

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-16339

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In the Matter of :
:
JOHN BRINER, ESQ., et al. :
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**DIVISION OF ENFORCEMENT’S NOTICE OF ADDITIONAL
AUTHORITY AS TO RESPONDENT DIANE DALMY**

In further support of its opposition to the appeal of respondent Diane Dalmy (“Dalmy”) of the administrative law judge’s initial decision in this case dated September 18, 2015 (ratified January 26, 2018), the SEC Division of Enforcement (“Division”) respectfully submits this notice of additional authority, regarding Dalmy’s recent criminal history. In our December 23, 2015 opening brief in opposition to Dalmy’s appeal, we referred to Dalmy’s prior regulatory history as one factor supporting the imposition of strong sanctions against her in this case. Dalmy’s additional recent criminal history, described below, further supports the Division’s argument.

On May 15, 2018, the Court in *United States v. Dalmy*, 18-cr-21 (JAM) (D. Conn.), sentenced Dalmy to thirty-six months imprisonment and ordered her to pay \$2 million in restitution based on her February 6 guilty plea to one count of conspiracy to commit wire fraud charged in the Government’s information in that case. (Exhibits 1-5, attached hereto).¹ As part of Dalmy’s plea agreement, Dalmy stipulated to certain conduct that gave “rise to [Dalmy’s]

¹Dalmy’s restitution liability is joint and several with five other related defendants. (Exhibit 3 at p. 87; Exhibit 5 at p. 1.)

agreement to plead guilty to the information,” including the following:

The defendant [Dalmy] was an attorney who was licensed to practice law in Colorado and who specialized in securities law. The defendant served as securities counsel for, and otherwise performed securities-related legal work on behalf of, several public companies, including Mammoth Energy Group, Inc. (“Mammoth”), a company that later became known as Strategic Asset Leasing Inc. (“Lease”); and Fox Petroleum, Inc. (“Fox”) (collectively, the “Subject Companies”).

Between approximately January 2009 and July 2016, the defendant knowingly and willfully conspired with others to execute a wire fraud scheme to defraud investors who purchased stock issued by the Subject Companies. The defendants' co-conspirators included William Lieberman and, later, Christian Meissenn. During the course of the conspiracy, the defendant acted largely at Lieberman's direction.

The defendant knew and understood that the Subject Companies were under the control of Lieberman and others. The defendant knew or should have known that Lieberman, Meissenn, and others (the “Co-Conspirators”) had been and were running fraudulent stock promotions for the Subject Companies. In a typical promotion, the Co-Conspirators disseminated materially false, positive information about one or more of the Subject Companies through press releases, email marketing blasts, hardcopy mailers, and telephone solicitations, as well as by incorporating the misleading information into the company's public filings. After the hype led to artificially-inflated share prices for the company's stock, the Co-Conspirators sold their own large positions in the stock at a profit. They then ended the promotion and allowed the share price to plummet, leaving investors holding worthless and unsalable stock. The defendant never owned or sold any stock in any of the Subject Companies.

The defendant participated in the conspiracy by writing, and permitting Lieberman to write in her name, fraudulent opinion letters that were used to unrestrict the Co-Conspirators' stock so that the stock could be freely traded on the open market (without having to register the stock with the Securities and Exchange Commission). These letters were intended to, and did, permit the Co-Conspirators to sell their shares at times of their choosing, including to coincide with their fraudulent stock promotion campaigns, without concern for the time restrictions, notice requirements, and other provisions of the federal securities laws and regulations, and in particular 17 C.F.R. § 230.144 (also known as “Rule 144”). The defendant's opinion letters were materially false in various respects, including as to whether the issuing company was a shell company, whether the shareholder was an affiliate of the issuer, whether the transactions described in the letters actually had occurred, and whether the defendant had performed the due diligence that she described in the letters.

The defendant also ghost-wrote fraudulent opinion letters for the Subject Companies in another attorney's name (referred to in the information as "Attorney 1"), and permitted Lieberman to do so. These included four "adequacy" letters that were posted on a website maintained by an electronic securities marketplace in 2010. In general, an "adequacy" letter accompanies a public filing by an issuer and states that, after appropriate investigation, it is the authoring attorney's opinion that adequate current information about the issuer is publicly available for investors to review. Hence, this type of opinion letter might be relied upon by investors in making their discretionary investment decisions. In certain instances, the defendant ghost-wrote letters that Attorney 1 placed onto his letterhead and signed. In one other instance, the defendant and Lieberman wrote the opinion letter in Attorney 1's name without the knowledge and consent of Attorney 1. In all instances, the letters were materially false in various respects, including as to whether the issuing company was a shell company, whether the defendant (or Attorney 1) had performed the due diligence described in the letters, and whether adequate current information about the issuer was publicly available for investors to review.

