come a time when a company called  
7 RAHFCO Growth was formed?

8 A. Yes.

9 Q. Can you estimate for the ladies and gentlemen of  
10 the jury when that happened?

11 A. I'm thinking it was like 2008. Maybe later in  
12 2008 or 9.

13 Q. What was it that prompted you to form an  
14 additional company named RAHFCO Growth?

15 A. Two things. Number one, you are only allowed so  
16 many people in a fund. We were approaching that in RAHFCO  
17 Funds.

18 Secondly, we had a very high hurdle rate in  
19 RAHFCO Funds, and we weren't making any money, despite all  
20 the work we were doing. RAHFCO Growth had a much lower  
21 hurdle rate, so there was a possibility we could make some  
22 money.

23 Q. Did there come a time when you sought to have all  
24 of these funds subject to auditing, regular auditing by an  
25 auditor?

1 A. Yes.

2 Q. Did you hire a firm for the purpose of conducting  
3 that auditing function?

4 A. Yes.

5 Q. What was the name of that firm?

6 A. Spicer Jeffries.

7 Q. We've heard testimony that an effort was made to  
8 hire Spicer Jeffries in or around the end of 2007. Does  
9 that meet with your recollection?

10 A. Yes.

11 Q. Did you meet with representatives of Spicer  
12 Jeffries?

13 A. Not person to person, no.

14 Q. Did you fill out any questionnaires or provide  
15 any documents to the representatives of Spicer Jeffries?

16 A. Yes, I did.

17 Q. Did those documents provide information regarding  
18 the fund and structure of the fund?

19 A. Yes.

20 Q. Did they clearly indicate you were the sole  
21 principal of the fund?

22 A. No.

23 Q. What's your recollection about what was indicated  
24 in the documents that you provided?

25 A. Anthony Johnson and I were equal partners in the

1 fund.

2 Q. Which fund?

3 A. RAHFCO Funds, RAHFCO Management. Excuse me. Not  
4 RAHFCO Funds, but RAHFCO Management, the manager of the  
5 funds.

6 Q. Do we have Exhibit 1, the Private Placement  
7 Memorandum here? I would like to show you Government's  
8 Exhibit 1, the Private Placement Memorandum, and ask if you  
9 can flip through this to the section dealing with RAHFCO  
10 Management, and whether this refreshes your recollection  
11 about how you are listed in the offering documents for the  
12 funds.

13 A. I'm not finding it, but I know I was listed as  
14 general manager.

15 Q. In fact, Anthony Johnson's name does not appear  
16 in here. Isn't that right?

17 A. That is correct.

18 Q. Why was it set up that way?

19 A. Anthony at the time was still a broker, as far as  
20 I knew. When we started RAHFCO Funds, we were converting  
21 money from Capstone. I sent a letter to everybody saying,  
22 "Do you want your money back? That's fine. We're going to  
23 proceed on with the funds." I didn't know if anybody would  
24 proceed on with the funds.

25 Anthony, I talked to him. He said he didn't know

1 if he wanted to proceed.

2 Q. Again, leave out what Anthony told you. Why is  
3 it, given you had a partnership arrangement with Anthony,  
4 that you were listed as the sole principal of RAHFCO  
5 Management?

6 A. I had no partnership with Anthony at that time.

7 Q. At the time the Private Placement Memorandum was  
8 created, you had no partnership. Is that correct?

9 A. That's correct.

10 Q. You subsequently entered into a partnership  
11 arrangement with Anthony.

12 A. Yes, I did.

13 Q. What prompted you to give up your -- to give  
14 Anthony Johnson a partnership interest in the company?

15 A. When people started converting from Capstone to  
16 RAHFCO, I thought I was going to be done. I really didn't  
17 believe anybody was going to convert over. But almost  
18 everybody did. Within a month I realized the book work  
19 involved was more than I could handle.

20 I went to Anthony and said, "Are you interested  
21 in this?" He said, "Yes, I am. I've decided to quit being  
22 a broker, and I'll join you." We then proceeded with  
23 several different documents on how we would join. As the  
24 book work for me became intense, finally I just said, "Just  
25 become a 50 percent partner. You take care of everything

1 BY MR. SERCARZ:

2 Q. Is your monitor working?

3 A. Yes.

4 Q. Is this an e-mail sent by you to Anthony Johnson  
5 with a heading "AJ" at the top.

6 A. Yes.

7 Q. It says, "Here are all the accountings for the  
8 year. Just so you know, they show \$43,000 more net draws  
9 for you than me. I think this is accurate unless I am  
10 missing something. I am not concerned about it as I also  
11 had \$5,0000 submitted on my has that you never got done, so  
12 that makes it only \$38,000."

13 First of all, what does has mean, and to what  
14 does that refer?

15 A. That's my health savings account. We were both  
16 able to participate in that. Anthony chose not to.

17 Q. Is it correct that I understand your draws up to  
18 that point or your receipts from the company were such that  
19 he had made \$43,000 more than you?

20 A. Yes.

21 Q. You indicated that you were not concerned about  
22 that.

23 A. No.

24 Q. What did you mean you were not concerned?

25 A. I figured it would work out over time. We hadn't

1 drawn a lot of money out. I think, in fact, during the  
2 process of the entire four years, I took out maybe \$40,000  
3 and loaned back maybe \$250,000 to the company.

4 Q. Would it be fair to say that the subject of  
5 management fees and your respective draws between partners  
6 really wasn't of much concern to you?

7 A. No.

8 Q. When you say later on, "This will all wash out  
9 over time but you wanted me to keep you updated," what did  
10 you mean?

