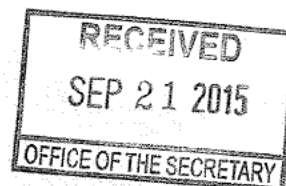


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



⁶
ADMINISTRATIVE PROCEEDING
File No. 3-16709

In the Matter of

SACHIN K. UPPAL,

Respondent.

DIVISION OF ENFORCEMENT'S MEMORANDUM
OF LAW IN SUPPORT OF ITS MOTION FOR SUMMARY
DISPOSITION AGAINST RESPONDENT SACHIN K. UPPAL

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I. INTRODUCTION

The Division of Enforcement (“Division”) submits this Memorandum of Law in support of its Motion for Summary Disposition against Respondent Sachin K. Uppal (“Respondent,” or “Uppal”) under Rule 250 of the Commission’s Rules of Practice. On August 14, 2014, in the U.S. District Court for the Eastern District of Michigan (“District Court”), Uppal pled guilty to one count of wire fraud in violation of 18 U.S.C. §1343. *United States v. Uppal*, Case No. 14-cr-20354-NGE-PJK (E.D. Mich.). Uppal’s guilty plea stemmed entirely from his activities as an unregistered investment adviser from approximately July 2007 to September 2013. At no time was either Uppal or the entity he operated through, Jefferson Smith Trading Co., LLC (“Jefferson Smith”), registered with the Securities and Exchange Commission (“Commission”) in any capacity.

Uppal’s fraud-based crimes were egregious. He knowingly caused 14 investors, some of them older and retired or near retirement, to lose nearly \$4 million. Uppal used over \$2 million of these funds to finance his own lifestyle. The District Court took note of the serious nature of Uppal’s fraudulent conduct and sentenced him to 64 months imprisonment followed by three years of supervision. The District Court also ordered Uppal to pay restitution of approximately \$3,867,187 to the victims of his fraudulent scheme.

Due to the egregious nature of his conduct, Uppal should never again be permitted to work in the securities industry. In general, the investing public should be protected from investment advisers who are convicted of fraud-based crimes. In Respondent’s case, the public interest would not be served by allowing an individual who engaged in fraudulent scheme over a period of at least seven years that caused over \$3.8 million in investor losses to remain in the securities industry. Accordingly, the Division moves to bar Uppal from association with any

broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in any offering of a penny stock.

II. STATEMENT OF UNDISPUTED FACTS

As discussed below, it is undisputed that Uppal was convicted of a fraud based crime, that he operated a fraudulent investment scheme, and that he misappropriated funds from investors for his own use. Uppal has admitted to these facts.

A. Uppal's Criminal Conviction

On June 20, 2014, the United States Attorney for the Eastern District of Michigan ("U.S. Attorney") filed an Information (Exhibit A) charging Uppal with one count of wire fraud under 18 U.S.C. §1343 (Ex. A, pp. 1-4), and one count of money laundering under 18 U.S.C. §1957. (Ex. A, p. 4). Uppal waived his right to an indictment. (Ex. B). At all times during the criminal proceeding, Uppal was represented by counsel. (Ex. C).

The Information alleged that, from approximately July 2007 through September 2013, Uppal, through Jefferson Smith Trading Company, LLC ("Jefferson Smith"), a Michigan limited liability company he owned and controlled, engaged in a fraudulent scheme to obtain money from investors by making materially false representations. Neither Uppal nor Jefferson Smith were ever registered with the Commission as investment advisers or in any other capacity. The Information further alleged that Uppal solicited funds from investors for Jefferson Smith, which he described as a hedge fund. The Information stated that Uppal misappropriated over \$1.2 million of investors' funds¹ by falsely representing to investors that they would receive a return of 18 – 20 percent annually, falsely representing that he was a "day trader" and that he would use investor funds to buy and sell financial instruments within the same trading day, and providing

¹ It was later determined that Uppal misappropriated over \$2 million.

investors with “year-to-date investment summaries” which falsely reported gains on the investments. In reality, Uppal sometimes traded investors’ funds but experienced losses. At other times, Uppal did not trade and used the funds for his own use or to repay other investors. (Ex. A, pp. 2-3).

On August 14, 2014, Uppal entered into a plea agreement in which pled guilty to one count of wire fraud. (Ex. D, pp. 1, 11).² Uppal stipulated that his fraudulent conduct resulted in more than \$2.5 million in investor losses, and that he abused a position of trust. (Ex. D, p. 4). The plea agreement provided that restitution of \$3,867,187 would be made to 14 investors. (Ex. D, p. 7). In the subsequent sentencing memo, the government informed the District Court that the FBI’s record analysis showed that Uppal diverted over \$2 million of this amount to his own use. (Ex. E, p. 1).

On December 11, 2014, the District Court held a sentencing hearing. Uppal admitted his guilt during this hearing as well as in a Sentencing Memorandum he filed on December 5. (Exs. F and H). In his Sentencing Memorandum, Uppal stated that he “began soliciting money from friends and family, as well as persons he met through investing forums on the internet After an initial positive period, [Uppal] began to lose money and use his investor’s principal to pay his own expenses.” (Ex. F, p. 2). During his sentencing hearing, Uppal acknowledged the following:

As I stand here, guilty of what I have been charged with, I wish to publicly acknowledge that the people that I’ve already hurt deserve their justice, and . . . I deserve to be punished Above all, I am responsible for [the investors’] pain and suffering. They did not, under any circumstances, deserve the turmoil that I introduced to their lives. Time and time, I looked them in the eye and I lied. . . .

(Ex. H, p. 10).

Uppal’s fraudulent scheme had a devastating effect on his victims. Nine of the investors submitted victim impact statements that were included in the U.S. Attorney’s Sentencing

² The money laundering count in the Information was later dismissed as part of the plea agreement. (Ex. G, p. 1).

Memorandum (Ex. E, pp. 10-20). These statements described the hardship experienced by the victims. Examples of the victims' statements include the following:

- The funds that we have invested were meant to provide for our retirement as we are getting older and have very few years left to save for our retirement and to provide for our son. . . . My wife cries about this. It took many years of saving to be able to save \$50,000. Losing all our savings has caused us mental agony and extreme hardship.
- This approx. \$100,000 [I invested] which was to be used for retirement and /or my daughter's college education . . . has caused me much stress, and family divide. . . . I feel taken advantage of from what should have been a normal transaction with what I thought was a reputable company. I don't know how I can make up for the financial loss as it took a long time to accumulate. I also don't know how to make amends with my family.
- Not having these funds or even a portion of them will impact our lives significantly. Not only will we have to replace the money set aside for college, but we will have to work longer to achieve our retirement goals.
- . . . [Uppal] was holding in my name about \$200,000. I have no family at all in this country, my only sister in Germany is living in a nursing home. On July 2, 2013 I moved to a Retirement Community the rents are high and I really need all my money to live at this community. . . . Mr. Uppal's crime in cheating me out of my money affected me in many ways. One, of course, by the loss of money, the other by depression and sleepless nights. . . . [this victim is 80 years old].

(Ex. E, pp. 5-7, 10, 17, 19, 20).

The District Court sentenced Uppal to 64 months imprisonment followed by three years of supervised release. (Ex. G, pp. 2-3). The District Court also ordered Uppal to pay restitution

of \$3,867,187. (Ex. G, p. 5; Ex. H, p. 14). When imposing the sentence, the District Court observed that Uppal committed numerous act of fraud over a ten-year period of time where he gained investors' trust and stole almost \$4 million. The District Court then stated the following:

“[F]raud of this nature . . . and in this particular case, places numerous victims in extremely perilous circumstances, people toward the end of their lives who have no money left and are faced with financial ruin, and understandably worry about how they're going to cope with the difficulties of their senior years, their increasing health problems and costs. [Uppal has] taken all their security from them.

(Ex. H, pp. 12-13).

B. Procedural History

On July 28, 2015, the Commission issued its Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940 and Notice of Hearing (“OIP”). On August 10, 2015, this Court held a telephonic prehearing conference in which the Division and the Respondent both participated. (Ex. I). The Court informed Respondent that his Answer to the OIP was due on August 24. The Court also issued an order setting a briefing schedule for summary disposition. On August 26, Respondent filed with the Court a “request” for an extension of time to file his answer. He did not serve a copy of his “request” on the Division. On September 3, the Court entered an Order to Show Cause and Directing the Division to Respond to Respondent’s Motion (“Show Cause Order”). The Show Cause Order directed that Respondent, no later than September 17, 2015, show cause why this proceeding should not be decided against him for failing to timely file an Answer to the OIP.

On September 10, 2015, the Division filed its Response to Respondent’s “request” in which it stated that it did not oppose a reasonable extension of time for Uppal to file his Answer.

In that filing, the Division informed the Court that it had produced the non-privileged portions of its investigative file to Respondent, via certified mail.³

III. ARGUMENT

A. **Pursuant to Rule 250, Summary Disposition Based on a Criminal Conviction of Fraud is Appropriate**

Rule 250(a) of the Rules of Practice permits a party, with leave of the hearing officer, to move for summary disposition on any or all of the OIP's allegations. A motion for summary disposition should be granted when there is "no genuine issue with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law." Rule 250(b) of the Rules of Practice.

Summary disposition is generally appropriate in follow-on proceedings that are instituted following a conviction "where the only real issue involves the determination of the appropriate sanction. *David R. Wulf*, Initial Decision Release No. 824, 2015 WL 3898163, at *6 (June 25, 2015). The Commission has repeatedly upheld the use of the summary disposition procedure in follow-on proceedings when the respondent has been criminally convicted. *See Gary M. Kornman*, Exchange Act Release No. 59403, 2009 WL 367635, at *12 (Feb. 13, 2009), *pet. denied Kornman v. SEC*, 592 F.3d 173 (D.C. Cir. 2010) ("We have repeatedly upheld the use of summary disposition by a law judge in cases...where the respondent has been enjoined or convicted of an offense listed in . . . Advisers Act Section 203, the sole determination is the proper sanction, and no material fact is genuinely disputed.").

Summary disposition is particularly appropriate in cases where the criminal conviction involves fraud. Commission precedent provides that "the circumstances in which summary disposition in a follow-on proceeding involving fraud is not appropriate "will be rare." *Jesse C.*

³ As of the date the Division filed its Motion for Summary Disposition, the Division had not received either Uppal's Answer or his Response to the Show Cause Order.

Litvak, Initial Decision Release No. 739, 2015 WL 271259, at *2 (Jan. 22, 2015) (citing *John S. Brownson*, 55 S.E.C. 1023, 1028, n.12 (2002)); *Frank L. Constantino*, Initial Decision No. 414, 2011 WL 1341151, at *2 (April 8, 2011). Thus, because Respondent was convicted for fraud in his capacity as an unregistered investment adviser, summary disposition is appropriate here. The only remaining issue is the appropriate sanctions.

B. Uppal's Fraud Conviction Warrants a Bar from the Securities Industry

Section 203(f) of the Advisers Act authorizes the Commission to sanction Uppal based on his criminal conviction for fraud while acting as an unregistered investment adviser. Under Section 203(f) of the Advisers Act, the Commission has the authority to bar Uppal from the securities industry if three statutory factors are met: (1) at the time of his misconduct, he was associated with an investment adviser; (2) he has been convicted of, among other provisions, violating 18 U.S.C. § 1343 within 10 years from the date the Division instituted the OIP; and (3) imposition of the bar is in the public interest. *See Wulf* at *6. Each of those conditions is indisputably satisfied here.

1. Uppal was Associated with an Investment Adviser

Uppal's conviction was based on conduct that occurred from July 2007 through September 2013. (Ex. A, p. 1; Ex. C, p. 2, Ex. E, p. 2.). In his plea agreement, Uppal was associated with an investment adviser.⁴ (Ex. D).

⁴ Throughout his scheme, Uppal acted as, and was associated with, an investment adviser. Section 202(a)(11) of the Advisers Act defines an investment adviser in relevant part as "any person who, for compensation, engages in the business of advising others . . . as to the value of securities or as to the advisability of investing in, purchasing, or selling securities." Uppal pooled his investors' money for the stated purpose of investing in his "hedge fund," which traded in, among other things, securities. He also misappropriated money from the pool of investor funds. *See Alexander V. Stein*, Rel. No. IA-1497 (June 8, 1995), 59 SEC Docket 1493, 1498 & n.13 (diverting client funds for personal use constitutes "compensation" under the Advisers Act). Uppal was associated with an investment adviser – himself. *See Anthony Benincasa*, Rel. No. IA-1923 (Feb. 7, 2001) (Commission order holding that an individual may associate with himself).

2. **Uppal was Convicted of Wire Fraud**

Under Section 203(f) of the Advisers Act, Uppal must have been convicted within 10 years from the date the Division instituted the OIP. Uppal, by pleading guilty to violating 18 U.S.C. § 1343, was convicted of wire fraud. (Div. Exs. C and G). Uppal pled guilty in August 2014 and the criminal judgment was entered in December 2014. (Div. Exs. C and G). Thus, the July 28, 2015 issue date of the OIP is timely.

3. **Barring Uppal from the Securities Industry is in the Public Interest**

It is in the public interest to bar Uppal from the securities industry. In making this determination, the Court should consider the public interest factors set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979), *aff'd* on other grounds, 450 U.S. 91 (1981). These factors include:

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 conduct, and the likelihood that the [respondent]'s occupation will present opportunities for future violations.

Steadman, 603 F.2d at 1140. No one of the *Steadman* factors, however, is dispositive. *Conrad P. Seghers*, Initial Decision Release No. 326, 2007 WL 325691 (Feb. 5, 2007), *pet. denied*, 289 F.3d 109 (D.C. Cir. 2002). *Wulf* at *7. The Commission also considers the degree of harm resulting from the violation, *KPMG Peat Marwick LLP*, Exchange Act Release No. 43862, 2001 WL 34138819, at *24 (Jan. 19, 2001), *pet. denied*, 289 F.3d 109 (D.C. Cir. 2002), and the deterrent effect of administrative sanctions, *Schild Mgmt. Co.*, Exchange Act Release No. 53201, 2006 WL 231642 at *8 & n.46 (Jan. 31, 2006).

a. **Uppal's Violations were Egregious**

Uppal's fraudulent and criminal conduct was egregious. As noted in Section II.A above, his actions resulted in devastating losses to investors, some of whom lost their retirement funds. (Ex. E, pp. 5-7, 10, 17, 19, 20; Ex. H, pp. 12-13). The total loss was over \$3.8 million of which \$2.5 million Uppal converted to his own use. (Ex. C, p. 7; Ex. E p. 1).