The defendant also participated in the conspiracy by providing the Co-Conspirators with capital. The defendant provided the capital based on the ongoing requests of the Co-Conspirators. The defendant knew or should have known that the Co-Conspirators would not use these funds for legitimate purposes. The defendant provided the capital by advancing money from her Lawyer Trust Account ("IOLTA"). These funds belonged to other clients of the defendant's law practice. The clients did not know that their funds had been advanced to the Co-Conspirators by the defendant.

Finally, between February 2015 and July 2016, the defendant also laundered a portion of the proceeds of the wire fraud scheme on behalf of the Co-conspirators. The defendant helped Lieberman to incorporate and open bank accounts for a private company, Queen Asia Pacific Ltd. ("Queen Asia"), which was controlled by Lieberman. These bank accounts were used to receive proceeds of the scheme from a brokerage account in Queen Asia's name. The defendant knew or should have known that the money received in Queen Asia's bank accounts was the proceeds of a stock promotion scheme. The defendant periodically received money in Queen Asia's bank accounts, transferred those funds to her IOLTA, and then transferred the funds again to Lieberman, Meissenn, and others at Lieberman's instruction. As the defendant knew and understood, this two-step process helped to conceal the source and recipients of the funds. In total, the defendant laundered approximately \$825,000 on behalf of the Co-Conspirators through Queen Asia's bank accounts and the defendant's IOLTA. The defendant's total gain from her participation in the conspiracy, and related legal work for the Subject Companies, was approximately \$30,000 over more than seven years.

As described in the information, in furtherance of the underlying wire fraud scheme, the defendant and the Co-Conspirators sent and caused to be sent interstate wires, including emails, telephone calls, and money wires into and out of Connecticut from other states. Moreover, the defendant or one of the Co-Conspirators knowingly committed the overt acts charged in the information and did so in order to further the object of the conspiracy.

(Exhibit 1, Dalmy February 6, 2018 plea agreement, at pp. 11-13.)

At Dalmy's February 6, 2018 plea hearing, Dalmy further admitted the following:

THE DEFENDANT: . . . I agreed with Lieberman to engage in conduct to defraud investors, including by authorizing false opinion letters that falsely unrestricted stock that could be sold as part of the stock promotion scheme and that falsely verified issuing companies' disclosures. In so doing, I deprived investors of information that I understood was material to their economic decision-making.

THE COURT: I see. Okay. And so did you know what you were doing was wrong?

THE DEFENDANT: Yes, Your Honor.

(Exhibit 2, excerpts of February 6, 2018 plea hearing transcript, at p. 30.)

At Dalmy's May 15, 2018 sentencing hearing, Judge Meyer explained at length the reasons for imposing a three-year prison sentence, citing factors both favorable and unfavorable to Dalmy. Addressing his remarks directly to Dalmy, Judge Meyer included the following unfavorable statements:

- “the enormity . . . of times and amounts that you crossed the line from being a lawyer to being a crook when you started essentially making up and ghostwriting opinions and when you started treating the process in the cavalier way that you did that's reflected in so many of the emails and other communications of record here”;
- “across the board in so many ways, you failed your profession as a lawyer. And did so in a criminal way with respect to the attorney opinions, with respect to getting the investor lists, with respect to areas that you had peculiar knowledge about from your securities background, which makes it much harder for me to understand and believe and credit your

suggestions that you didn't understand the implications of the consequences of empowering a Lieberman and a Meissenn to do what they would end up doing”;

- “The intrusions and violations of your trust account, really, there can be no excuse for that. And I also credit essentially [Government] Attorney Perry's interpretation of why you did that with respect to the Queen Asia amounts that you -- and I do think it was laundered money, \$825,000, and years, really, after you had a chance to kind of reconsider the way you'd been doing things with Lieberman. And it seems like you just took up where you left off in 2015 and 2016 to do what you did”;
- “I also -- we've talked a lot about the victims. So many victims. I appreciate the fact that you want to write a letter to each of them, but there's almost 10,000 victims overall in the case. I hope you've spent time looking at many of the victim impact statements that go into the reasons, and they talk very movingly about the personal financial challenges that they're now in because of what you and your colleagues did. People who are nearing retirement, as you are, now 100,000-plus, some of them, in the hole with people and their families who are medically needy. There's really no way to understate that, I think, in terms of the harm that you did in the case”;
- “And you know, attorneys in these cases, you must know by now, they're the gatekeeper. They're supposed to be the guardian that stops the Liebermans and the Meissenns of the world from plundering the public and the gullible investor. It's the attorney that puts their name on an opinion letter that gets involved. Time and again victims look at that and say, 'Well, there's an attorney involved, it's probably on the up and up.' It gives them the confidence. I just can't imagine that you didn't know that from the start”;
- “The concerns I have go beyond just your dealings with Lieberman that the government has shown, in terms of your dealings with other cases where you were cutting corners and not stopping at stop signs, even when the OTC tells you something as plain as we think Mammoth is a shell company. I think you knew that.”