11 A. I wanted him to know where we were, and I was  
12 keeping him updated.

13 Q. Now, in 2009 when there was some difficulty in  
14 getting redemptions back to the investors, were you  
15 terribly concerned about it?

16 A. No.

17 Q. So that I can avoid the hearsay. Did you have  
18 conversations with the people at Hudson Capital Partners  
19 when the redemptions were late in coming?

20 A. No.

21 Q. Did they provide you with an explanation?

22 A. Yes.

23 Q. As a result of having spoken to them, was it your  
24 impression or did you come to learn that the trade was  
25 simply being rolled over?

1 Government's exhibit.

2 MR. SERCARZ: It's a Defense exhibit. Wrong  
3 twice. I apologize.

4 BY MR. SERCARZ:

5 Q. Do you see the signature on that document?

6 A. Yes.

7 Q. Is that your signature?

8 A. No.

9 Q. I'd like to put both signatures on the monitor  
10 for you at the same time so the ladies and gentlemen of the  
11 jury can examine them.

12 To the left is Government's Exhibit 106, and to  
13 the right is the signature on 209, and 209, you've told us,  
14 is not your signature. Is that correct?

15 A. I wish I could write that clear.

16 Q. With regard to the money that was put into  
17 RAHFCO, was some or all of that money used to pay investors  
18 of the fund who were seeking their redemptions?

19 A. I believe some of it was, yes.

20 Q. Did you, indeed, prepare a list in which you  
21 attempted to reconstruct the flow of money out to investors  
22 at or about the same time that you received the money that  
23 came in from Mr. Miller?

24 A. I constructed a list of people who got paid from  
25 the time he put money in during the period they wanted,



1 yes.

2 Q. Were you the one responsible for making those  
3 redemptions to investors out of that money?

4 A. Yes.

5 Q. At the time you did it, did you think there was  
6 anything wrong about it or unlawful about it?

7 A. No.

8 Q. Now I'd like to ask some questions about your  
9 investment activity. Let me begin this way. Did you make  
10 investments into the RAHFCO Funds?

11 A. Yes.

12 Q. Did you make investments on your own behalf?

13 A. Yes.

14 Q. That would include on behalf of you and your  
15 wife?

16 A. Yes.

17 Q. Did you have make investments on behalf of any  
18 family members?

19 A. Actually let me correct that. The investments  
20 were mine. They were not on behalf of my wife.

21 Q. Did you make any investments on behalf of family  
22 members, in addition?

23 A. Yes. I started a college fund for my  
24 grandchildren.

25 Q. Was that called the McCallum Trust?

1 Yes.

2 Q. But you were the president of the managing  
3 partner of the RAHFCO Funds. Aren't you?

4 A. Yes, I am. Also, a farmer from South Dakota.  
5 Vincent Puma was a stockbroker, an investment banker, Man  
6 of the Year for New Jersey, a very prominent man on  
7 Wall Street.

8 Q. And you were the president of the company that  
9 you told the investors would take care of their money.  
10 Weren't you?

11 A. Yes. Excuse me, but I was a co-manager.

12 Q. Let's look at this. I'll show you the Private  
13 Placement Memorandum. This is the document that went to  
14 every investor in RAHFCO Funds. Isn't it?

15 A. Yes.

16 Q. You worked for a bank for almost four years.  
17 Right?

18 A. That's correct.

19 Q. Upon leaving the bank --

20 A. Forty years ago, I might add.

21 Q. Upon leaving the bank, you were a trust officer,  
22 responsible for investing and overseeing portfolios that at  
23 their height included over one hundred million dollars in  
24 cash and thousands of acres of land. Isn't that true?

25 A. That's true.

1 A. March 1, 2008.

2 MR. CLAPPER: I move for the admission of  
3 Government Exhibit 64.

4 THE COURT: It's already in.

5 MR. CLAPPER: My apologies.

6 BY MR. CLAPPER:

7 Q. March 1, 2008. You found out Anthony Johnson had  
8 been arrested for securities fraud in November of 2007.  
9 Didn't you?

10 A. That's not correct.

11 Q. Isn't that what you testified?

12 A. No, it's not. I knew he had been arrested. I  
13 did not know what for.

14 Q. You didn't want to know. Did you?

15 A. I looked on the Internet, and I found nothing.

16 Q. You talked to him on the phone.

17 A. That's right. He told me it was a bunch of BS.  
18 It was no big deal. He'd be done with it in a short period  
19 of time. I believed him. As you know, I felt like he was  
20 a son.

21 Q. You just took his word for it.

22 A. I absolutely took his word for it, yes.

23 Q. I want to talk about your role as the general  
24 partner, as discussed in the PPM. Referring to Exhibit 1,  
25 Page 8978. "As the founder, principal member and president

1 of the General Partner (and as one of the principals of the  
2 Sub-Advisor), Randal K. Hansen controls all of the  
3 Partnership's operations and activities."

4 That was your role as president. Wasn't it?

5 A. Yes, but there is one correction there. I never  
6 became a member of the sub-advisor.

7 Q. That's what it says.

8 A. That's what it says. It was intended to happen.  
9 We wrote out a contract at that time. I said I didn't see  
10 any sense of me becoming a part of that and never became a  
11 member of that.

12 Q. But that's what you told investors.

13 A. That's what I told investors. At that time we  
14 had a contract that that would be done, but it was never  
15 accomplished.

16 Q. Did you tell investors you weren't part of that  
17 then?

18 A. No, I did not.

19 Q. Don't you think they would like to have known  
20 that you weren't going to be part of the group that was  
21 holding their money?