The Commission has stated that "[c]onduct that violates the antifraud provisions of the federal securities laws is "subject to the severest of sanctions." *Daniel Imperato*, Exchange Act Release No. 74596, 2015 WL 1389046 at *5 (March 27, 2015); *Wulf* at *8. "Fidelity to the public interest requires a severe sanction when a respondent's misconduct involves fraud because the securities business is one in which opportunities for dishonesty recur constantly." *Imperato* at *5, citing *Justin F Ficken*, Exchange Act Release No. 58802, 2008 WL 4610345, at *3 (October 17, 2008).

b. **The Recurrent Nature of Uppal's Wrongdoing**

Uppal's crimes were not isolated incidents. Rather, Uppal's conduct, which occurred over a period of at least six years, exceeds the period of time of other respondents who were found to have committed recurring misconduct. See *Richard J. Daniello*, Exchange Act Release No. 27049, 50 S.E.C. 42, 46 (July 21, 1989) (four months of misappropriating employer's funds was not isolated); *Brion G. Randall*, Advisers Act Release No. 3632, 2013 WL 3776679, at *2 (July 18, 2013) (a scheme lasting over five years constituted recurring and egregious conduct). By these standards, Uppal's conduct was recurrent, and not isolated.

c. **Uppal Acted with a High Degree of Scierter**

A conviction involving fraud indicates a "high degree of scierter." See *Adam Harrington*, Initial Decision No. 484, 2013 WL 1655690, at *4 (April 17, 2013); *Alan Brian Baiocchi*, Initial

Decision No. 382, 2009 WL 2030524, at *3 (July 14, 2009); *Richard P. Callipri*, Initial Decision Release No. 237, 2003 WL 22250402, at *5 (Sept. 30, 2003). Moreover, Uppal intentionally converted over \$2 million of investor funds to his own use. He created fake account statements to mislead investors into believing they were earning positive returns when Uppal was misappropriating their funds or using them to repay earlier investors. (Ex. A, pp. 2-3). Uppal admitted during his sentencing that he repeatedly “looked [the investors] in the eye and I lied.” (Ex. H, p. 10).

d. The High Likelihood of Uppal’s Future Violations

While Uppal acknowledged his wrongful actions during his sentencing hearing, he did not give any real assurance that he would not engage in this conduct in the future. Uppal is 37 years old. If he serves his full prison term, he will be only 42 or 43 years old when he is released and 45 or 46 years old when his three year period of supervised release is over. Uppal’s own words during the prehearing conference this Court held on August 10 are revealing. When the Division indicated that it would seek to bar Uppal, he asked if could reapply to the Commission to again work in the securities industry. (Ex. I, pp. 9-10). Uppal’s relatively young age and his apparent interest in trying to return to the securities industry greatly increases his opportunity to engage in future violations.

e. A Full Associational Bar is Necessary and in the Public Interest

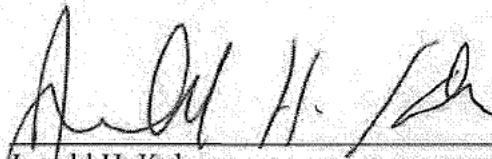
Uppal’s conduct in this case justifies nothing less than a permanent bar. *See Bruce Paul*, Exchange Act Release No. 21789, 1985 WL 548579, at *2 (Feb. 26, 1985) (“the securities industry presents a great many opportunities for abuse and overreaching, and depends very heavily on the integrity of its participants.”). Moreover, industry bars are considered an effective deterrent. *See Guy P. Riordan*, Securities Act of 1933 Release No. 9085, 2009 WL 4731397, at

*19 and n. 107 (December 11, 2009). Accordingly, this Court should impose the maximum bar against Uppal as authorized under the Section 203(f) of the Advisers Act.

IV. CONCLUSION

For the reasons stated herein, the Division requests that its motion for summary disposition be granted, and that the Court bar Uppal from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, and from participating in any offering of a penny stock.

Respectfully submitted,



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Dated: September 18, 2015

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

In the Matter of

SACHIN K. UPPAL,

Respondent.

DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT A

7

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

SACHIN UPPAL,

Defendant.

Case:2:14-cr-20354
Judge: Edmunds, Nancy G.
MJ: Komives, Paul J.
Filed: 06-20-2014 At 10:59 AM
INDI USA V SACHIN UPPAL (LG)

INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

18 U.S.C. §1343 – Wire Fraud

1. From approximately July 2007 and continuing through September 2013, in the Eastern District of Michigan, Southern Division, defendant SACHIN UPPAL knowingly devised and executed a scheme or artifice to defraud and to obtain money from investors by means of materially false and fraudulent pretenses, representations and promises.
2. At all times relevant to this Information, Jefferson Smith Trading Company LLC (“JSTCO”) was a Michigan limited liability company, with its principal place of business in Southfield, Michigan and an office in Milford, Michigan.

JSTCO was not registered with the Securities and Exchange Commission in any capacity.

3. At all times relevant to this Information, UPPAL was the resident agent and self-described “General Partner” of JSTCO. In this role, UPPAL exercised control over JSTCO and directed its business practices. UPPAL personally marketed JSTCO to potential investors and solicited investor funds, describing it as a “hedge fund.” UPPAL was not a licensed or registered investment adviser.
4. UPPAL solicited funds for investment in JSTCO under false pretenses, failed to invest his investors’ money as promised, and misappropriated and converted over \$1.2 million of his investors’ money for his personal benefit without their knowledge or consent.
5. UPPAL provided potential investors with a prospectus, subscription agreement and slide presentation regarding his investment strategies. In those materials and orally, UPPAL promised his investors a return of 18-20% percent per year, with a minimum investment commitment of 12 months. UPPAL further advised his investors that he was a “day trader” who would use investor funds to buy and sell financial instruments within the same trading day, such that all positions would be closed before the market close for the trading day. This, UPPAL explained, mitigated against investor risk.

6. To make his investors believe that their accounts were performing, and to entice them to invest additional funds with him, UPPAL emailed victims monthly “year-to-date investment summaries” which purportedly described their investment returns. These summaries were false. Sometimes, UPPAL traded and lost during the relevant period, but the summaries falsely reflected an investment gain. Other times, no trading of any kind took place and UPPAL simply appropriated the funds for his own use, or used the funds to continue the scheme by repaying other investors.
7. When investors requested to close their accounts and withdraw their investment funds, UPPAL attempted to lull them with various excuses and most times failed to return their money. In one instance, UPPAL fabricated a fictitious statement on bank letterhead indicating that his attorney had over \$3 million in an escrow account that was earmarked to repay UPPAL’s investors. This was entirely false.
8. For the purpose of executing the scheme, UPPAL transmitted and caused to be transmitted by means of wire or radio communication in interstate commerce, writings, signs, signals, pictures and sounds. These interstate wire transmissions included emails and text messages between UPPAL and the investors that he defrauded. UPPAL also wired investor funds among his various bank accounts for his own benefit.

9. UPPAL acted knowingly and with intent to defraud.
10. All in violation of 18 U.S.C. §1343.

COUNT TWO

18 U.S.C. §1957 – Money Laundering

11. The allegations contained in Count One of this Information are incorporated by reference.
12. From approximately July 2007 and continuing through September 2013, in the Eastern District of Michigan, Southern Division, defendant SACHIN UPPAL, did knowingly engage and attempt to engage in monetary transactions by, through, or to a financial institution, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, such property having been derived from specified unlawful activity, that is, wire fraud.
13. All in violation of Title 18, United States Codes, Section 1957.

FORFEITURE

18 U.S.C. §981(a)(1)(C) & 28 U.S.C. §2461

14. Upon conviction of the offense in violation of Title 18, United States Code, Section 1343, as set forth in Count One of this Information, the defendant shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C), and Title 28, United States Code, Section 2461, any property, real

or personal, which constitutes or is derived from, any proceeds obtained, directly or indirectly, as a result of such violation.

15. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendant:

- (a) Cannot be located upon the exercise of due diligence;
- (b) Has been transferred or sold to, or deposited with, a third party;
- (c) Has been placed beyond the jurisdiction of the Court;
- (d) Has been substantially diminished in value; or
- (e) Has been commingled with other property that cannot be subdivided

without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) as incorporated by Title 28, United States Code, Section 2461, to seek to forfeit any other property of defendant's up to the value of the forfeitable property described, and in addition, to require the defendant to return any such property to the jurisdiction of the Court for seizure and forfeiture.

16. All pursuant to Title 18, United States Code, Sections 981(a)(1)(C) & Title 28,
United States Code, Section 2461(c).

BARBARA L. MCQUADE
United States Attorney

s/Cynthia Oberg
CYNTHIA OBERG
Chief, White Collar Crime Unit
Assistant United States Attorney

s/Erin Shaw
ERIN S. SHAW
Assistant United States Attorney

Dated: June 20, 2014

United States District Court
Eastern District of Michigan

Criminal Case Co

Case: 2:14-cr-20354
Judge: Edmunds, Nancy G.
MJ: Komives, Paul J.
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INDI USA V SACHIN UPPAL (LG)

NOTE: It is the responsibility of the Assistant U.S. Attorney signing this form to cor

Reassignment/Recusal Information This matter was opened in the USAO prior to August 15, 2008 []

Companion Case Information	Companion Case Number:
This may be a companion case based upon LCrR 57.10 (b)(4) ¹ :	Judge Assigned:
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	AUSA's Initials: <i>es</i>

Case Title: USA v. SACHIN UPPAL

County where offense occurred : Oakland County

Check One: Felony Misdemeanor Petty

Indictment/ Information --- no prior complaint.
 Indictment/ Information --- based upon prior complaint [Case number: ~~42-cv-20148~~]
 Indictment/ Information --- based upon LCrR 57.10 (d) [Complete Superseding section below]

Superseding Case Information

Superseding to Case No:

Judge:

- Original case was terminated; no additional charges or defendants.
 - Corrects errors; no additional charges or defendants.
 - Involves, for plea purposes, different charges or adds counts.
Embraces same subject matter but adds the additional defendants or charges below:
- | | | |
|-----------------------|----------------|--|
| <u>Defendant name</u> | <u>Charges</u> | <u>Prior Complaint (if applicable)</u> |
|-----------------------|----------------|--|

Please take notice that the below listed Assistant United States Attorney is the attorney of record for the above captioned case.

June 20, 2014
Date

Erin S. Shaw
 Erin S. Shaw
 Assistant United States Attorney
 211 W. Fort Street, Suite 2001
 Detroit, MI 48226-3277
 Phone: (313) 226-9182
 Fax: (313) 226-0816
 E-Mail address: erin.shaw@usdoj.gov

¹ Companion cases are matters in which it appears that (1) substantially similar evidence will be offered at trial. (2) the same or related parties are present, and the cases arise out of the same transaction or occurrence. Cases may be companion cases even though one of them may have already been terminated.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

In the Matter of

SACHIN K. UPPAL,

Respondent.

DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

HON. NANCY G. EDMUNDS

Plaintiff,

Case No. 14-20354

-vs-

SACHIN UPPAL,

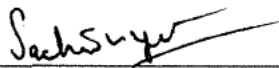
Defendant.

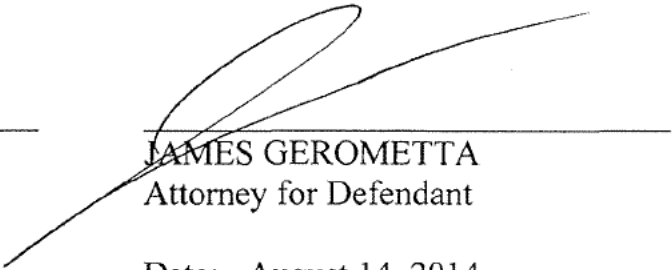
FILED
AUG 14 2014

CLERK'S OFFICE

WAIVER OF INDICTMENT

I, SACHIN UPPAL, the defendant in this case, understand that I am being charged with the following felony offenses: wire fraud, in violation of 18 U.S.C. §1343 and money laundering, in violation of 18 U.S.C. §1957. I have been informed and understand that any person charged with a federal felony offense has the right to insist that the case proceed by way of an indictment returned by a grand jury. Understanding this, and pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure, I hereby waive my right to prosecution by indictment and consent that the prosecution may be brought by information instead of by indictment.


SACHIN UPPAL
Defendant


JAMES GEROMETTA
Attorney for Defendant

Date: August 14, 2014

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

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AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT C

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**



UNITED STATES OF AMERICA

v.
Sachin Uppal

Case No: *14-20354*

APPOINTMENT OF FEDERAL DEFENDER OFFICE

<input type="checkbox"/> MULTIPLE DEFENDANT CASE	<input type="checkbox"/> DEFENDANT IN CUSTODY
<input type="checkbox"/> NON-ENGLISH SPEAKING	LANGUAGE: _____
VIOLATION: _____	CASE TYPE: _____

The defendant has qualified for the appointment of counsel under the Criminal Justice Act.

IT IS ORDERED that the Federal Defender Office, 613 Abbott, 5th fl., Detroit, Michigan 48226, telephone number (313) 967-5555, is appointed to represent this defendant in this case, unless the appointment is terminated by (1) Order of the Court, (2) appointment of substitute counsel, or (3) appearance of retained counsel.

NEXT COURT DATE: _____

FILED
AUG 14 2014

Dated: *8-14-14* CLERK'S OFFICE
DETROIT

[Signature]

United States District Judge/Magistrate Judge

AUSA Assigned: *E. Shaw*

PARTIAL PAYMENT ORDER

IT IS ORDERED that partial payment be made by the defendant in the amount of _____ monthly, commencing on _____, until this case is terminated or otherwise ordered by the Court. Payment shall be made to the **Clerk of the Court, Theodore Levin United States Courthouse, 231 W. Lafayette Blvd., Detroit, MI 48226.**

Defendant's Name, Address & Telephone Number:

United States District Judge/Magistrate Judge

Defendant's Signature

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

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SACHIN K. UPPAL,

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AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT D

4

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

F I L E D
AUG 14 2014
CLERK'S OFFICE
U.S. DISTRICT COURT
EASTERN MICHIGAN

UNITED STATES OF AMERICA,

No. 14-20354

Plaintiff,

Hon. Nancy G. Edmunds

v.