(Exhibit 3, excerpts of Dalmy sentencing transcript, at pp. 80-83).

For the foregoing reasons, as well as those set forth in the Division's December 23, 2015 opposition brief and May 3, 2018 supplemental brief, the Division respectfully requests that the Commission issue an Order affirming the ALJ's Initial Decision in this proceeding.

Respectfully submitted,

Dated: May 24, 2018



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Jason W. Sunshine, Esq.
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EXHIBIT 1



FILED
U.S. Department of Justice
2018 FEB - 6 P. 3: 33
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February 6, 2018

Daniel E. Wenner, Esq.
Day Pitney LLP
242 Trumbull Street
Hartford, CT 06103

Re: United States v. Diane Dalmy
Case No. 3:18CR 2 | (JAM)

Dear Attorney Wenner:

This letter confirms the plea agreement between your client, Diane Dalmy (the "defendant"), and the United States Attorney's Office for the District of Connecticut (the "Government") concerning the referenced criminal matter.

THE PLEA AND OFFENSE

The defendant agrees to waive her right to be indicted and to plead guilty to a one-count information charging a violation of 18 U.S.C. § 371.

The defendant understands that, to be guilty of this offense, the following essential elements of the offense must be satisfied:

1. An unlawful agreement existed between two or more individuals to commit wire fraud, in violation of 18 U.S.C. § 1343;
2. The defendant knowingly and willfully entered that conspiracy;
3. One of the members of the conspiracy knowingly committed at least one of the overt acts charged in the information; and
4. The overt acts were committed to further some objective of the conspiracy.

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THE PENALTIES

Imprisonment

This offense carries a maximum penalty of five years of imprisonment.

Supervised Release

In addition, the Court may impose a term of supervised release of not more than three years to begin after any term of imprisonment. 18 U.S.C. § 3583.

The defendant understands that, should she violate any condition of supervised release, she may be required to serve a further term of imprisonment of up to two years per violation pursuant to 18 U.S.C. § 3583 with no credit for time already spent on supervised release.

Fine

This offense carries a maximum fine of \$250,000. The defendant is also subject to the alternative fine provision of 18 U.S.C. § 3571. Under this section, the maximum fine that may be imposed on the defendant is the greatest of the following amounts: (1) twice the gross gain to the defendant resulting from the offense; (2) twice the gross loss resulting from the offense; or (3) \$250,000.

Special Assessment

In addition, the defendant is obligated by 18 U.S.C. § 3013 to pay a special assessment of \$100 on the count of conviction. The defendant agrees to pay the special assessment to the Clerk of the Court on the day the guilty plea is accepted.

Restitution

In addition to the other penalties provided by law, the Court must also order that the defendant make restitution under 18 U.S.C. § 3663A, and the Government reserves its right to seek restitution on behalf of victims consistent with the provisions of § 3663A. The scope and effect of the order of restitution are set forth in the attached Rider Concerning Restitution. Restitution is payable immediately unless otherwise ordered by the Court.

The defendant reserves her right to argue that the Court should apportion restitution between her and any other defendants convicted of participating in the underlying wire fraud scheme, pursuant to 18 U.S.C. § 3664(h). The Government reserves the right to take whatever position it deems appropriate as to apportionment. The defendant understands that if the Court denies her application

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for apportionment under 18 U.S.C. § 3664(h), she will not be entitled to withdraw her plea of guilty.

Interest, penalties and fines

Unless otherwise ordered, should the Court impose a fine or restitution of more than \$2,500 as part of the sentence, interest will be charged on the unpaid balance of the fine or restitution not paid within 15 days after the judgment date. 18 U.S.C. § 3612(f). Other penalties and fines may be assessed on the unpaid balance of a fine or restitution pursuant to 18 U.S.C. § 3572(h), (i) and § 3612(g).

THE SENTENCING GUIDELINES

Applicability

The defendant understands that the Court is required to consider any applicable Sentencing Guidelines as well as other factors enumerated in 18 U.S.C. § 3553(a) to tailor an appropriate sentence in this case and is not bound by this plea agreement. The defendant agrees that the Sentencing Guideline determination will be made by the Court, by a preponderance of the evidence, based upon input from the defendant, the Government, and the United States Probation Office. The defendant further understands that she has no right to withdraw her guilty plea if her sentence or the Guideline application is other than she anticipated, including if the sentence is outside any of the ranges set forth in this agreement.