22 A. I take responsibility. It slipped my mind. I  
23 don't know how often you have to update a PPM.

24 Q. I'll refer you to Page 8993 of Exhibit 1. "As  
25 the founder and principal member and president of the

1 General Partner." In parenthesis it says, "(and one of the  
2 principals of the Sub-Advisor)." But your role as  
3 president of the General Partner was to control all the  
4 Partnership's operations. Wasn't it?

5 A. Yes, it was.

6 Q. Which included the "primary responsibility for  
7 researching, selecting and monitoring the Partnership's  
8 investments." That was your job, wasn't it?

9 A. At this point it was. That job was turned over  
10 to Anthony Johnson when he became a partner.

11 Q. In June of 2007.

12 A. Yes. At that time my sole responsibility became  
13 bookkeeping.

14 Q. You didn't tell the investors that. Did you?

15 A. No.

16 Q. You didn't change that in the PPM for RAHFCO  
17 Growth Fund either.

18 A. No. I wasn't aware there was a mistake in RAHFCO  
19 Growth Fund.

20 Q. You heard the investors who came in this week who  
21 talked about how they met with you and talked with you  
22 about your role with RAHFCO Funds.

23 A. I believe you only had one that met with me.

24 Q. There were people that saw you in North Dakota.

25 A. They saw me, yes.

1 A. That, the bank account, and to make sure all the  
2 Excel spreadsheets balanced.

3 You have to remember there are two Excel sheets.  
4 There's a management sheet that balanced with all  
5 individual sheets. It's not my job to balance all of  
6 those.

7 Q. She didn't review the earnings by these people.  
8 Did she?

9 A. She certainly did.

10 Q. She testified she had no way of verifying whether  
11 that money was there or not.

12 A. I have e-mails from her that show that she had in  
13 certain accounts a person had missed their earnings, and I  
14 needed to correct that, so I did.

15 Q. You did?

16 A. Yes. Sometimes the Excel sheets failed. They're  
17 not perfect.

18 Q. Those statements were sent out by you at your  
19 home.

20 A. They were sent out by me. I don't deny I sent  
21 out all the statements, I brought in all the checks, I did  
22 the wiring. That was my job. I have no issue with any of  
23 that.

24 Q. The audit with Spicer, I believe your quote was,  
25 "I thought it was in good hands with Vincent." Is that

1 right?

2 A. That's correct.

3 Q. You said, "It was my fault that it didn't get  
4 done."

5 A. Yes, it was.

6 Q. You just put it on the back burner.

7 A. No. It's my fault it didn't get changed on the  
8 PPM. I got it done on the back burner.

9 Q. You said, "I just put it on the back burner."

10 A. On the PPM. That's what you asked me. "Did I  
11 change the PPM?" I said, "No, it was my fault. I didn't  
12 get it done. It got on the back burner. I didn't get  
13 done."

14 Q. But that information on the PPM that you were  
15 going to have an audit done annually was something  
16 investors relied on in making their investment with RAHFCO.  
17 Wasn't it?

18 A. Yes, it was.

19 Q. And you didn't do it.

20 A. I relied on it, also. I felt it was in good  
21 hands with Vincent. He claimed he was doing it.

22 Q. Is that what you told the investors?

23 A. I didn't tell the investors anything.

24 Q. Exactly. You didn't tell them anything about an  
25 audit being done at all. Did you?

1 Q. You were aware of the investment. You just  
2 weren't aware of these other agreements? I just want to  
3 make sure I understand this.

4 A. That's understandable. I wasn't aware of the  
5 agreement. I wasn't aware the investment was coming. So I  
6 called Vincent when it came.

7 Q. That would have been June of 2010?

8 A. Yes.

9 Q. You knew it was kind of being worked on before  
10 that?

11 A. No, I did not.

12 Q. It showed up in an e-mail we talked about  
13 yesterday, Mike 1.7.

14 A. That was after it happened.

15 Q. But you did know about it from that time forward?

16 A. From the time he made the investment, I knew  
17 about it. I can tell you that --

18 Q. I'll see if I have another question about it.

19 Let's talk about Exhibit -- I'll show you  
20 Government Exhibit 41. This is an e-mail from you to  
21 Pamela Dunn on January 22, 2008. Do you see that?

22 A. Yes.

23 Q. She was an investor in RAHFCO Fund. Right?

24 A. Yes.

25 Q. She is somebody that liked to e-mail. Maybe she



1 called you a lot, too. I'm not sure.

2 A. Yes.

3 Q. Your response to her, you wrote, "We never are  
4 allowed to risk more than 5 percent of our funds every  
5 month." Right?

6 A. That's correct.

7 Q. "That means that 95 percent of your funds are  
8 either in cash or Government bonds during the month."

9 A. That was my understanding.

10 Q. That's what you told her. Right?

11 A. I may have, yes. That may have been a mistake on  
12 my part, too.

13 Q. I'm showing you Government Exhibit 4. This is an  
14 e-mail exchange you had with Dietmar Rose. Your response  
15 to him on July 14, 2008. "The amount in Treasuries varies  
16 each month depending on the trade. It may run as high as  
17 90 or as low as 30 percent. Every month is different the  
18 way I understand it. We may not exchange all Treasuries  
19 for cash at the end of our trading period. We may keep  
20 some in Treasuries. They can be converted at the end of  
21 each trading period, but we may or may not convert them.  
22 We may just roll them over to the next month."