Offense: Count One: wire fraud (18
U.S.C. §1343)

SACHIN UPPAL,

Defendant.

Maximum Penalty: Count One: 30 years

Maximum Fine: Count One: \$1 million

Maximum Supervised Release: Count
One: 5 years

Rule 11 Plea Agreement

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant SACHIN UPPAL and the government agree as follows:

1. Guilty Plea

A. Count of Conviction

Defendant will enter a plea of guilty to Count One of the Information, which charges wire fraud (18 U.S.C. §1343).

B. Elements of Offense

The elements of Count One (wire fraud) are:

First, the defendant knowingly devised a scheme to defraud and obtain money by means of false or fraudulent pretenses or representations.

Second, the scheme included a material misrepresentation or concealment of a material fact.

Third, the defendant acted with the intent to defraud, that is, with the intent to deceive or cheat.

Fourth, the defendant used, or caused another to use, wire transmissions in interstate commerce in furtherance of the scheme.

C. Factual Basis for Guilty Plea

The following facts are a sufficient and accurate basis for defendant's guilty plea:

From approximately July 2007 and continuing through September 2013, in the Eastern District of Michigan, Southern Division, defendant UPPAL was the resident agent and self-described "General Partner" of Jefferson Smith Trading Company LLC ("JSTCO"). JSTCO was not registered with the Securities and Exchange Commission in any capacity. UPPAL exercised control over JSTCO and directed its business practices, and personally marketed JSTCO to potential investors and solicited investor funds, describing it as a "hedge fund." UPPAL was not a licensed or registered investment adviser.

UPPAL solicited funds for investment in JSTCO under false pretenses, failed to invest his investors' money as promised, and misappropriated and converted his investors' money for his personal benefit without their knowledge or consent.

UPPAL provided potential investors with a prospectus, subscription agreement and slide presentation regarding his investment strategies, and promised his investors a return of 18-20% percent per year, with a minimum investment commitment of 12 months. UPPAL further advised his investors that he was a "day trader" who would use investor funds to buy and sell financial instruments within the same trading day, such that all positions would be closed before the market close for the trading day. This, UPPAL explained, mitigated against investor risk.

To make his investors believe that their accounts were performing, and to entice them to invest additional funds with him, UPPAL emailed victims monthly "year-to-date investment summaries" which purportedly described their investment returns. These summaries were false. Sometimes, UPPAL traded and lost during the relevant period, but the summaries falsely reflected an investment gain. Other times, no trading of any kind took place and UPPAL simply appropriated the funds for his own use, or used the funds to continue the scheme by repaying other investors. When investors requested to close their accounts and withdraw their

investment funds, UPPAL attempted to lull them with various excuses and most times failed to return their money.

For the purpose of executing the scheme, UPPAL transmitted and caused to be transmitted by means of wire or radio communication in interstate commerce, writings, signs, signals, pictures and sounds. These interstate wire transmissions included emails and text messages between UPPAL and the investors that he defrauded. UPPAL also wired investor funds among his various bank accounts for his own benefit.

UPPAL stipulates that his fraud caused more than \$2.5 million in losses (USSG §2B1.1(b)(1)(J)) and that he abused a position of trust (USSG §3B1.3).

2. Sentencing Guidelines

A. Standard of Proof

The Court will find sentencing factors by a preponderance of the evidence.

B. Guideline Range

The parties agree on the applicable guideline range, as set forth on the attached worksheets, of 57 to 71 months.

If the Court finds:

1. That defendant's criminal history category is higher than reflected on the attached worksheets, or

2. that the offense level should be higher because, after pleading guilty, defendant made any false statement to or withheld information from his probation officer; otherwise demonstrated a lack of acceptance of responsibility for his offenses; or obstructed justice or committed any crime,

and if any such finding results in a guideline range higher than 57 to 71 months, the higher guideline range becomes the agreed range. The Court is not bound by this recommendation concerning the guideline range, and the defendant understands that he will have no right to withdraw his guilty plea if the Court does not follow this recommendation. However, if the Court finds that defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does not authorize a corresponding increase in the agreed range.

Neither party may take a position concerning the applicable guidelines that is different than any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections 1) and 2), above.

3. Sentence

The Court will impose a sentence pursuant to 18 U.S.C. §3553, and in doing so must consider the sentencing guideline range.

A. Imprisonment

Pursuant to Rule 11(c)(1)(B), the government makes a non-binding recommendation that the sentence of imprisonment be no more than the middle of the sentencing guideline range as determined by Paragraph 2B.

B. Supervised Release

The Court may impose any term of supervised release up to the statutory maximum term, which in this case is 5 years on Count One. The agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that result from any later revocation of supervised release.

C. Special Assessment

Defendant will pay a special assessment of \$100 and must provide the government with a receipt for the payment before sentence is imposed.

D. Fine

There is no agreement as to fines.

E. Restitution

Restitution in the amount of \$3,867,187 shall be ordered to the victims as follows:

VICTIM	LOSS AMOUNT
RM	\$1,000,000
SS	\$1,397,428
TB	\$50,000
SKS	\$535,000
VS	\$100,000
KS	\$78,000
BK	\$38,512
RT	\$200,000
EL	\$20,000
IJ	\$111,205
CH	\$60,000
JH	\$50,000
VS	\$78,000
JD	\$149,042
	\$3,867,187

F. Use of Withdrawn Guilty Plea

If the Court allows defendant to withdraw his guilty plea for a “fair and just reason” pursuant to Fed. R. Crim. P. 11(d)(2)(B), defendant waives his rights under Fed. R. Evid. 410, and the government may use his guilty plea, any statement made under oath at the change-of-plea hearing, and the factual basis statement in this plea agreement, against him in any proceeding.

4. Other Charges

If the Court accepts this agreement, the government will move to dismiss Count Two. In addition, the government will not bring additional charges against defendant based on any of the conduct reflected in the attached worksheets.

5. Each Party's Right to Withdraw from This Agreement

The government may withdraw from this agreement if the Court finds the correct guideline range to be different than is determined by Paragraph 2B.

Defendant may withdraw from this agreement, and may withdraw his guilty plea, if the Court decides to impose a sentence higher than the maximum allowed by Part 3. This is the only reason for which defendant may withdraw from this agreement. The Court shall advise defendant that if he does not withdraw his guilty plea under this circumstance, the Court may impose a sentence greater than the maximum allowed by Part 3.

The recommendations in Part 3 are not binding on the Court. Defendant has no right to withdraw his guilty plea and the parties have no right to withdraw from this agreement if the Court decides not to follow them.

6. Appeal Waiver

The defendant waives any right he may have to appeal his conviction. If the defendant's sentence of imprisonment does not exceed 71 months, the defendant

also waives any right he may have to appeal his sentence. If the defendant's sentence of imprisonment is at least 57 months, the government waives any right it may have to appeal the defendant's sentence.

7. Consequences of Withdrawal of Guilty Pleas or Vacation of Conviction

If defendant is allowed to withdraw his guilty pleas, or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against defendant within six months after the date the order vacating defendant's conviction or allowing him to withdraw his guilty pleas becomes final, which charges relate directly or indirectly to the conduct underlying the guilty pleas or to any conduct reflected in the attached worksheets, defendant waives his right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

8. Parties to Plea Agreement

Unless otherwise indicated, this agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan.

9. Scope of Plea Agreement

This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. This agreement supersedes all other promises, representations, understandings and agreements between the parties concerning the subject matter of this plea agreement that were made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to defendant or to the attorney for the defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

Notwithstanding the previous paragraph, if defendant has entered into a proffer agreement in writing or a cooperation agreement in writing with the government, this plea agreement does not supersede or abrogate the terms of any such prior written agreement.

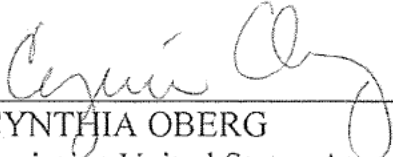
This agreement also does not prevent any civil or administrative actions against defendant, or any forfeiture claim against any property, by the United States or any other party.

10. Acceptance of Agreement by Defendant

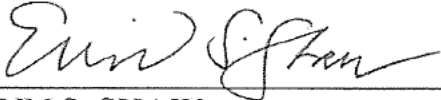
This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by 5:00 P.M. on July 22, 2014. The government

reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

BARBARA L. McQUADE
United States Attorney



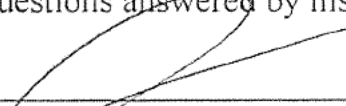
CYNTHIA OBERG
Assistant United States Attorney
Chief, White Collar Crime Unit



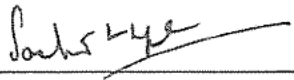
ERIN S. SHAW
Assistant United States Attorney

Date: July 8, 2014

By signing below, defendant acknowledges that he has read this entire document, understands it, and agrees to its terms. Defendant also acknowledges that he is satisfied with his attorney's advice and representation. Defendant agrees that he has had a full and complete opportunity to confer with his lawyer, and has had all of his questions answered by his lawyer.



JAMES GEROMETTA
Attorney for Defendant



SACHIN UPPAL
Defendant

Date: July , 2014

August 14, 2014

Defendant:	Sachin Uppal	Count:	One
Docket No.:	14-20354	Statute(s):	18 USC 1343

WORKSHEET A (Offense Levels)

Complete one Worksheet A for each count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction) before applying the multiple-count rules in U.S.S.G. ch. 3, pt. D. However, in any case involving multiple counts of conviction, if the counts of conviction are all "closely related" to each other within the meaning of U.S.S.G. § 3D1.2(d), complete only a single Worksheet A.

1. BASE OFFENSE LEVEL AND SPECIFIC OFFENSE CHARACTERISTICS (U.S.S.G. ch. 2)

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
2B1.1(a)(2)	Base offense	6
2B1.1(b)(1)(J)	More than \$2.5 million loss	18
2B1.1(b)(2)(A)	More than 10 victims	2

2. ADJUSTMENTS (U.S.S.G. ch. 3, pts. A, B, C)

<u>Guideline Section</u>	<u>Description</u>	<u>Levels</u>
3B1.3	Abuse of a position of trust / special skill	2

3. ADJUSTED OFFENSE LEVEL

Enter the sum of the offense levels entered in Items 1 and 2. If this Worksheet A does not cover every count of conviction (taking into account relevant conduct and treating each stipulated offense as a separate count of conviction), complete one or more additional Worksheets A and a single Worksheet B.

28

If this is the only Worksheet A, check this box and skip Worksheet B.

✓
✓

If the defendant has no criminal history, check this box and skip Worksheet C.

Defendant:	Sachin Uppal	Count:	One
Docket No.:	14-20354	Statute(s):	18 USC 1343

WORKSHEET D (Guideline Range)

1. (COMBINED) ADJUSTED OFFENSE LEVEL

Enter the adjusted offense level entered in Item 3 of Worksheet A or the combined adjusted offense level entered in item 8 of Worksheet B.

28

2. ADJUSTMENT FOR ACCEPTANCE OF RESPONSIBILITY (U.S.S.G. § 3E1.1)

-3

3. TOTAL OFFENSE LEVEL

Enter the difference between Items 1 and 2.

25

4. CRIMINAL HISTORY CATEGORY

Enter "1" if the defendant has no criminal history. Otherwise, enter the criminal history category entered in Item 6 of Worksheet C.

1

5. CAREER OFFENDER/CRIMINAL LIVELIHOOD/ARMED CAREER CRIMINAL/DANGEROUS SEX OFFENDER (U.S.S.G. ch. 4, pt. B)

- a. Total Offense Level: If the career offender provision (U.S.S.G. § 4B1.1), the criminal livelihood provision (U.S.S.G. § 4B1.3), the armed career criminal provision (U.S.S.G. § 4B1.4), or the dangerous sex offender provision (U.S.S.G. § 4B1.5) results in a total offense level higher than the total offense level entered in Item 3, enter the higher offense level total.
- b. Criminal History Category: If the career offender provision (U.S.S.G. § 4B1.1), the armed career criminal provision (U.S.S.G. § 4B1.4), or the dangerous sex offender provision (U.S.S.G. § 4B1.5) results in a criminal history category higher than the criminal history category entered in Item 4, enter the higher criminal history category.

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6. GUIDELINE RANGE FROM SENTENCING TABLE (U.S.S.G. ch. 5, pt. A)

Enter the guideline range in the Sentencing Table (see U.S.S.G. ch. 5, pt. A) produced by the total offense level entered in Item 3 or 5.a and the criminal history category entered in Item 4 or 5.b.

57-71

months

7. STATUTORY RESTRICTIONS ON OR SUPERSESSION OF GUIDELINE RANGE

If the maximum sentence authorized by statute is below, or a minimum sentence required by statute is above, the guideline range entered in Item 6, enter either the guideline range as restricted by statute or the sentence required by statute. (See U.S.S.G. § 5G1.1.) If the sentence on any count of conviction is required by statute to be consecutive to the sentence on any other count of conviction, explain why.

--

months

Defendant:	Sachin Uppal	Count:	One
Docket No.:	14-20354	Statute(s):	18 USC 1343

WORKSHEET E (Authorized Guideline Sentences)

1. PROBATION (U.S.S.G. ch. 5, pt. B)

a. Imposition of a Term of Probation (U.S.S.G. § 5B1.1)

1. Probation is not authorized by the guidelines (minimum of guideline range \geq 10 months or statute of conviction is a Class A or a Class B felony). If this box is checked, go to Item 2 (Split Sentence).

2. Probation is authorized by the guidelines (minimum of guideline range = zero months).
3. Probation is authorized by the guidelines, provided the court imposes a condition or combination of conditions requiring intermittent confinement, community confinement, or home detention satisfying the minimum of the guideline range (minimum of guideline range $>$ 0 months but \leq 9 months).

b. Length of Term of Probation (U.S.S.G. § 5B1.2)

1. At least 1 year but not more than 5 years (total offense level \geq 6)
2. No more than 3 years (total offense level $<$ 6).

c. Conditions of Probation (U.S.S.G. § 5B1.3)

The court must impose certain conditions of probation and may impose other conditions of probation.

2. SPLIT SENTENCE (U.S.S.G. § 5C1.1(c)(2), (d)(2))

- a. A split sentence is not authorized (minimum of guideline range = 0 months or \geq 15 months).
- b. A split sentence is authorized (minimum of guideline range $>$ 0 months but \leq 12 months). The court may impose a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention for imprisonment, provided that at least one-half of the minimum of the guideline range is satisfied by imprisonment (if the minimum of the guideline range is 10 or 12 months), or that at least one month is satisfied by imprisonment (if the minimum of the guideline range is 1, 2, 3, 4, 6, 8, or 9 months). The authorized length of the term of supervised release is set forth below in Item 4.b.

3. IMPRISONMENT (U.S.S.G. ch. 5, pt. C)

A term of imprisonment is authorized by the guidelines if it is within the applicable guideline range (entered in Item 6 of Worksheet D). (See U.S.S.G. § 5C1.1.)

Defendant:	Sachin Uppal	Count:	One
Docket No.:	14-20354	Statute(s):	18 USC 1343

(WORKSHEET E, p. 2)

4. SUPERVISED RELEASE (U.S.S.G. ch 5., pt. D)

a. Imposition of a Term of Supervised Release (U.S.S.G. § 5D1.1)

The court must impose a term of supervised release if it imposes a term of imprisonment of more than one year, or if it is required to do so by statute. The court may impose a term of supervised release if it imposes a term of imprisonment of one year or less.

b. Length of Term of Supervised Release (U.S.S.G. § 5D1.2)

1. At least 3 years but not more than 5 years, where the count of conviction is a Class A or a Class B felony, i.e., an offense carrying a maximum term of imprisonment \geq 25 years.

2. At least 2 years but not more than 3 years, where the count of conviction is a Class C or a Class D felony, i.e., an offense carrying a maximum term of imprisonment \geq 5 years but $<$ 25 years.

3. 1 year, where the count of conviction is a Class E felony or a Class A misdemeanor, i.e., an offense carrying a maximum term of imprisonment $>$ 6 months but $<$ 5 years.

4. The statute of conviction requires a minimum term of supervised release of _____ months.

c. Conditions of Supervised Release (U.S.S.G. § 5D1.3)

The court must impose certain conditions of supervised release and may impose other conditions of supervised release.

5. RESTITUTION (U.S.S.G. § 5E1.1)

1. The court *must* order full restitution to the victim(s) of the offense(s) of conviction. (See 18 U.S.C. §§ 3556, 3663A, 3664.) The court will determine who the victims are and their restitution amounts.

2. The court *must* order full restitution to the victim(s) of the offense(s) of conviction. (See 18 U.S.C. §§ 3556, 3663A, 3664) The parties agree that full restitution is \$ 3,867,187.

3. The parties agree that the court *may* order restitution to the victim(s) of the offense(s) of conviction in any amount up to and including \$ _____. (See 18 U.S.C. §§ 3663(a)(3), 3664.)

4. The parties agree that the court *may also* order restitution to persons other than the victim(s) of the offense(s) of conviction in any amount up to and including \$ _____. (See 18 U.S.C. §§ 3663(a)(1)(A), 3663A(a)(3), 3664.)

5. Restitution is not applicable.

Defendant:	Sachin Uppal	Count:	One
Docket No.:	14-20354	Statute(s):	18 USC 1343

(WORKSHEET E, p. 3)

6. FINE (U.S.S.G. § 5E1.2)

a. Fines for Individual Defendants

The court must impose a fine unless “the defendant establishes that he [or she] is unable to pay and is not likely to become able to pay any fine.” (See U.S.S.G. § 5E1.2(a).) Generally, the fine authorized by the guidelines is limited to the range established in the Fine Table. (See U.S.S.G. § 5E1.2(b).) However, there are exceptions to this general rule. (See U.S.S.G. § 5E1.2(b), (c)(4).)

b. Fine Range from Fine Table (U.S.S.G. § 5E1.2(c)(3))

<u>Minimum Fine</u>	<u>Maximum Fine</u>
\$10,000	\$100,000

7. SPECIAL ASSESSMENT(S) (U.S.S.G. § 5E1.3)

The court must impose a special assessment on every count of conviction. The special assessments for individual defendants are:

- \$100.00 for every count charging a felony (\$400 for a corporation),
- \$ 25.00 for every count charging a Class A misdemeanor (\$125 for a corporation),
- \$ 10.00 for every count charging a Class B misdemeanor (\$50 for a corporation), and
- \$ 5.00 for every count charging a Class C misdemeanor or an infraction (\$25 for a corporation).

The defendant must pay a special assessment or special assessments in the total amount of \$

8. FORFEITURE (U.S.S.G. § 5E1.4)

Assets of the defendant will be forfeited. Assets of the defendant will not be forfeited.

9. ADDITIONAL APPLICABLE GUIDELINES, POLICY STATEMENTS, AND STATUTES

List any additional applicable guideline, policy statement, or statute.

10. UPWARD OR DOWNWARD DEPARTURE (U.S.S.G. ch. 5, pts. H & K)

List any applicable aggravating or mitigating circumstance that might support a term of imprisonment above or below the applicable guideline range.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

In the Matter of

SACHIN K. UPPAL,

Respondent.

DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT E

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

CASE NO. 14-20354

Plaintiff,

v.

HON. NANCY G. EDMUNDS

SACHIN KUMAR UPPAL,

Defendant.

GOVERNMENT’S SENTENCING MEMORANDUM

Under the guise of being a “day trader,” defendant Sachin Uppal ran an extensive Ponzi scheme for over six years. Using slick brochures advertising phony returns, Uppal consistently told his victims that his style of trading was “safe.” In turn, victims placed their nest eggs, wedding and college funds, and retirement accounts in Uppal’s care.

FBI record analysis confirms that Uppal diverted over \$2 million of these funds to his own use. On the occasions where Uppal did in fact invest, in spite of his promises of safety, the hedges he made failed and his victims’ money was lost. To make matters worse, Uppal covered up his losses with more lies, sending his victims false reports of growing returns and investment successes.

There will be no recovery for Uppal's victims, who in the aggregate lost over \$3.8 million, and there is no basis for this court to vary downward from the undisputed guidelines.

SECTION 3553(a) SENTENCING FACTORS

A. Guideline Range

The parties and Probation Department agree that Uppal's guideline range is 57 to 71 months. See PSR at ¶54.

B. History and Characteristics of Defendant

While this case marks Uppal's first criminal conviction, his criminal behavior went on for over six years. Uppal ran the Jefferson Smith Trading Company LLC ("JSTCO") from July 2007 through September 2013. Although he was not a licensed or registered investment adviser, Uppal marketed JSTCO to potential investors and solicited investor funds, describing it as a "hedge fund." Uppal further advised his investors that he was a "day trader" who would use investor funds to buy and sell financial instruments within the same trading day, such that all positions would be closed before the market close for the trading day. This, Uppal told investors, mitigated against investor risk. As victim RM explained: "He seemed like a very shrewd and smart investor. He sold me on his ability to manage money. His concept was to trade daily in ETF's and beat the

market. He needed to remain small to be able to maneuver while going to cash each night. It appeared to be safe and conservative.”¹

Uppal’s marketing pitch was compelling. He provided potential investors with a presentation promising a return of 18-20% per year, with a minimum investment commitment of only 12 months. Victims TB and RB’s account is representative of the Uppal model: “Though we were not very keen to invest, Sachin Uppal pursued us and showed us his past records, that he had returned 20% profit to those who invested in his hedge fund.”

Once he secured the initial investment, Uppal emailed his victims false monthly “year-to-date investment summaries” to make them believe that their accounts were performing, and to persuade them to invest additional funds. These summaries were completely fictitious. Sometimes, Uppal traded and lost during the relevant period, but the summaries falsely reflected an investment gain. Other times, Uppal simply pocketed the money without conducting any trades at all.

When investors requested to close their accounts and withdraw their investment funds, Uppal attempted to lull them with various excuses, to include bounced checks, car accidents and even hospitalization. When Uppal’s special crisis of the day was over, however, the victims’ investments remained unrefunded.

¹ The victim impact statements filed with this memorandum have been redacted to protect the respective victims’ identities. A courtesy set of the unredacted statements will be provided to the Court prior to sentencing.

C. Deterrence, Promoting Respect for the Law, and Protecting the Public

In fraud cases like this one, both specific and general deterrence are important factors for the Court to consider in fashioning a sentence. Uppal's fraud went on for many years, as he told lie after lie to keep his scheme going. Generally, fraud cases involve calculated risks taken by the participants. Individuals considering committing fraud may hesitate if they understand that their actions could lead to serious consequences, including lengthy terms in federal prison. Thus, this factor weighs in favor of a significant custodial sentence.

Protection of the public is also important. Victim RM's comments are apt: "You should keep him away so that he can't hurt anyone else the way he hurt me."

D. Restitution

Uppal has agreed to pay \$3,897,187 in restitution to his victims.

E. Seriousness of the Offense and Providing Just Punishment

The seriousness of Uppal's offense cannot be meaningfully disputed. Because the money is gone, there is nothing to forfeit to make the victims financially whole. Their only justice will come from seeing him serve a lengthy prison term.

Numerous victims have shared their common experience with Uppal, as well as the devastating impact he has had on their lives and financial stability:

- Over the years, the money that I invested with Sachin, I looked at as my retirement fund. It was building and it would be substantial. Each year I worked hard in my business and would put my extra money toward my investment. I paid taxes on the fictional earnings. Now I know that he took my money and I am still working. All in all I lost a lot of money. I invested with a man who I thought I could trust. He sold me on an investment strategy and provided documents supporting his strategy. He came to visit and supported his lies right to my face in person. ... He always appeared to be very professional and credible. He turns out to be a sophisticated thief. He stole from me and lived off my money for 6-7 years. He should pay for his crime. (RM)
- We have learned that Mr. Uppal never intended to invest the funds and used the funds for his own personal gain. The funds that we have invested were meant to provide for our retirement as we are getting older and have very few years left to save for our retirement and to provide for our son. We have been very hard workers all our lives and have always feared that we have not saved enough. My wife cries about this. It took many years of saving to be able to save \$50,000. Losing all our savings has caused us mental agony and extreme hardship. (TB & RB)
- I trusted Mr. Uppal and he ran away with my money over \$1.5 million. I requested money in August 2011 for my daughter's wedding. He wrote me two cheques separately, each amount \$200,000. Both bounced. I have to borrow the money from the bank. This person should be sentenced to the full extent as required by law. I trust the U.S. justice system. This person was the nephew of my close friend and his mother and myself grew up together. (SKS)
- I was told there would be no problem and had numerous correspondences via email and phone assuring me my investment was safe and that it was just a formality of filling out paperwork. After complying with everything that was asked all contact was lost. I then realized that a fraud had been committed. ... This approx. \$100,000 which was to be used for retirement and /or my daughter's college education (she is currently a senior in HS) has caused me much stress, and family divide. Not only am I out the \$100,000, which took me

approx. 8 years to accumulate by deducting from my paycheck each week, I feel taken advantage of from what should have been a normal transaction with what I thought was a reputable company. I don't know how I can make up for the financial loss as it took a long time to accumulate. I also don't know how to make amends with my family. (VS)

- The funds we lost were going to be used to pay for our children's college education and if any money remained would be used towards our retirement and paying off our home mortgage. Not having these funds or even a portion of them will impact our lives significantly. Not only will we have to replace the money set aside for college, but we will have to work longer to achieve our retirement goals. Losing these funds has added several years to both my wife's career as well as mine. This investment was a large part of our financial plan and our children's education plans. The impact of this crime will be felt for over a generation. Our children may have to make different educational decisions based on the lack of this money and our career decisions will be affected by not having a financial buffer and savings. ... Stealing the money of hard working people affects their daily lives and is not as simple as a bad investment, investments are made to improve the lives and create new opportunities for education and fulfillment. The loss of these funds has reduced the opportunities my family will have to improve their lives. (KS)
- I immigrated to the US in 1959 with not much more than the debt for my flight from Germany to the US and \$50 in cash. I worked as a secretary in a Pharmaceutical Company. I worked very hard and long hours to save money for later retirement. Later on in life, I invested some money and was lucky in the process. Defendant Sachin Uppal was supposed to make some money for me. As of June 30, 2011, my last statement I received from him, he was holding in my name about \$200,000. I have no family at all in this country, my only sister in Germany is living in a nursing home. On July 2, 2013 I moved to a Retirement Communitythe rents are high and I really need all my money to live at this community. ... Mr. Uppal's crime in cheating me out of my money affected me in many ways. One, of course, by the loss of money, the other by depression and sleepless nights. ... I am a very positive person, so I believe that the US Department of

Justice will be able to help recover my money. It is a huge amount which I can't really afford to lose. (EL; 80 years old)

F. Avoiding Unwarranted Sentencing Disparities

Another fraudulent investment advisor, Keith Epstein, was convicted and sentenced in this court three years ago in the matter of *United States v. Epstein*, 11-20033. Epstein pocketed over \$4 million of investor funds and spent them on personal expenses, including gambling, supporting exotic dancers, and travel, as well as some "interest" payments to other investors. This Court sentenced him to the top of the guidelines: 97 months.

Admittedly, Epstein was in a higher criminal history category than Uppal (III versus I). But even after considering that obvious distinction, the Epstein case provides a helpful benchmark. Both defendants capitalized on their personal relationships with their defendants to gain their trust and then steal their money. Many of Uppal's victims were family friends. SKS grew up with Uppal's mother and uncle in India. TB and RB's met Uppal through friends in the metro Detroit Indian community. SS's wife had known the Uppal family socially and Uppal became friends with SS's two sons. This type of affinity fraud is particularly predatory and deserving of significant custodial punishment.

CONCLUSION

For all of the foregoing reasons, the government respectfully recommends that the Court impose a sentence of 64 months, which is the mid-point of the agreed guideline range.