23 So, again, a significant portion you are telling  
24 your investors are in securities. Right?

25 A. I think they were.

1 THE COURT: 10, 15 minutes?

2 MR. SERCARZ: For the record, may I renew the  
3 Rule 29 application I previously made?

4 THE COURT: Yes. And for the reasons I stated  
5 before, it's denied.

6 MR. SERCARZ: Thank you.

7 THE COURT: Does anybody need more than 10  
8 minutes? We'll come back in 10.

9 (Recess at 4:24 until 4:35 p.m.)

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1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF SOUTH DAKOTA :SS CERTIFICATE OF REPORTER  
3 SOUTHERN DIVISION

4 We, Jill M. Connelly and Connie Heckenlaible,  
5 Court Reporters, Registered Merit Reporter, Certified  
6 Realtime Reporter, hereby certify that the above and  
7 foregoing transcript is the true, full, and complete  
8 transcript of the testimony only in the above-entitled  
9 case, consisting of Pages 1 - 970.

10 We further certify that we am not a relative or  
11 employee or attorney or counsel of any of the parties  
12 hereto, nor a relative or employee of such attorney or  
13 counsel, nor do we have any interest in the outcome or  
14 events of the action.

15 IN TESTIMONY WHEREOF, we have hereto set our  
16 hands this 19th day of January, 2014.

17 /s/ Connie Heckenlaible

18 \_\_\_\_\_  
19 Connie Heckenlaible

20 /s/ Jill M. Connelly

21 \_\_\_\_\_  
22 Jill M. Connelly, RMR, CRR  
23 Court Reporter  
24 United States Courthouse  
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UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

\* \* \* \* \*  
UNITED STATES OF AMERICA, CR. 13-40053-KES  
Plaintiff,  
-vs- Sioux Falls, South Dakota  
RANDAL KENT HANSEN, May 19, 2014  
Defendant.  
\* \* \* \* \*

TRANSCRIPT OF  
SENTENCING HEARING  
BEFORE THE HONORABLE KAREN E. SCHREIER,  
UNITED STATES DISTRICT COURT JUDGE

\* \* \* \* \*

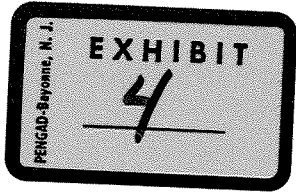
APPEARANCES:

Counsel for Plaintiff: MR. JEFFREY C. CLAPPER  
Assistant United States Attorney  
[REDACTED]

Counsel for Defendant: MR. RICHARD L. TRAVIS  
May & Johnson  
[REDACTED]

MR. MAURICE H. SERCARZ  
Sercarz & Riopelle, LLP  
[REDACTED]

ALSO PRESENT: Defendant Randal Kent Hansen



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1 **May 19, 2014**

2 (In open court at 1:28 p.m.)

3 THE COURT: This is the time scheduled for a sentencing  
4 in the matter entitled United States of America versus Randal  
5 Kent Hansen.

6 Would counsel please note their appearances for the  
7 record.

8 MR. CLAPPER: Jeff Clapper on behalf of the United  
9 States.

10 MR. SERCARZ: For the Defendant Hansen, Maurice  
11 Sercarz, S-E-R-C-A-R-Z and Dick Travis.

12 THE COURT: And Mr. Sercarz, did you have an  
13 opportunity to review the Presentence Report with your client?

14 MR. SERCARZ: Yes, your Honor.

15 THE COURT: And there are a number of objections that  
16 I'll take up. And the Government had no objections.

17 MR. CLAPPER: Your Honor, we had no objections,  
18 however, in going through some of the calculations, I did have  
19 one, I guess, clarification. It doesn't affect the guidelines,  
20 but it is a number that's used.

21 THE COURT: What is that?

22 MR. CLAPPER: It has to do with paragraph 41. The  
23 total loss amount in there listed at \$18,249,791. I believe  
24 that number should be \$18,371,909.27.

25 The reason for the difference had to do with the

1 of willful blindness and this finding that my client became a  
2 knowing member of the conspiracy even before RAHFCO was set up.  
3 Thank you.

4 THE COURT: RAHFCO was set up in 2007. And the initial  
5 money that went into RAHFCO was from other investments that Mr.  
6 Hansen had worked on. As part of that process, there was  
7 testimony presented during the trial, which I found to be  
8 credible, that those funds were funds that he was managing, and  
9 he had sent out account statements to the owners of those  
10 funds, representing on those account statements that the  
11 accounting work was being done by Meidinger and Associates when  
12 in fact he was doing the account work himself and Susan  
13 Meidinger was only reviewing the arithmetic calculations on  
14 those statements. The statements would make an investor  
15 believe that they actually were -- that those functions were  
16 actually being prepared and done by Meidinger and Associates.

17 Susan Meidinger also testified that Randy Hansen forged  
18 her signature on one of the exhibits that was sent to one of  
19 the recipients of the account. And I found that testimony to  
20 be credible. She testified that it was not her signature, and  
21 he was the one that had sent out the document.

22 What I find to be most credible though, is the fact  
23 that the account was named RAHFCO, R-A-H-F-C-O, to stand for  
24 Randy Anthony Hedge Fund Company. In the PPM document, Anthony  
25 Johnson's role was not disclosed. And yet, the hedge fund was

1 named half in his name.

2           Anthony Johnson had received a Wells notice in 2005,  
3 and had that -- had Anthony Johnson's role in RAHFCO been  
4 disclosed in the PPM, the PPM would have had to identify that  
5 Anthony Johnson had received that Wells notice, which would  
6 have put investors -- potential investors on notice that half  
7 of the partner in this hedge fund was someone who had received  
8 a Wells notice and had previously had problems in the  
9 investment world. That information was not disclosed to  
10 investors.

11           Mr. Hansen testified that Anthony Johnson was involved  
12 with this investment as a 50/50 partner, and that involvement,  
13 according to Mr. Hansen, happened shortly after the investment  
14 started, but yet there was never an amendment made to the PPM,  
15 there was never ever any notice to the investors that Anthony  
16 Johnson was a 50/50 partner. That to me shows a material  
17 withholding of information that was done with knowledge by Mr.  
18 Hansen. It was false and it was intended to mislead and  
19 defraud the investors.

20           So all of those things combined shows that Mr. Hansen  
21 had knowledge that the information was false, and it was  
22 intended to defraud from the very beginning. So the objection  
23 of the Defendant is overruled and the report will remain as  
24 written with regard to the loss attributable to Mr. Hansen.

25           The amount, whether it's the amount that's in the



1 report of the \$18,249,791 or the amount that the Government is  
2 now stating to be \$18,371,909.97 are both within the same  
3 advisory guideline range. So I'm going to leave the report as  
4 written. And it doesn't -- that change that the Government has  
5 requested doesn't impact the advisory guideline range.

6 The next objection by the Defendant, objection number  
7 10, -- does that address everything in objection number 9 then?

8 MR. SERCARZ: It does, your Honor.

9 THE COURT: Objection number 10 is to whether there  
10 should be two points added for an enhancement because it's a  
11 sophisticated or complex fraud scheme.

12 Mr. Sercarz.

13 MR. SERCARZ: Your Honor, I'm going to rely on my  
14 written submission.

15 I would only make the point that in determining whether  
16 the enhancement applies, the Court should look to the criminal  
17 conduct and not to the business as a whole. Any hedge fund  
18 involves a certain degree of sophistication. But that is not  
19 the same thing as a finding that sophisticated means were used  
20 to lure investors into investing or to allowing that money to  
21 remain in the entity when it was engaged in fraud.

22 For the remainder, I rely on my written submission,  
23 your Honor.

24 THE COURT: Mr. Clapper.

25 MR. CLAPPER: Well, I would rely on the response from

1 to defraud insurers in Iowa and Maryland. The Court noted that  
2 the scheme in *Jenkins* had a geographic reach that was over a  
3 several year period of time, that it was repetitive, and that  
4 all of those things served as a basis for a sophisticated means  
5 enhancement.

6 Looking at the evidence here, the Defendant utilized  
7 accounting firms to send out earning statements that were  
8 misleading. The scheme lasted over a period of at least five  
9 years. False information was relayed to investors such as the  
10 fact that he assured the investors that the funds were being  
11 audited when in fact they were not. Information was withheld  
12 from the investors including the fact that the law firm that  
13 had been disclosed on the PPM no longer was involved and the  
14 fact that Anthony Johnson had been indicted criminally. There  
15 were multiple mailings sent either through the mails or by  
16 email or over the phone to try to reassure investors that their  
17 funds were safe. Partial payments were made to earlier victims  
18 from funds that were invested by later investors.

19 I find that all of those things show that it was a  
20 sophisticated scheme. So the objection is overruled and the  
21 two-level enhancement will still be applied.

22 Any further objections from either side that I need to  
23 address?

24 MR. CLAPPER: No, your Honor.

25 MR. SERCARZ: No, your Honor.

1 MR. CLAPPER: Thank you, your Honor.

2 THE COURT: First, the Defendant has made a motion for  
3 a downward departure or a downward variance. And after  
4 considering all of the arguments from the Defendant, I find  
5 that under the facts here that a downward variance is  
6 appropriate based on the fact that between a combination of the  
7 total loss category, the multiple victim enhancement and the  
8 sophisticated scheme enhancement, that the advisory guideline  
9 range overrepresents the Defendant's likelihood of reoffending  
10 and the appropriate punishment. So I am going to reduce the  
11 total offense level by two, making it a level 31, and a  
12 Criminal History Category I. The advisory guideline range is  
13 108 to 135 months in custody.

14 Mr. Hansen, I almost feel like I have two people here.  
15 One is a person who's described by your family, your neighbors,  
16 the other people that are close to you as a man who is a very  
17 loving man, very generous with your time and money. A man, who  
18 when two of your -- I don't know if it's brothers or  
19 brothers-in-law passed away, really stepped in to be the father  
20 to your nieces and nephews. A man who helped out others that  
21 were new in the farming business, helped them get started in  
22 farming, worked with them, taught them how to be farmers, and  
23 helped them to eventually acquire their own farming interests.  
24 Someone who volunteered as an assistant basketball coach, first  
25 of all when your son was going through school and then you

1 continued on in that role. From the letters that I received, I  
2 can tell that that activity alone touched many people who you  
3 weren't at all related to, but you ended up being a strong  
4 mentor for these young men in the Doland community who needed  
5 somebody to give them some hands on -- hand-on-hand experience  
6 and guidance so that they felt good about themselves and became  
7 strong young men.

8 Your neighbors talked about the fact that you would  
9 help them out with field work when they were either behind or  
10 had some medical emergency or something else that happened in  
11 their family so that they weren't able to keep up on their own  
12 farm work and you either did that without asking for payment or  
13 for a much reduced rate.

14 Probably one of the things I loved the most was  
15 listening to people describe about how you would read to them,  
16 your own children, your grandchildren, your nieces and nephews,  
17 that you loved books, and you loved to read, and you helped all  
18 of them become strong readers with very curious minds.