Respectfully submitted,

BARBARA L. MCQUADE
United States Attorney

s/Erin S. Shaw
Erin S. Shaw
Assistant United States Attorney
211 W. Fort St., Suite 2001
Detroit, Michigan 48226
Telephone: (313) 226-9182
E-mail: erin.shaw@usdoj.gov

Dated: December 4, 2014

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2014, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, which will send notification of such filing to the following:

Attorney James R. Gerometta

Respectfully Submitted,
BARBARA L. MCQUADE
United States Attorney

s/Erin S. Shaw
Erin S. Shaw
Assistant United States Attorney
211 W. Fort Street
Suite 2001
Detroit, MI 48226
(313) 226-9182
erin.shaw@usdoj.gov

Date: December 4, 2014

VICTIM IMPACT STATEMENT

Victim: [REDACTED]
USAO Number: 2012R00806
Court Docket Number: 14-CR-20354

Insert the impact of the crime here (or, if a separate victim impact form is attached, please use that form to describe the impact of the crime):

My name is [REDACTED] and I am married to [REDACTED]. My wife and I invested \$50,000.00 with Sachin Uppal. Though we were not very keen to invest, Sachin Uppal pursued us and showed his past records, that he had returned 20% profit to those who invested in his hedge fund. We have learned that Mr. Uppal never intended to invest the funds and used the funds for his own personal gain. The funds that we have invested were meant to provide for our retirement as we are getting older and have very few years left to save for our retirement and to provide for our son. We have been very hard workers all our lives and have always feared that we have not saved enough. My wife cries about this. It took many years of savings to be able to save \$50,000. Losing all our savings has caused us mental agony and extreme hardship. It has been extremely difficult to understand why Mr. Uppal would not return our money and why Mr. Uppal was not put in jail for stealing from us and others. Mr. Uppal has taken advantage of us and other and has created many difficulties in our lives.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Victim Impact Statement

Re: United States v Sachin Uppal
Case Number 2012R00806 and Court Docket Number 14-CR-20354

My name is [REDACTED] and I am a victim of Sachin Uppal. This is my story.

I was introduced to Sachin Uppal in 2006. He seemed like a very shrewd and smart investor. He sold me on his ability to manage money. His concept was to trade daily in ETF's and beat the market. He needed to remain small to be able to maneuver while going to cash each night. It appeared to be safe and conservative. I started with a small investment.

He provided me monthly with statements showing the latest status. There were consistent increases between 0 and 3%. Occasionally there was a down month. In times of market volatility he claimed to stay away from trading so as not to get caught on the wrong side of a quick swing. It seemed to make sense. I kept adding to my investment.

Each year he would provide me with a K-1 or 1099 so that my accountant would be appeased and we could pay taxes on the earnings. My accountant did speak to his accountant, Hasmukh Patel, to get results or numbers that he needed. Sachin also provided me with a statement from his supposed bank showing that they had my balance in an account. Over the years these came from Bank of America, National City, and Huntington National. He would mail these to me at the end of each year.

Based on his performance, I kept adding to my account as I had extra money to invest. Why wouldn't I? During 2008 when the world markets all had a downturn, we had an increase. Everything seemed to be under control. I had no reason to suspect anything was wrong.

Sachin would occasionally come to my office in NJ to visit. Over the seven years that I had investments with him, he came to my office about ten times. Always positive, always confirming his performance. As it turns out, always lying to my face while he was living off of my money.

At one point he came in to explain a new fund that he had developed and was testing that had a different concept. This fund would take short term positions in companies or industries and then sell out. This was his Alpha Fund. I invested some money into this fund based on the success in he original fund. For the Alpha Fund he only provided quarterly statements. He showed similar results with this fund.

In late 2011 I asked to withdraw some money. Sachin always had an excuse as to why he was unable to send me any funds. He mostly blamed his lawyer for not letting any money being released. There was a criminal case in New Jersey, Carr - Miller in which he was implicated. This only gave him an excuse. But he kept it up

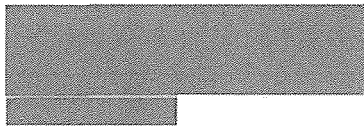
always finding another reason for a delay. I even spoke to his lawyer, Nick Balberman. He said that he couldn't give me any details but he would get my message to Sachin.

Over the years, the money that I invested with Sachin, I looked at as my retirement fund. It was building and it would be substantial. Each year I worked hard in my business and would put my extra money toward my investment. I paid taxes on the fictional earnings. Now I know that he took my money and I am still working.

All in all I lost a lot of money. I invested with a man who I thought I could trust. He sold me on an investment strategy and provided documents supporting his strategy. He came to visit and supported his lies right to my face in person. Over the time I had contact with Sachin, his lawyer, and his accountant. He always appeared to be very professional and credible.

He turns out to be a sophisticated thief. He stole from me and lived off my money for 6-7 years. He should pay for his crime. He should be responsible and serve real time and pay me back for the rest of his life. You should keep him away so that he can't hurt anyone else the way he hurt me.

Sincerely,

A large rectangular area of the document is redacted with a grey, textured pattern, obscuring the signature and any text that might have been present below it.

VICTIM IMPACT STATEMENT

Victim: [REDACTED]
USAO Number: 2012R00806
Court Docket Number: 14-CR-20354

Victim Impact Statement

In 2008 I rolled over my entire IRA with ING in the amount of \$135,493.65 to JTSCO. The Principal that received my rollover was Sachin Uppal. (See attached copy of my ING check)

During the year I would ask for statements and I would get no response. Eventually I received a few statements. See attached. Since these statements were very sporadic, I started to question the security of my money. I made several phone calls and I was getting no response. I kept calling Mr Uppal every day until I heard from him. He would tell me that he had my money and that he was in a legal battle with Carr Miller Capitol and he was not allowed to discuss my money and where it is. I requested my money back and he kept blowing me off because of the legal issues with Carr Miller Capitol. I pursued this for several years with him and his statement was that he is changing attorneys and he could not do anything for me.

As of today, I have had no correspondence from him. I would be happy to see him prosecuted and I am hopeful that I can get my initial roll over back.

If I can be of any assistance please let me know.

Sincerely,

[REDACTED]

VICTIM IMPACT STATEMENT

Victim: [REDACTED]
USAO Number: 2012R00806
Court Docket Number: 14-CR-20354

Insert the impact of the crime here (or, if a separate victim impact form is attached, please use that form to describe the impact of the crime):

Investment of \$78,000 in a 401K with Jefferson Smith on
June 25, 2009. Account grew to \$121,000 by October, 2011.

TOTAL loss of \$121,529.64 attached statement dated ~~10/27/11~~
June 30, 2011

Jefferson Smith invested my funds and would not
transfer them to another 401K as I requested

See enclosed word document overview dated 10/27/11

See enclosed JST statement

See enclosed "Securities Complaint" made to
the state of Michigan sent 10/27/11

[REDACTED]

9/9/14

[REDACTED]

Received 09/15/2014

I certify all the enclosed documents.

[REDACTED]

Michigan state complaint about: Jefferson Smith, LLC, Sachin Uppal.
October 27, 2011

Brief statement of the full story:

- Invested \$78K in a 401K with Jefferson Smith on June 25, 2009; funds moved appropriately from my former 401K custodian (Nationwide) to Jefferson Smith at that time.
- My 401K investment balance with Jefferson Smith is now \$121,529.64 (see attached statement dated June 1- June30, 2011.)
- I have been dealing directly with Sachin Uppal, of Jefferson Smith, since January, 2011, not through my financial planner (Brian Carr, who was with Carr Miller Investments when we chose JST and I requested that the funds be moved from Nationwide directly to JST).
- On July 29, 2011 I requested in writing to Mr. Sachin Uppal that my JST account be closed, and that my ~\$121K balance be wired to Equity Trust (a 401K custodian). I provided the wire information for Equity Trust.
 - Note that my request of 7/29 follows many requests of mine to Sachin to get a copy of my latest statement; statements had been delinquent for about 3 months. Mr. Uppal had indicated he had sent, and proposed that these statements were being stopped as either junk or quarantine mail by my work server.
 - Mr. Uppal responded via email on 7/29 confirming my desire to close the account, wanting to know why I wanted to close my account, and finally sending my June 11th statement.
 - He then responded again on 7/29 documenting 7/29 as the official date of my request (this is when the 30 days began)
- Mr. Uppal requested a conference call to discuss my closing of the account; we set up time on Sept 2; Mr. Uppal did not show up
- We then set up another time; again, Mr. Uppal did not show.
 - He later told Brian Carr and me that he had been very sick, and in the hospital
 - Also during this timeframe of non-response from Mr. Uppal, he indicated he and his wife had been in a serious car accident, which was the reason he said he didn't call me with an update as he had promised
- Sept 15: Finally Mr. Uppal joined us for a conference call. He indicated that he was informed by his lawyer that he should not release my funds. He said I was one of 4 people who were "in the same situation". Because of JST's affiliation with Carr Miller Capital, a separate firm from Carr Miller Investments (which was my advisor's Brian Carr's firm), and due to the pending lawsuit with Carr Miller Capital (Everett Miller), he said his lawyer advised him that any funds released "may be subject to a 'claw back period', if those funds were part of the Carr Miller Capital relationship and were pulled back to refund to all claimants". He appealed to me to call Mr. Pompeo (the court appointed lead overseeing the Carr Miller Capital lawsuit) to get my funds reviewed and released, but never followed up as he had promised to give me Mr. Pompeo's contact information. I looked Mr. Pompeo up and then contacted him via Voicemail and via email.

See Mr. Pompeo's responses below; he indicated he is not in charge of any receivership for JST, and later indicated that JST had not produced any of the paperwork that he had requested of them. "You should also know that I am not the receiver for Jefferson Smith Trading and cannot release funds from it to you."

I then told Mr. Uppal of Mr. Pompeo's response, and requested AGAIN that he transfer my funds

- Mr. Pompeo's 3 responses were all shared with Mr. Uppal – all 3 indicated that Mr. Pompeo has no say in the matter of the release of my 401K funds; Mr. Uppal has indicated in writing that this was the reason he had not yet released my funds.
- See the actual emails below:
 - Multiple, multiple emails to Mr. Uppal with the required information to release the funds, and requests/reminders to release the funds
 - Correspondence with Mr. Pompeo indicating he was NOT the hold up and he has not jurisdiction in the release nor with anything related to JST
 - My request of Mr. Uppal to now pay the maintenance fee for the Equity trust account that was not able to be closed out, due to this delay in closing out my JST funds and moving them to Equity trust; also see the note from me to Equity trust indicating the arrangements I was making with Mr. Uppal to pay the maintenance fee; and the note from Equity Trust to Mr. Uppal with information on how to pay that maintenance fee; I also left a voicemail about all of this with Mr. Uppal the same day as the email to him from me.
- It is October 27th, almost a full 90 days past my request of 7/29 to move my JST funds to Equity Trust (60 days late). I have had no response from Mr. Uppal since October 14th. That email indicated he'd get back to me later that same afternoon. My funds have not been transferred.
- I plan to inform Mr. Uppal of this formal complaint via email.
- See the actual emails on this issue, from July 29 through October 25th below:

I immigrated to the US in 1959 with not much more than the debt for my flight from Germany to the US and \$50 in cash.

I worked as a secretary in a Pharmaceutical Company. I worked very hard and long hours to save money for later retirement. Later on in life, I invested some money and was lucky in the process. Defendant Sachin Uppal was supposed to make some money for me. As of June 30, 2011, my last statement I received from him, he was holding in my name about \$200,000.

I have no family at all in this country. my only sister in Germany is living in a nursing home. On July 1, 2013 I moved to a Retirement Community in Hackettstown, NJ which is my residence now. As you probably know, the rents are high and I really need all my money to live at this community.

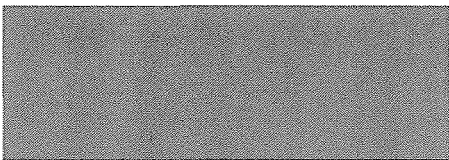
All these past years, I tried to get in touch with Mr. Uppal as you can see from documented letter of 5/13/13 and before that I tried to reach him by phone and many emails.

Mr. Uppal's crime in cheating me out of my money affected me in many ways. One, of course, by the loss of my money, the other by depression and sleepless nights.

Since I regularly go to the gym and also hike, I am a fairly healthy 80 year old woman.

I am a very positive person, so I believe that the US Department of Justice will be able to help to recover my money. It is a huge amount which I can't really afford to lose.

Sincerely,



VICTIM IMPACT STATEMENT

Victim: [REDACTED]
USAO Number: 2012R00806
Court Docket Number: 14-CR-20354

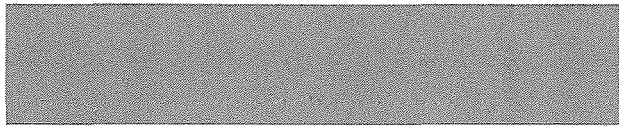
Insert the impact of the crime here (or, if a separate victim impact form is attached, please use that form to describe the impact of the crime):

I trusted Mr VPPAL & He
ran away with my money over
1.5 million. I requested money in August
2011 for my daughter's wedding
He wrote me two cheques separately
Each amt 200,000 ^{us}/₁₀₀ Both bounced. I
have to borrow the money from bank
This person should be sentenced to the
full extent as required by Law &
Trust U.S. justice system. This person
was nephew of my close friend & his
mother & myself grew together.

Thank

[REDACTED]

Sentencing: 12/11/2014 @ 20



-----Original Message-----

From: [REDACTED]
Sent: Wednesday, September 17, 2014 1:03 PM
To: Holloway, Sherri (USAMIE) 1 [Contractor]; Palazzolo, Sandy (USAMIE)
Subject: Sachin Uppal case # 2012R00806 docket # 14-CR-20354

Dear Sherri Holloway,

I just wanted to email regarding a formal victim impact statement.

While working with Brian Carr and Everett Miller of Carr-Miller i was recommended to invest my 401K rollover with Sachin Uppal of Jefferson Smith Trading. On or about May 16, 2011 \$99,897.99 was transferred from Equity Trust Company to JSTCO LLC/Hedge fund. Following issues that I had been having with Carr-Miller I attempted to retrieve my deposit from Mr. Uppal. I was told there would be no problem and had numerous correspondences via email and phone assuring me my investment was safe and that it was just a formality of filling out paperwork. After complying with everything that was asked all contact was lost. I then realized that a fraud had been committed.