19 You've been very successfully financially, you have a  
20 large farm, you and your wife, and have done very well. And  
21 you made it to 65 with really no criminal history in your  
22 background.

23 On the other hand, I heard all of the evidence about  
24 the RAHFCO Fund and the funds that preceded it. In your role  
25 with RAHFCO, you held yourself out to others as the founder of

1 the fund, the principal manager, and the general partner in  
2 that fund. That's really the person that all of the investors  
3 rely on. They rely on your honesty, your trustworthiness. You  
4 have a fiduciary duty to them to keep them informed, to have  
5 the utmost level of candor with all of those investors. And  
6 that is really where you failed.

7 THE DEFENDANT: Can I --

8 THE COURT: You already had your chance to speak.

9 You had a chance when investors would inquire about the  
10 status of the funds to be honest with them, to tell them even  
11 though the PPM said that it was going to be audited annually by  
12 Spicer Jeffries, that Spicer Jeffries did not complete the  
13 first audit and they did not complete any audits after that.  
14 At no time did you share that with the investors.

15 You reassured investors that there was only five  
16 percent at risk, that the fund was liquidated monthly, and that  
17 the remainder, other than the five percent at risk was -- were  
18 in Treasury securities. That misled the investors about the  
19 level of risk that was involved in this fund.

20 You knew that Anthony Johnson had been indicted and did  
21 not share that information with the investors.

22 All of those things are things that a principal manager  
23 and a general partner have a fiduciary duty to share with their  
24 investors. You don't just share the good information, you have  
25 to share the bad along with it.

1 Over \$18 million was lost by the people that invested  
2 in this fund. There are people who invested their life  
3 earnings. One person wrote in on their restitution request  
4 that they had invested 25 years of their life earnings and  
5 they're all gone. What that person asked for was for you to be  
6 sentenced to the same amount of time that it took them to make  
7 the 25 years of life earnings.

8 Many of the people wrote in that they invested so that  
9 they would have additional money for their retirement to  
10 supplement their Social Security. All of that money is gone  
11 and they're now trying to live on just their Social Security  
12 earnings. Someone else wrote in that they invested the money  
13 so that their kids could go to top-notch colleges and all of  
14 that money is gone now. Their kids are not going to go to the  
15 colleges that they had dreamed of and planned of.

16 So really, it's almost like I have two different people  
17 from two different view points. I'm going to sentence you at  
18 the bottom end of your advisory guideline range because you  
19 have lived a life that up until this time was crime free. I am  
20 also sentencing you at the bottom end of that range because  
21 Anthony Johnson, who is every bit as involved as you, was  
22 sentenced to 120 months, but he already had a criminal  
23 conviction so his sentence should be higher than yours. That's  
24 why I've decided to sentence you to 108 months in custody.

25 If you would please stand.

1 that you be able to serve your time at the facility at the  
2 Yankton Prison Camp in Yankton, South Dakota.

3 And Mr. Hansen, you do have the right to appeal so if  
4 you think an error was made during the trial or during the  
5 sentencing and you want to have another court review that, you  
6 would need to file a notice of appeal within 14 days from today  
7 with the Clerk of Courts Office.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: Anything further from either side?

11 MR. CLAPPER: No, your Honor.

12 MR. SERCARZ: No, your Honor. Thank you.

13 THE COURT: We'll be adjourned.

14 (Conclusion of Hearing at 3:37 p.m.)  
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STATE OF SOUTH DAKOTA)

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CERTIFICATE

COUNTY OF HUGHES )

I, Connie Heckenlaible, Notary Public and Registered Professional Reporter in and for the State of South Dakota, do hereby certify that the Transcript of Sentencing Hearing contained on the foregoing pages 1 through 68, inclusive, were reduced to stenographic writing and thereafter transcribed; that said proceedings commenced on May 19, 2014, in the Courtroom of the United States District Courthouse, Sioux Falls, South Dakota, and that the foregoing is a full, true and complete transcript of my shorthand notes of the proceedings had at the time and place above set forth.

Dated this 3rd day of July, 2014.

/s/ Connie Heckenlaible  
Connie Heckenlaible  
Registered Professional Reporter

[Redacted signature block]



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UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

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Cr. 13-40053-01

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

January 15, 2014  
Volume 3

RANDAL KENT HANSEN,

Defendant.

U.S. District Courthouse  
Sioux Falls, SD  
January 15, 2014  
9:00 o'clock a.m.

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JURY TRIAL  
Volume 3

\* \* \* \* \*

BEFORE: The Honorable Karen E. Schreier, and a Jury  
U.S. District Court Judge  
Sioux Falls, SD

APPEARANCES:

Mr. Jeffrey C. Clapper  
Assistant U.S. Attorney

[REDACTED]

for the Plaintiff



1 APPEARANCES: (Continued)

2 Mr. Richard L. Travis

3 [REDACTED]  
4 [REDACTED]

5 -and-

6 Mr. Maurice H. Sercarz

7 [REDACTED]  
8 [REDACTED]

for the Defendant

9

10 ALSO PRESENT: Defendant Randal Kent Hansen

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COURT REPORTER:

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Jill Connelly, RMR, CRR  
U.S. Courthouse

15 [REDACTED]  
16 [REDACTED]

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1 to get your money back?