I have filed a formal complaint the the Michigan AG, the New Jersey AG, have sought legal counsel and made numerous phone calls and inquiries into this matter. Needless to say, it has been a HOT topic in my household, nearly causing a divorce and certainly not winning any accolades from my family from what is thought to be my fault and bad decision making

This approx \$100,000 which was to be used for retirement and /or my daughter's college education (she is currently a senior in HS) has caused me much stress, and family divide. Not only am I out the \$100,000, which took me approx 8 years to accumulate by deducting from my paycheck each week, I feel taken advantage of from what should have been a normal transaction with what i thought was a reputable company. I dont know how i can make up for the financial loss as it took a long time to accumulate. i also dont know how to make amends with my family

If there is anything i can do to help this situation, please do not hesitate to ask.

Thank you for your help and attention in this matter

Sincerely,

[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Tuesday, September 09, 2014 2:46 PM
To: Holloway, Sherri (USAMIE) 1 [Contractor]; Palazzolo, Sandy (USAMIE)
Subject: Victim Impact Statement

Victim: [REDACTED]
USAO Number: 2012R00806
Court Docket Number: 14-CR-20354

To whom it may concern,

My wife [REDACTED] and I had invested a significant portion of our savings with Sachin Uppal, understanding it was an investment and did contain some risk. The loss of an investment is part of the risk of doing business, but at no time did we consider that the investment would be fraudulent and we would never see those funds again. The funds we lost were going to be used to pay for our children's college education and if any money remained would be used towards our retirement and paying off our home mortgage. Not having these funds or even a portion of them will impact our lives significantly. Not only will we have to replace the money set aside for college, but we will have to work longer to achieve our retirement goals. Losing these funds has added several years to both my wife's career as well as mine. This investment was a large part of our financial plan and our children's education plans. The impact of this crime will be felt for over a generation. Our children may have to make different educational decisions based on the lack of this money and our career decisions will be affected by not having a financial buffer and savings. I speak for my wife, my children and my children's children when I say we would like to see Mr Uppal prosecuted to the full extent of the law and all his victims repaid their full amount stolen from them by the defendant. Stealing the money of hard working people affects their daily lives and is not as simple as a bad investment, investments are made to improve the lives and create new opportunities for education and fulfillment. The loss of these funds has reduced the opportunities my family will have to improve their lives.

[REDACTED]

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

In the Matter of

SACHIN K. UPPAL,

Respondent.

DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No.: 14-20354

v.

Hon. Nancy G. Edmunds

SACHIN UPPAL,

Defendant.

DEFENDANT'S SENTENCING MEMORANDUM

I

Sachin Uppal perpetuated a fraud that caused a loss of approximately \$3.8 million to individual investors. As the Government properly notes, to many of these investors the loss was devastating. However, his crime was motivated by hubris and fear rather than by a predatory instinct.

Sachin Uppal was a bright young man attending the University of Michigan when his father died. After his father's death he attended and graduated from Wayne State University. It was while attending Wayne State that Mr. Uppal became interested in financial markets. He joined an investors club and studied ways to outpace market performance. After college Mr. Uppal began investing his own money and did very well in the relatively positive markets that existed at that time. So well that he believed he could invest others' money and promise to outperform the market.

Mr. Uppal began soliciting money from friends and family, as well as persons he met through investing forums on the internet (this is how he became involved with the Carr Miller investment firm). After an initial positive period, Mr. Uppal began to lose money and use his investor's principal to pay his own expenses. Too proud to admit his failure, he began to try to make up his losses through increasingly riskier investments, including a very large investment in a

hospital in India. Eventually, it became impossible for him to continue the ruse. Because he was too frightened of the consequences of his actions and of confrontations with his investors, he tried to stall the inevitable collapse of his financial company (Jefferson Smith).

However, with the Government investigating his actions Mr. Uppal could no longer ignore the consequences of his actions. Mr. Uppal steeled himself and, with counsel, admitted his wrongdoings in a series of meetings with the FBI and United States Attorney's Office. Because of his fear and shame, for a longtime after his investment firm collapsed Mr. Uppal was paralyzed and unable to move on with his life. Since unburdening himself, Mr. Uppal has taken a job as a financial blogger and began thinking about ways to slowly start making restitution to his victims.¹ To that end, he is considering writing a series of articles or a book about his experiences and is also developing a smart phone application that would assist patients in managing hospital discharge instructions. If these ventures are successful, he plans on directing all the money toward restitution.

Mr. Uppal comes before the Court humbled, ashamed, and ready to try to make amends for his actions.

¹Mr. Uppal writes about financial markets generally. He provides no investing advice and has no direct contact with individual investors.

II.

While Mr. Uppal may have not begun his investing career with malice aforethought, he understands that this fact will probably have little impact on his victims and the financial hardships that they will face. A custodial sentence is warranted because of the financial hardship his crime will have on those victims. The Court must, however, balance the victims' desire for restitution against the deterrence and punishment value of a long sentence.

Mr. Uppal is a first offender, any sentence of imprisonment will have a deterrent effect on others like him, white collar criminals who have never imagined themselves facing the potential of losing years of their life to imprisonment. Moreover, the shorter the sentence the Court imposes, the quicker Mr. Uppal can begin making restitution payments. While his restitution amount is large, Mr. Uppal is only 37 years old. His restitution payments will make a significant difference in the lives of many of his victims.

A sentence of three years of imprisonment will allow Mr. Uppal to restart his working life at 40 years old. This will allow him to make 25-30 years of restitution payments to his victims or their families. It is also sufficiently long enough to have a punitive aspect and work as a deterrent to others. A three year sentence appropriately balances society's interest in justice, the victims' interest in

restitution, and fairness to Mr. Uppal. It is long enough to send the correct message regarding the seriousness of the offense, but not too long to devastate Mr. Uppal's earning potential.

III.

Unrelated to the length of his sentence, Mr. Uppal has health concerns that impact his potential placement within the Bureau of Prisons. Mr. Uppal suffers from a [REDACTED] and is awaiting a final report from his doctor. It should be available within 2-3 weeks. [REDACTED]

[REDACTED]

This report will be submitted to the Bureau of Prisons as soon as it is received. Mr. Uppal requests a recommendation to a Federal Medical Center. When healthy, Mr. Uppal's low security classification will allow him to serve on a work cadre and he can be quickly hospitalized when necessary.

VI.

For the above reasons, Defendant requests that this Court impose a modest variance from the bottom of his sentencing guideline range (57 months) and impose a sentence of 36 months.

Respectfully Submitted,

LEGAL AID AND DEFENDER
s/James R. Gerometta P60260

james_gerometta@fd.org
Federal Defender Office
613 Abbott St., 5th Floor
Detroit, MI 48226
(313) 967-5839

Date: December 5, 2014

CERTIFICATE OF SERVICE

Counsel certifies that on the above date, the foregoing paper was filed with the clerk of the Court using the ECF system, which will send notification to opposing counsel.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

In the Matter of

SACHIN K. UPPAL,

Respondent.

DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT G

United States District Court Eastern District of Michigan

United States of America
V.
Sachin Kumar Uppal

JUDGMENT IN A CRIMINAL CASE

Case Number: 14CR20354-1
USM Number: 50325-039

James R. Gerometta
Defendant's Attorney

THE DEFENDANT:

■ Pleaded guilty to count(s) **1 of the Information** .

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC 1343	Wire Fraud	9/2013	1

The defendant is sentenced as provided in pages **2 through 6** of this judgment. This sentence is imposed pursuant to the Sentencing Reform Act of 1984

■ Count(s) **2 of the Information** is dismissed on the motion of the United States after a plea of not guilty.

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.

12/11/2014
Date of Imposition of Judgment


s/Nancy G. Edmunds
United States District Judge

December 16, 2014
Date Signed

DEFENDANT: Sachin Kumar Uppal
CASE NUMBER: 14CR20354-1

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: **64 months**

The court makes the following recommendations to the Bureau of Prisons: **that the defendant be designated to a medical facility.**

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prison: **as notified by the United States Marshal.**

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____ a
_____, with a certified copy of this judgment.

United States Marshal

Deputy United States Marshal

DEFENDANT: Sachin Kumar Uppal
CASE NUMBER: 14CR20354-1

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: **36 months**

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.

If the defendant is convicted of a felony offense, DNA collection is required by Public Law 108-405.

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. Revocation of supervised release is mandatory for possession of a controlled substance.

■ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse.

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 and shall submit a truthful and complete written report within the first five days of each month;
- 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;
- 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; and
- 14) the defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. Revocation of supervised release is mandatory for possession of a firearm.

DEFENDANT: Sachin Kumar Uppal
CASE NUMBER: 14CR20354-1

SPECIAL CONDITIONS OF SUPERVISION

- The defendant shall make monthly payments on any remaining balance of the: **restitution, special assessment** at a rate and schedule recommended by the Probation Department and approved by the Court.
- The defendant shall not incur any new credit charges or open additional lines of credit without the approval of the probation officer.
- The defendant shall provide the probation officer access to any requested financial information.

DEFENDANT: Sachin Kumar Uppal
 CASE NUMBER: 14CR20354-1

CRIMINAL MONETARY PENALTIES

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS:	\$ 100.00	\$ 0.00	\$ 3,867,187.00

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>
as identified by U.S. Attorney	\$0.00	\$3,867,187.00	
TOTALS:	\$ 0.00	\$ 3,867,187.00	

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 restitution

* 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.

DEFENDANT: Sachin Kumar Uppal
CASE NUMBER: 14CR20354-1

SCHEDULE OF PAYMENTS

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

[A] Lump sum payment of **\$100.00** due immediately, balance due in accordance F below.

[F] Special instructions regarding the payment of criminal monetary penalties: **Defendant shall pay special assessment in the amount of \$100.00 immediately. While in custody defendant shall participate in the Inmate Financial Responsibility Program (IFRP). The Court is aware of the requirements of the IFRP and approves the payment schedules of this program and hereby orders the defendant's compliance. Upon release from custody defendant shall make monthly installment payments on any balance of the restitution at a rate and schedule recommended by Probation and approved by the Court.**

Unless the court has expressly ordered otherwise in the special instructions above, while in custody, the defendant shall participate in the Inmate Financial Responsibility Program. The Court is aware of the requirements of the program and approves of the payment schedule of this program and hereby orders the defendant's compliance. All criminal monetary penalty payments are to be made to the Clerk of the Court, except those payments made through the Bureau of Prison's Inmate Financial Responsibility Program.

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

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

In the Matter of

SACHIN K. UPPAL,

Respondent.

DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT H

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HON. NANCY G. EDMUNDS
Case No. 14-CR-20354

SACHIN UPPAL,

Defendant.

SENTENCING HEARING

Thursday, December 11, 2014

Appearances:

Erin Shaw
U.S. Attorney's Office
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
313-226-9182.
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James R. Gerometta
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On behalf of Defendant

- - -
Suzanne Jacques, Official Court Reporter
email: jacques@transcriptorders.com

Sentencing Hearing
December 11, 2014

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Sentencing Hearing
December 11, 2014

1 Detroit, Michigan
2 Thursday, December 11, 2014
3 2:02 p.m.

4 - - -

5 THE CLERK: Court calls criminal matter 14-CR-20354,
6 U.S.A. vs. Sachin Uppal. Date and time set for sentencing.
7 Counsel, state your appearances for the record.

8 MS. SHAW: Good afternoon, Your Honor, Erin Shaw
9 appearing on behalf of the United States. Dan Troccoli of the
10 FBI is with me at counsel table.

11 MR. GEROMETTA: James Gerometta on behalf of
12 Mr. Uppal, who is present to my left, Your Honor.

13 THE COURT: Good afternoon. This is the date and
14 time set for sentencing in this matter. Mr. Gerometta, have
15 you had an opportunity to review the Presentence Investigation
16 Report with Mr. Uppal?

17 MR. GEROMETTA: I have, Your Honor.

18 THE COURT: Didn't see any objections, corrections?

19 MR. GEROMETTA: We have no objections, Your Honor,
20 other than, I think, as I noted in my memo, we're awaiting an
21 outstanding medical report we'd like to get supplemented to the
22 Bureau of Prisons, but we think it's accurate other than --

23 THE COURT: Okay. And the Rule 11 agreement was
24 taken under advisement at the time I accepted the plea. Do you
25 still want me to accept the agreement?

Sentencing Hearing
December 11, 2014

1 MR. GEROMETTA: I would, Your Honor.

2 THE COURT: Ms. Shaw?

3 MS. SHAW: Yes, please.

4 THE COURT: All right. Want to step forward with
5 Mr. Uppal, please.

6 Is there anything you'd like to say on behalf of
7 Mr. Uppal before I impose sentence?

8 MR. GEROMETTA: Your Honor, I filed a memo. I know
9 the Court is familiar with it.

10 THE COURT: Yes.

11 MR. GEROMETTA: And I said in my memo, and I think
12 Ms. Shaw argued quite vigorously about the effect that this
13 crime had on the victims, and Mr. Uppal is going to talk more
14 about that, and that's something we can't deny, how -- what the
15 effect was. We talked about, in my memo, his intent going in,
16 and I think what's really striking, his desire to -- his
17 realization about what he's done and his desire to try to make
18 that better.

19 And we know there's going to be a custodial sentence
20 in this case because of the impact on the victims, and we would
21 just ask that Mr. Uppal get the opportunity to try to give some
22 money back to the victims as soon as he can. I know the U.S.
23 Attorney's Office has been much more aggressive in collecting
24 restitution payments from defendants after they're
25 incarcerated, much more aggressive than they've been in the

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1 past, and I think there's an opportunity for him to make some
2 real restitution when he's done with his sentence.

3 Thank you.

4 THE COURT: Okay. Thank you.

5 There are quite a few people in the courtroom. I
6 don't know if some of them are victims who wish to make victim
7 impact statements. I understood that that was the case, and
8 you're welcome to come forward.

9 Mr. Uppal, Mr. Gerometta, why don't you step over to
10 the side so that the others can speak.

11 [REDACTED] Your Honor, my name is
12 [REDACTED]. I'm a practicing gastroenterologist in the
13 City of Detroit. I work hard for my money. Mr. Uppal's mother
14 and her brother and myself, we grew up together in a small town
15 in India. His brother was my classmate.