2 MR. CLAPPER: Irrelevant.

3 MR. SERCARZ: He opened the door, your Honor.

4 THE COURT: Overruled. You may answer.

5 A. Did I ever bring suit --

6 BY MR. SERCARZ:

7 Q. Against Randy Hansen?

8 A. No, I never did.

9 MR. SERCARZ: Nothing else.

10 THE COURT: Mr. Clapper, anything else?

11 MR. CLAPPER: No, Your Honor.

12 THE COURT: You may be excused.

13 (Witness excused)

14 THE COURT: You may call your next witness.

15 MR. CLAPPER: Call Tara Jo Leinen-Hansen.

16 TARA JO LEINEN-HANSEN,

17 called as a witness, being first duly sworn, testified as

18 follows:

19 DIRECT EXAMINATION

20 BY MR. CLAPPER:

21 Q. Good morning.

22 A. Morning.

23 Q. Can you please state your name and spell your  
24 last name for the record, please.

25 A. Yes. Tara Hansen Leinen. H-A-N-S-E-N, Leinen,

1 L-E-I-N-E-N.

2 Q. Where do you live?

3 A. 3515 East Braeburn Circle in Sioux Falls.

4 Q. And how old are you?

5 A. Forty-one.

6 Q. Are you married?

7 A. Yes.

8 Q. Where do you work?

9 A. Sioux Falls Public Schools.

10 Q. And you're related to Randy Hansen?

11 A. Yes, I am. I'm his daughter.

12 Q. You are his daughter. You see him in the  
13 courtroom here today?

14 A. I do.

15 Q. The reason I brought you here today is to talk  
16 about your working with RAHFCO. You used to do some work  
17 for RAHFCO, is it Management?

18 A. Yes.

19 Q. What was your position there?

20 A. I was a secretary. I helped with the filing and  
21 paying the bills.

22 Q. You actually had a title.

23 A. I had a title, yes. I was the vice president of  
24 -- I can't remember.

25 Q. If I told you operations?

1 A. Operations, yes.

2 Q. In fact, your dad drew up an employment agreement  
3 for you?

4 A. Yes.

5 Q. Do you remember when you started?

6 A. April, May 2008.

7 Q. In your duties as the vice president, you got  
8 compensated for that. Right?

9 A. Yes.

10 Q. Was it \$4,000 a month?

11 A. Total, yes.

12 Q. I think it was \$3,400 a month in salary and  
13 another \$600 in rent for working out of your home?

14 A. Yes.

15 Q. Were you the only employee of RAHFCO at the time?

16 A. Yes.

17 Q. You hesitate.

18 A. I'm the only one that was there working with him.

19 Q. What did you do in your position in your time  
20 there?

21 A. I filed, and I sent out papers that needed to be  
22 completed. I received papers that were completed. I got  
23 the mail. I sent out quarterly reports. I kept track of  
24 the checkbook, paid bills.

25 Q. Did you have e-mail correspondence with

1 investors?

2 A. Yes. I e-mailed -- if e-mail is how they chose  
3 to receive their quarterly statements, I e-mailed those to  
4 them.

5 Q. Did you also mail them physically?

6 A. Yes.

7 Q. Did you mail tax documents to them?

8 A. Tax documents I believe came straight from the  
9 accountants. I don't believe I mailed the tax documents.

10 Q. You don't remember doing that?

11 A. No.

12 Q. You paid bills. Did you have authority to sign  
13 checks?

14 A. Yes.

15 Q. Did you get the mail, did it have bank statements  
16 in it every now and then?

17 A. Yes.

18 Q. When you signed checks, how many checking  
19 accounts are we talking about related to RAHFCO?

20 A. RAHFCO Management, RAHFCO Funds, RAHFCO Growth.

21 Q. Three different ones?

22 A. Yes.

23 Q. Were you an authorized signer on all three of  
24 them?

25 A. Yes, I believe so.

1 Q. Did you also have the ability to endorse checks?

2 A. No. I deposited checks. Is that what you're  
3 saying?

4 Q. That's a fair question. What I mean by endorse  
5 is somebody sends a check in to RAHFCO, and you sign on  
6 behalf of RAHFCO so the check can be deposited.

7 A. I deposited checks, yes.

8 Q. And did you sometimes deal with sending money to  
9 investors?

10 A. Yes.

11 Q. How did you know how to do that?

12 A. If there was a withdrawal, the paperwork would  
13 come in requesting the withdrawal. And when the trade was  
14 done and the money was in the account for the month, then  
15 dad would tell me, and I would send it out.

16 Q. So did you get approval from your father then  
17 before you would send out a check to an investor?

18 A. Yes.

19 Q. Is that the way it always worked?

20 A. There were some investors that took a certain  
21 amount out every month. I didn't ask every single month.  
22 I didn't get approval every month. That was just kind of a  
23 standing.

24 Q. They had a draw out of their account on a monthly  
25 basis?

1 extent of it. I might have one of my investigators also  
2 testify about some bank records and stuff.

3 MR. TRAVIS: McIntyre?

4 MR. SERCARZ: We're up to five witnesses.

5 Your Honor, we'll do what's necessary to try to avoid any  
6 down time.

7 THE COURT: Okay. It sounds like we might get  
8 done mid-afternoon tomorrow based on the number of  
9 witnesses left.

10 Anything else anybody wanted to bring up?

11 MR. CLAPPER: No, Your Honor.

12 MR. SERCARZ: No, thank you.

13 THE COURT: Okay. See you tomorrow morning at  
14 9:00.

15 (Thereupon, the proceedings were adjourned until Thursday,  
16 January 16, 2014.)

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UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

\* \* \* \* \*

CR. 13-40053-01

UNITED STATES OF AMERICA,

Plaintiff,

January 16, 2014

-vs-

Volume 4

RANDAL KENT HANSEN,

Defendant.

U.S. District Courthouse  
Sioux Falls, SD  
January 16, 2014  
9:00 o'clock a.m.

\* \* \* \* \*

JURY TRIAL  
Volume 4

\* \* \* \* \*

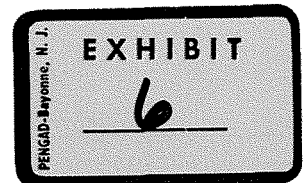
BEFORE: The Honorable Karen E. Schreier, and a Jury  
U.S. District Court Judge  
Sioux Falls, SD

APPEARANCES:

Mr. Jeffrey C. Clapper

[Redacted Name]  
[Redacted Name]

for the Plaintiff



1 APPEARANCES: (Continued)

2 Mr. Richard L. Travis  
3 May & Johnson

4 [REDACTED]

5 -and-

6 Mr. Maurice H. Sercarz  
7 Sercarz & Riopelle LLP

8 [REDACTED]

9 for the Defendant

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12 ALSO PRESENT: Defendant Randal Kent Hansen

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16 COURT REPORTER:  
17 Jill Connelly, RMR, CRR  
18 U.S. Courthouse

19 [REDACTED]

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1 THE COURT: Mr. Clapper.

2 REDIRECT EXAMINATION

3 BY MR. CLAPPER:

4 Q. Ms. McIntyre, the securities, in this case, the  
5 hedge funds, would not be covered under any circumstance?

6 A. Yeah, because SIPC doesn't cover investment  
7 contracts that are exempt from registration under the  
8 Securities Act of 1933.

9 MR. CLAPPER: That's all.

10 THE COURT: You can be excused.

11 (Witness excused)

12 THE COURT: Government may call their next  
13 witness.

14 MR. CLAPPER: Anthony Johnson.

15 ANTHONY JOHNSON,  
16 called as a witness, being first duly sworn, testified as  
17 follows:

18 DIRECT EXAMINATION

19 BY MR. CLAPPER:

20 Q. Please state your name for the court reporter?

21 A. Anthony Johnson.

22 Q. What's your middle name?

23 A. John.

24 Q. Mr. Johnson, you're currently in custody  
25 obviously. Tell the jury why.

1 Q. And did that happen?

2 A. Yes.

3 Q. Whatever investors you got out of that, those  
4 would have been people that went into RAHFCO Growth Fund?

5 A. Correct.

6 Q. What was Bruce -- did you have some business  
7 arrangement for him related to that?

8 A. Eventually we did. We made him director of  
9 communications or something along those lines. I don't  
10 remember his exact title. And we gave him one percent of  
11 the business.

12 Q. How did that work out?

13 A. He raised a lot of money initially, but he -- we  
14 came to find out later, or I came to find out later that he  
15 had some problems legally, he had been arrested before by  
16 North Dakota State securities enforcement up there. He had  
17 a lot of problems. So he was, you know -- I don't know how  
18 to describe him. He's an interesting human being. He's  
19 just kind of a flake, you know, but initially he was very  
20 good for the business. He raised a lot of money.

21 Q. He raised a lot of money. Let's talk about that.  
22 What was in it for you? Being part of RAHFCO, what did you  
23 get out of it?

24 A. One and a half -- well, our hurdle rate --

25 Q. I don't need to know the -- did you get paid?

1 A. Yes.

2 Q. How did you get paid?

3 A. Out of a management fee. We took a one and a  
4 half percent management fee annually.

5 Q. Who is "we"?

6 A. Myself and Randy.

7 Q. One and a half percent of the total fund amount?

8 A. Of the total, correct.

9 Q. So the more money you could raise, the more money  
10 you could earn as part of your management fee?

11 A. Correct.

12 Q. So what type of money are we talking that you  
13 were making just from operating the fund?

14 A. Well, we would take out -- we would take out the  
15 one and a half percent, but we would take it out monthly so  
16 we would take out .00125 percent every month and that added  
17 up to one and a half percent at the end of the year. So  
18 we're talking initially it was between 4 and \$5,000. But  
19 the first two or three years we didn't take out anything.  
20 We just left the money in there and were building up equity  
21 ourselves in the fund. And then eventually we got to a  
22 place where we were taking out about 10 or \$11,000 on a  
23 monthly basis.

24 Q. Both of you?

25 A. I believe he did. There was one year where I

1 MR. SERCARZ: I would still ask for an hour and a  
2 half.

3 THE COURT: I'll give an hour and a half per  
4 side.

5 So are we thinking -- if we're done with the  
6 evidence by noon tomorrow, I would plan on doing closing  
7 arguments tomorrow afternoon. If we're not done by noon  
8 tomorrow, then I would have them come back on Tuesday, just  
9 so that you have an idea of what my plan is.

10 Anything else anybody wants to bring up today?

11 MR. CLAPPER: No, Your Honor.

12 THE COURT: The one thing I would ask with regard  
13 to the Court's proposed final instructions, if you see any  
14 issues there, if you could talk with Tim and identify what  
15 those are. If they're small things, we can make those  
16 typos and things like that and get those corrected.

17 MR. SERCARZ: Your Honor, the big issue, I think,  
18 involves whether or not a willful blindness instruction is  
19 appropriate. And I would want to be heard about that at  
20 some point.

21 THE COURT: When we settle instructions, I'll let  
22 you make an argument on that. It is included in the  
23 Court's packet.

24 Okay. We'll see everybody tomorrow then.

25 (Thereupon, the proceedings were adjourned at 4:46 p.m.)