16 So we moved here. In 2008, I was invited to his
17 house for a celebration of my friend's 25th anniversary.
18 There, I had a conversation with him about his business. He
19 told me he's into investment in the stock market.

20 His father had died at a young age, so being a good
21 Samaritan, I wanted to help him, so I started going over the
22 investment which sounds to me, at that time, right. So I
23 invested total of \$1.5 million with him. Out of that, \$700,000
24 bought IRA, and which he -- both the monies are gone.

25 In 2011, I came to know there was something going on

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1 so I asked for money and he told me the money will be there,
2 one way or the other, I will get it. Then he said I'll get the
3 check. He got -- then he said, oh, I got involved in an
4 accident, I'm in the hospital. One time, he told me the PNC
5 manager died so I cannot get the check.

6 In 2012, my daughter was getting married. I asked
7 him, I need the money right now. He wrote me two checks for
8 \$150,000. They both bounced.

9 In 2013, I asked for again money. All these -- I
10 have text messages if you want to go over how he played with my
11 emotions for two years.

12 Meanwhile, I developed hypertension, I had sleepless
13 nights. I even passed out at my close friend's wedding and I
14 was taken to Beaumont Hospital. In my opinion, he played
15 not -- he took all the money. Not only that, he played with my
16 emotions, and I think he should be sentenced to the maximum
17 what you can -- what is allowed in the law so at least it is a
18 message sent out in the community not to do these things in
19 future.

20 And I will request also that he should be ordered to
21 pay my -- whatever money, \$1.5 million I have invested.

22 Thank you, ma'am.

23 THE COURT: Thank you. Others?

24 [REDACTED]: Your Honor, I haven't come prepared
25 or written anything. It's spontaneous. I have almost the same

Sentencing Hearing
December 11, 2014

1 history as [REDACTED] [REDACTED] did.

2 THE COURT: Could you state your name for the
3 record, please?

4 [REDACTED] [REDACTED] and I live in Canton,
5 Michigan.

6 THE COURT: Okay. Thank you.

7 SATISH SHARMA: And other than the numbers are a
8 little different, I put \$650,000 with him, but my story is
9 exactly the parallel to Dr. Singal's.

10 He was one of the best friend of my son, [REDACTED] and
11 I had another son, younger to him, and he is no more. But they
12 were very good friends, and based on that, I got conned into
13 it.

14 I think he deserve the worst you could put on him
15 because this is the hard earned money, and I got to know after
16 I retired almost. I'm 69 now, and it's been going on three
17 years, and it's given me high blood pressure, give me the
18 sleepless nights, you know, and it has taken the whole joy out
19 of life.

20 That's all I can say. Thank you.

21 THE COURT: Thank you. Anyone else? No? Ms. Shaw.

22 MS. SHAW: Thank you, Your Honor. You know, I think
23 our two victims who came in today really said it best. You've
24 heard what they had to say. I did use excerpts from other
25 victims' statements in my memorandum that I filed last week.

Sentencing Hearing
December 11, 2014

1 I know that Mr. Uppal has said in his papers that he
2 got in over his head a little bit and there wasn't a bad motive
3 in the beginning, but what I see is someone who didn't just rob
4 Peter to pay Paul, he robbed Peter to pay himself. There were
5 millions of dollars that he diverted to his own use. He lived
6 in a beautiful house in Milford, he drove a nice car, and he
7 tricked these people into believing he was going to invest
8 their money honestly. He either invested it and lost, and lied
9 to them and said he was up so they'd give him more money, or he
10 just spent it on his own lifestyle.

11 [REDACTED] was further tricked by Mr. Uppal because
12 he sent him a bank statement that said money is in escrow, I
13 have your money, I gave it to my lawyer, it's in this bank
14 account. This document was completely fabricated by Mr. Uppal
15 to make Dr. Singal believe that there was almost \$4 million in
16 a bank account, and the document was just completely made up.

17 He sent these people on a goose chase to try to
18 track their money down. The Badias (sp) were sent at one time
19 to three or four different banks.

20 He got in a car accident, in fact, on the way to one
21 of the banks in order to avoid having to meet with them and
22 give them the money after a check had been bounced, and it's
23 just staggering the lengths this man will go to to avoid having
24 to face what he's done.

25 I will commend Mr. [REDACTED] for doing a tremendous

Sentencing Hearing
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1 job at the end here, getting Mr. Uppal to face what he's done
2 and to get him through court, because he has hired I think
3 three or four different lawyers before Mr. Gerometta was
4 appointed to maneuver the grand jury process and such.

5 He didn't give us documents on time, gave us excuses
6 in our office when we'd try to set up meetings, and excuse
7 after excuse is really his MO with his victims, and, in fact,
8 with the government. We are pleased now that he's here to take
9 ownership, but it's been a long road to get here.

10 There was also, finally, talk about him serving less
11 time so he could make restitution to his victims. Many of
12 these people are already at retirement age, or will be very
13 soon, and it's unlikely that any restitution that he could
14 meaningfully provide will come in time. I know that one of the
15 victims is a woman who lives in New Jersey who is at least 80
16 years old, and that's not really realistic to think that he's
17 going to be able to make her whole in a meaningful way.

18 We ask for a sentence of 64 months. That's the
19 middle of the guideline range. And I think that the reasons
20 he's given in his papers for a variance downward just don't
21 apply.

22 Thank you.

23 THE COURT: Thank you, Ms. Shaw.

24 Mr. Uppal, is there anything you'd like to say in
25 your own behalf?

Sentencing Hearing
December 11, 2014

1 MR. GEROMETTA: Could I have one moment, please,
2 Your Honor?

3 THE COURT: Yes.

4 (Brief pause.)

5 MR. GEROMETTA: Thank you, Judge.

6 THE DEFENDANT: Yes, Your Honor, I'd like to read a
7 statement. I'll just read it verbatim, okay?

8 THE COURT: That's fine.

9 THE DEFENDANT: So I'd like to thank you, Judge, for
10 giving me this opportunity to speak to you and address the
11 Court. Today marks the second time that I stand before you,
12 and rightfully so. It is not a good day for me.

13 As I stand here, guilty of what I have been charged
14 with, I wish to publicly acknowledge that the people that I've
15 already hurt deserve their justice, and, Your Honor, I deserve
16 to be punished.

17 It's not a good day for me, Your Honor, because I
18 have to live with the realization of all the callousness in
19 which I operated, I have to live with the harm that I inflicted
20 into the lives of these sincerely honest people, and I
21 acknowledge that the harm is deep and unkind.

22 Above all, I am responsible for their pain and
23 suffering. They did not, under any circumstance, deserve the
24 turmoil that I introduced to their lives. Time and time, I
25 looked them in the eye and I lied, and I have to live with

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1 this. I'm sorry for violating your trust and I'm sorry for
2 putting their lives into a position of chaos and uncertainty.

3 As you, Your Honor, review the facts and adjudicate
4 my sentence, I wish you and the Court to be aware that I'm
5 contrite in my actions and I understand the pain that I've
6 caused.

7 Through my actions, I've harmed the reputation of my
8 honorable family, but more importantly, Your Honor, I've harmed
9 sincere and innocent people. At this moment and every moment
10 hence, my life's only goal is to recompense those that I have
11 harmed. I've already undertaken a few steps that hopefully
12 will result in starting the process of paying back in full the
13 dollar amounts I have cost these individuals, including those
14 who are present in the court today.

15 I have authored one book, and I'm in the process of
16 finishing another. Through my attorney, Mr. Gerometta, we will
17 set up a system that ensures that all compensation received
18 after the costs that the publisher assesses will be steered to
19 my victims.

20 I also look forward to the day I shall be released
21 from incarceration so that I can devote all my time toward
22 settling the debt that I have incurred through this fraud.

23 I acknowledge and accept that the judicial system
24 has to find a balance between future deterrence and punishment.

25 I wish to convey to you and the Court, my actions

Sentencing Hearing
December 11, 2014

1 have resulted in the dissolution of my marriage, brought shame
2 to my family, and above all, brought undue harm to my victims.
3 This alone serves, and will continue to serve, as absolute
4 deterrence and ensure that my present and future behavior is
5 sound and conciliatory.

6 I'm saddened, hurt and remorseful of the fact that
7 my grievous actions have brought me here to stand before you.

8 I would like to thank the Federal Defender Office,
9 and Mr. Gerometta in particular, for helping me through this
10 process, and I'd like to thank the office of the A.U.S.A.,
11 Ms. Shaw, the FBI, Special Agent Troccoli, and the office of
12 the IRS for being professional and fair in their treatment of
13 my case over time, and I'd like to thank you.

14 THE COURT: Thank you, Mr. Uppal.

15 Well, the guidelines in this case are 57 to 71
16 months, and the plea agreement caps that at the middle of the
17 guideline range which would be 64 months. Guidelines are
18 advisory, they're not mandatory.

19 The Court is directed under 18 U.S.C. Section
20 3553(a) to impose a sentence that's sufficient but not greater
21 than necessary to achieve the statutory objectives. The
22 Court's directed to consider the nature and circumstance of the
23 offense and the history and characteristics of the defendant.

24 In this case, Mr. Uppal committed numerous acts of
25 fraud over a ten-year period of time where he gained investors'

Sentencing Hearing
December 11, 2014

1 trust and stole almost \$4 million. He secured investments with
2 paperwork, cut and pasted from legal websites and other
3 investment paperwork. At no time was his operation legal, but
4 he was able to convince people to invest with him on a
5 continuing basis without their knowing that their money was not
6 secure and would never be returned.

7 [REDACTED]
8 [REDACTED]
9 [REDACTED].

10 The second factor is the seriousness of the offense,
11 to promote respect for the law, and to provide just punishment
12 for the offense. To me, that is what the guidelines attempt to
13 do in evaluating the offense characteristics and the criminal
14 history. This is his first offense, but fraud of this nature
15 has placed, and in this particular case, places numerous
16 victims in extremely perilous circumstances, people toward the
17 end of their lives who have no money left and are faced with
18 financial ruin, and understandably worry about how they're
19 going to cope with the difficulties of their senior years,
20 their increasing health problems and costs. He's taken all
21 their security from them.

22 The next two factors are personal and societal
23 deterrence, deterrence to others from committing this type of
24 crime, and to protect the public from further crimes of the
25 defendant. He expresses remorse now, but this went on for a

Sentencing Hearing
December 11, 2014

1 long time with a lot of manipulation of a lot of people right
2 up to the time where he had the good fortune to connect with
3 Mr. Gerometta, who was able to shepherd him through the end of
4 this.

5 And the other factors are to provide the defendant
6 with needed educational or vocational training, et cetera.

7 Well, I accepted the Rule 11 which means I accept
8 the guideline range and I accept the cap, but, to me, I see
9 absolutely no reason under the statutory factors to vary below
10 that, and it seems to me that a sentence in the middle of the
11 guideline range, which is recommended by the government and
12 agreed to in the Rule 11, is the appropriate sentence in this
13 case.

14 So on Count 1 of the Information, pursuant to the
15 Sentencing Reform Act of 1984, the Court, considering the
16 sentencing guidelines and factors contained in 18 U.S.C.
17 Section 3553(a) hereby commits the defendant to the custody of
18 the Bureau of Prisons for a term of 64 months. Upon release
19 from imprisonment, defendant shall be placed on supervised
20 release for a term of 36 months; three years.

21 It is further ordered that the defendant pay a
22 special assessment of \$100 which will be due immediately, and
23 that defendant pay restitution in the amount of \$3,867,187.

24 The Court waives the imposition of a fine, the costs
25 of incarceration and the costs of supervision due to the

Sentencing Hearing
December 11, 2014

1 defendant's lack of financial resources.

2 While in custody, defendant shall participate in the
3 Inmate Financial Responsibility Program. The Court is aware of
4 the requirements of the program and approves the payment
5 schedules of this program, and hereby orders the defendant's
6 compliance.

7 Mandatory drug testing is suspended. The Court
8 doesn't see any need for that.

9 While on supervision, defendant shall abide by the
10 standard conditions adopted by this Court, and with the
11 following special conditions. Defendant shall not incur any
12 new credit charges or open additional lines of credit without
13 the approval of the probation officer. Defendant shall provide
14 the probation officer access to any requested financial
15 information, and defendant shall make monthly installment
16 payments on any remaining balance of the restitution and
17 special assessment at a rate and schedule recommended by the
18 probation department and approved by the Court.

19 Mr. Uppal, I do not think you have the right to
20 appeal the sentence since it is within the guideline range and
21 the Rule 11 agreement. To the extent that there's any issue
22 you wish to raise on appeal, that would have to be done within
23 14 days.

24 Government have a position on remand?

25 MS. SHAW: I am not seeking remand at this time. I

Sentencing Hearing
December 11, 2014

1 understand he is in compliance with his --

2 THE COURT: All right. I'll let you remain on bond
3 pending notice from the Bureau of Prisons of when and where
4 you're to report. If you find that you cannot get there on
5 your own, you're to let Mr. Gerometta know so he can arrange
6 for transportation through the marshals service, and I wish you
7 good luck.

8 MS. SHAW: Your Honor, we would move to dismiss
9 Count 2 of the Information.

10 THE COURT: Granted.

11 MR. GEROMETTA: And Your Honor, on behalf of
12 Mr. Uppal, we had asked for a recommendation to a medical
13 center in my sentencing memo because he has a serious flareup
14 of his lung condition that happens seasonally. I think he'd be
15 a good orderly at a medical center, but also be close when that
16 serious lung condition flares up. I have some concerns if he's
17 not by a good medical treatment.

18 THE COURT: I will mention in the Judgment and
19 Commitment Order that a medical center seems like an
20 appropriate placement, but as you know, I have no final say on
21 that.

22 MR. GEROMETTA: I understand that, Judge.

23 MS. SHAW: I would ask the Court to inquire of
24 defendant if there's no Bostic issue.

25 MR. GEROMETTA: No Bostic objections.

Sentencing Hearing
December 11, 2014

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THE COURT: Thank you, counsel. Thank you.
(Proceedings concluded.)

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C E R T I F I C A T I O N

I, Suzanne Jacques, Official Court Reporter for the United States District Court, Eastern District of Michigan, Southern Division, hereby certify that the foregoing is a correct transcript of the proceedings in the above-entitled cause on the date set forth.

s:_____

Suzanne Jacques, RPR, RMR, CRR, FCRR
Official Court Reporter
Eastern District of Michigan

- - -

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16708

In the Matter of

SACHIN K. UPPAL,

Respondent.

DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN SUPPORT OF
ITS MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT SACHIN K. UPPAL

EXHIBIT I

1 APPEARANCES:

2
3 On behalf of the Securities and Exchange Commission:

4 JERROLD H. KOHN, ESQ.

5 JOHN E. BIRKENHEIER, ESQ.

6 Securities and Exchange Commission

7 Chicago Regional Office

8 175 West Jackson Blvd., Suite 900

9 Chicago, IL 60604

10
11 On behalf of the Respondent (via telephone):

12 SACHIN K. UPPAL, PRO SE

13
14 Also Present:

15 Fred Caramano, OIP Case Manager

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251 to the order instituting proceedings will be due on
2 Monday, August 24th, because the rules provide that if
3 you are personally served, you get 20 days to respond to
4 it. Does that make sense?

5 MR. UPPAL: It does, yes.

6 JUDGE GRIMES: Very good.

7 Mr. Kohn, is there any discussions about
8 settlement that I need to know about?9 MR. KOHN: Not at this point, but we are
10 certainly amenable to discussing it.11 JUDGE GRIMES: Certainly. I just want to know
12 if the parties want to discuss that while I am on the
13 line. That's fine with me, of course.14 Mr. Uppal, if you haven't already done so, and
15 I don't know what your ability to do this is, but I
16 recommend that you see if you can get a hold of the Rules
17 of Practice, which are available on the Commission's
18 website, because those are the rules that we are going to
19 follow in this case. The Division of Enforcement is
20 going to follow them. I am going to follow them, so you
21 will need to follow them, as well.22 It will tell you how things will work, what
23 form papers should be filed in. And what a lot of people
24 don't realize is, when you submit something to me, which
25 you do by sending it to secretary's office, you also need

1 PROCEEDINGS

2 JUDGE GRIMES: Today is Monday, August 10th,
3 2015. We are holding a telephonic pre-hearing conference
4 in the matter of Sachin Uppal. This is Securities And
5 Exchange Administrative Proceeding File No. 3-16706.6 My name is James Grimes and I am the
7 administrative law judge assigned to preside in this
8 matter. Could I have appearances of counsel for the
9 Division of Enforcement.

10 MR. KOHN: Yes, Jerrold Kohn, senior counsel.

11 MR. BIRKENHEIER: And John Birkenheier.

12 JUDGE GRIMES: Thank you, gentlemen.

13 Mr. Uppal, am I correct you are not represented
14 by counsel at this time?

15 MR. UPPAL: That is correct.

16 JUDGE GRIMES: What we are going to do, Mr.
17 Uppal, is talk about how your case is going to be
18 handled. And if you don't follow anything that's being
19 said, please speak up and ask. I want to make sure that
20 you understand what's going on. Is that clear?

21 MR. UPPAL: That's fine, yes.

22 JUDGE GRIMES: Very good. Now, Mr. Kohn has
23 supplied evidence that the order instituting proceedings
24 was personally served on Mr. Uppal on August 4th.

25 So, Mr. Uppal, what that means is your answer

1 to send copies of it to Mr. Kohn.

2 MR. UPPAL: Okay.

3 JUDGE GRIMES: So he receives it. He will do
4 the same. He will send things to the Commission and he
5 will send a copy to you, so that everybody is operating
6 on the same page. Does that make sense?

7 MR. UPPAL: It does, yes.

8 JUDGE GRIMES: Mr. Kohn, do you have any
9 comments about that?

10 MR. KOHN: No, sir.

11 JUDGE GRIMES: All right. Now, normally, what
12 I do at this point, I see if the parties would be
13 amenable to serving each other by mail, but I am going to
14 assume, Mr. Uppal, that you don't have access to e-mail,
15 is that right?16 MR. UPPAL: I have e-mail, but not the ability
17 to open any attachments or anything, so it is just
18 text-based mail.19 JUDGE GRIMES: Then we will all serve each
20 other in the regular course by U.S. mail.21 I want to make something clear, Mr. Uppal,
22 because a lot of people in your position don't realize
23 this, but I don't review the district court's verdict in
24 your case.

25 What that means is, you may not agree with what

1 happened or you may agree, I don't know, before the
2 District Court, but you cannot attack the District
3 Court's judgment before me.

4 If you want to do that, that's something you
5 need to do with the Court of Appeals. I want to make
6 sure that will sort of save you some time in your
7 efforts. Now, cases of this nature are normally, though
8 not always, handled by motion, so what I would propose to
9 do is set a schedule for filing motions for summary
10 disposition.

11 As I said, Mr. Uppal's answer would be due on
12 August 24th. So what I propose to do is set the schedule
13 based upon when the answer is due, and so give the
14 Division of Enforcement four weeks to file a motion for
15 summary disposition, which would make its motion due on
16 September 21st, 2015.

17 And then Mr. Uppal could file an opposition
18 four weeks later, which will be Monday, October 19th.

19 So I will ask, Mr. Kohn, how does that schedule
20 sound to you?

21 MR. KOHN: That is fine, Your Honor.

22 JUDGE GRIMES: Mr. Uppal, how does that
23 schedule sound to you?

24 MR. UPPAL: That sounds fine. Basically, my
25 job is to respond to the two issues that were -- or three

1 want to ask that you take official notice of the
2 conviction.

3 JUDGE GRIMES: Right. Here is how I would like
4 to handle that. I would like you to submit whatever
5 evidence you think is going to be necessary to support.
6 I assume you are going to be asking for a collateral bar,
7 and whatever evidence you think will be necessary to
8 support that.

9 Now, of course, I will need the charging
10 document and the judgment, but in order to go through the
11 analysis required by case law, I would suggest that you
12 also supply me with whatever evidence is out there, like
13 a plea colloquy, sentencing memoranda or evidence on
14 which the District Court relied, a sentencing hearing
15 transcript, stipulations, anything incorporated in the
16 judgement by reference. Basically, the more you submit,
17 the more likely it is or the better chance you have of me
18 granting a motion for summary disposition.

19 So you need to submit more than simply the
20 charging document and judgment, but certainly those are
21 things that I could take judicial notice of. And if you
22 submit them, if you supply them to me, I would most
23 likely do so. Does that make sense?

24 MR. KOHN: Yes, it does.

25 JUDGE GRIMES: Mr. Uppal, let me say this: If

1 points that were alleged in -- give me one second,
2 please.

3 JUDGE GRIMES: It is called the order
4 instituting proceedings.

5 MR. UPPAL: Right, so I want to, in Section 2,
6 after the investigation, the Division of Enforcement
7 alleges, and then there are three -- there is one that
8 describes where I am. And then Section B has the
9 criminal background issue, and then Section 3 talks about
10 what the alleged -- what the SEC is alleging, that I
11 executed a scheme to obtain money and so forth.

12 JUDGE GRIMES: Right. Let me just cut you off,
13 and then you can ask a question, but I think I may be
14 able to address where you are going. What Mr. Kohn is
15 going to try and do is demonstrate the facts are such
16 that there is no need to have a hearing in this case, and
17 that I can issue a decision based simply on the evidence
18 and the papers that he is going to present. So in
19 responding to whatever he is going to say, yes, you will
20 have to address those allegations.

21 MR. UPPAL: Correct.

22 JUDGE GRIMES: Mr. Kohn, do you have any
23 comment about that?

24 MR. KOHN: No, Your Honor, other than I don't
25 know if this is the appropriate time or not, but we would

1 you file an opposition, then the Division will then file
2 a reply to your opposition, and that would be due on
3 November 2nd. Mr. Uppal, you can also file your own
4 affirmative motion for summary disposition, if you want
5 to. You don't have to. All you have to do is respond to
6 the Division's motion. But if you wanted to do that,
7 then you would follow the same schedule that I was
8 talking about with the initial --

9 MR. UPPAL: And I also understood at this
10 moment we are setting up a schedule and agenda, but would
11 the prosecution be able to discuss with me today what is
12 it they are seeking in terms of either fines or punitive?
13 Would I have an idea what that is going to be today?

14 JUDGE GRIMES: Go ahead, Mr. Kohn. You can
15 respond to that.

16 MR. KOHN: Yes, we will be seeking a collateral
17 bar. We won't be seek any monetary penalties. I think
18 those were assessed in the criminal case.

19 MR. UPPAL: Okay.

20 JUDGE GRIMES: Do you understand what a
21 collateral bar is, Mr. Uppal?

22 MR. UPPAL: Not clearly. Please, define, yes.

23 JUDGE GRIMES: Go ahead, Mr. Kohn.

24 MR. KOHN: Yes. It is basically a bar from the
25 securities industry, from being a broker, what we call a

1 broker dealer, investment advisor, or being affiliated
 2 with an investment advisor, an investment company, a
 3 municipal securities dealer. It is all of those things,
 4 basically, all the different industries that we regulate.
 5 MR. UPPAL: Would this be a lifetime bar?
 6 MR. KOHN: Yes, it would.
 7 MR. UPPAL: I see. So if the restitution
 8 amount were paid, would I have any rights then to ask the
 9 Commission to look at it again?
 10 MR. KOHN: I believe you could always reapply.
 11 MR. UPPAL: Okay.
 12 JUDGE GRIMES: It would be up to the Commission
 13 to decide. First off, the Division of Enforcement is
 14 going to have to convince me that a lifetime bar is what
 15 you should receive. If they do that and I issue that,
 16 then you would have the opportunity to appeal to the
 17 Commission itself. And if the Commission agrees, then
 18 that's the order they would issue. But at some point in
 19 the future, if you wanted to reapply, you could do so.
 20 MR. UPPAL: Okay. Great. So this is not a
 21 finality. This is the -- you, as the administrative
 22 judge, you will actually weigh my response with what Mr.
 23 Kohn submits, and then you would judge to see if a
 24 lifetime or maybe banned for a few years or something to
 25 that effect.

1 JUDGE GRIMES: That's correct, and then you
 2 have the opportunity to appeal to the Commission.
 3 MR. UPPAL: Okay. Understood. All right.
 4 JUDGE GRIMES: Okay. Mr. Uppal, do you have
 5 any other questions at this point?
 6 MR. UPPAL: No, at this moment. So what I
 7 would like to do is then file the summary disposition in
 8 the affirmative, but I guess before I do that, I would
 9 need to read what Mr. Kohn has presented.
 10 JUDGE GRIMES: Okay. So what Mr. Kohn files,
 11 you can respond to that yourself. You can respond to
 12 that, but if you want to affirmatively file something,
 13 affirmatively say that you are entitled to summary
 14 disposition, then you are not going to be able to see
 15 what he has to say firsthand. He will be responding to
 16 your affirmative motion.
 17 MR. UPPAL: Okay.
 18 JUDGE GRIMES: So you will have to decide how
 19 you want to handle that.
 20 MR. UPPAL: Okay.
 21 JUDGE GRIMES: Now, I don't know, there was
 22 some mention of the possibility of settlement, so if the
 23 two parties want to discuss that after I adjourn this
 24 conference call, you all can stay on the phone. I will
 25 let you decide. Obviously, it doesn't matter to me.

1 But I just want to make sure there isn't
 2 anything else you need me on the phone to discuss.
 3 So, Mr. Uppal, is there anything else you would
 4 like to discuss at this point?
 5 MR. UPPAL: Yes, just one procedural question.
 6 When I do file a response, is there a particular form I
 7 need to get? I know in the rule book that was sent to
 8 me, they site a couple of forms. So would you be able to
 9 tell me?
 10 JUDGE GRIMES: There is not a particular form,
 11 except you have to use 8-1/2 by 11 inch paper, regular
 12 size paper. There is not an actual form that's used to
 13 respond.
 14 MR. UPPAL: Okay.
 15 JUDGE GRIMES: Mr. Kohn, do you have anything
 16 else that you would like to address?
 17 MR. KOHN: One other item, Your Honor. I just
 18 want to state on the record that, in accordance with the
 19 rules, we have made our investigative file available to
 20 Mr. Uppal. We sent him a letter to that effect.
 21 Our file, investigative file, basically,
 22 consists of, other than privileged documents, basically,
 23 the filings in the criminal case and some statements that
 24 Mr. Uppal gave to the FBI.
 25 JUDGE GRIMES: I appreciate you putting that on

1 the record. I forgot to ask about that, so thank you.
 2 Mr. Uppal, do you have anything else you would
 3 like to talk about at this time?
 4 MR. UPPAL: No. Well, excuse me, I would like
 5 to take that statement back.
 6 The investigative file, can I make a request
 7 for it? And then Mr. Kohn will inform me what the
 8 charges are to receive that file? Is that how that
 9 works?
 10 MR. KOHN: Yes, it does.
 11 MR. UPPAL: All right. Okay.
 12 JUDGE GRIMES: Okay. Well, unless there is
 13 anything else the parties would like to address, I will
 14 adjourn the matter.
 15 Let me make sure. Mr. Kohn, do you have
 16 anything else you want to talk about?
 17 MR. KOHN: No, Your Honor.
 18 JUDGE GRIMES: Mr. Uppal, anything else you
 19 would like to discuss?
 20 MR. UPPAL: No, Your Honor.
 21 JUDGE GRIMES: I want to thank everyone for
 22 your time and I wish everyone a good day. This matter is
 23 adjourned.
 24 (Whereupon, at 2:43 p.m., the pre-hearing
 25 conference was concluded.)

1 PROOFREADER'S CERTIFICATE
2
3 In the Matter of: SACHIN K. UPPAL
4 ADMINISTRATIVE PROCEEDINGS - PRE-HEARING CONFERENCE
5 File Number: 3-16706
6 Date: Monday, August 10, 2015
7 Location: Chicago, IL 60604
8

9 This is to certify that I, Donna S. Rayn,
10 (the undersigned), do hereby swear and affirm that the
11 attached proceedings before the U.S. Securities and
12 Exchange Commission were held according to the record and
13 that this is the original, complete, true and accurate
14 transcript that has been compared to the reporting or
15 recording accomplished at the hearing.
16

17 _____
18 (Proofreader's Name) (Date)
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