Acceptance of Responsibility

At this time, the Government agrees to recommend that the Court reduce by two levels the defendant's adjusted offense level under § 3E1.1(a) of the Sentencing Guidelines, based on the defendant's prompt recognition and affirmative acceptance of personal responsibility for the offense. Moreover, should the defendant qualify for a decrease under § 3E1.1(a) and her offense level determined prior to the operation of subsection (a) is level 16 or greater, the Government will file a motion with the Court pursuant to § 3E1.1(b) which recommends that the Court reduce the defendant's Adjusted Offense Level by one additional level based on her prompt notification of her intention to enter a plea of guilty. The defendant understands that the Court is not obligated to accept the Government's recommendations on the reductions.

The above-listed recommendations are conditioned upon the defendant's affirmative demonstration of acceptance of responsibility, by (1) truthfully admitting the conduct comprising the offense(s) of conviction and truthfully admitting or not falsely denying any additional relevant conduct for which the defendant is accountable under § 1B1.3 of the Sentencing Guidelines, and (2)

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truthfully disclosing to the United States Attorney's Office and the United States Probation Office personal information requested, including the submission of a complete and truthful financial statement detailing the defendant's financial condition. The defendant expressly authorizes the United States Attorney's Office to obtain a credit report concerning the defendant.

In addition, the Government expressly reserves the right to seek denial of the adjustment for acceptance of responsibility if the defendant engages in any acts, unknown to the Government at the time of the signing of this agreement, which (1) indicate that the defendant has not terminated or withdrawn from criminal conduct or associations (§ 3E1.1 of the Sentencing Guidelines); (2) could provide a basis for an adjustment for obstructing or impeding the administration of justice (§ 3C1.1 of the Sentencing Guidelines); or (3) constitute a violation of any condition of release. Moreover, the Government reserves the right to seek denial of the adjustment for acceptance of responsibility if the defendant seeks to withdraw her guilty plea or takes a position at sentencing, or otherwise, which, in the Government's assessment, is inconsistent with affirmative acceptance of personal responsibility. The defendant understands that she may not withdraw her plea of guilty if, for the reasons explained above, the Government does not make one or both of the recommendations or seeks denial of the adjustment for acceptance of responsibility.

Stipulation

Pursuant to § 6B1.4 of the Sentencing Guidelines, the defendant and the Government have entered into the attached stipulation, which is a part of this plea agreement. The defendant understands that this stipulation does not set forth all of the relevant conduct and characteristics that may be considered by the Court for purposes of sentencing. The defendant understands that this stipulation is not binding on the Court. The defendant also understands that the Government and the United States Probation Office are obligated to advise the Court of any additional relevant facts that subsequently come to their attention.

Guideline Stipulation

The parties agree as follows:

The Guidelines Manual in effect on the date of sentencing is used to determine the applicable Guidelines range.

The parties agree that the defendant's base offense level under U.S.S.G. § 2B1.1(a)(2) is 6, and that a two-level enhancement applies under U.S.S.G. § 3B1.3 based on the defendant's abuse of a position of trust and/or her use of a special skill.

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In addition, the Government takes the position that the actual loss resulting from the offense that was reasonably foreseeable to the defendant was \$10,725,254 and, hence, that a 20-level enhancement applies under U.S.S.G. § 2B1.1(b)(1)(K). The defendant reserves the right to oppose the Government's loss calculation and to advocate for any alternate measure of loss she believes the Court should adopt.

The Government also takes the position that two levels should be added because the offense involved 10 or more victims and/or was committed through mass marketing, U.S.S.G. § 2B1.1(b)(2)(A), and that an additional two-level enhancement applies because the offense involved sophisticated means, U.S.S.G. § 2B1.1(b)(10). The defendant reserves the right to oppose either or both of these enhancements.

The parties agree that three levels are subtracted under U.S.S.G. § 3E1.1 for acceptance of responsibility, as noted above.

The Government thus calculates the defendant's total offense level to be 29. The defendant reserves the right to oppose the Government's total offense level calculation and to advocate for any alternate calculation she believes the Court should adopt.

Based on an initial assessment, the parties agree that the defendant falls within Criminal History Category I. The parties reserve the right to recalculate the defendant's Criminal History Category and corresponding sentencing ranges if this initial assessment proves inaccurate.

A total offense level of 29 (as calculated by the Government), assuming a Criminal History Category I, would result in a range of 87 to 108 months of imprisonment (sentencing table) and a fine range of \$30,000 to \$250,000, U.S.S.G. § 5E1.2(c)(3). However, because the statutory maximum sentence for the offense of conviction is 60 months of imprisonment, the defendant's effective Guidelines sentence is 60 months of imprisonment (under the Government's calculation). U.S.S.G. § 5G1.1(a).

The defendant is also subject to a supervised release term of one year to three years. U.S.S.G. § 5D1.2.

The defendant understands that the Court is not bound to accept whatever Guidelines calculation or sentencing recommendation she advocates. The defendant further understands that she will not be permitted to withdraw her guilty plea if the Court imposes a sentence outside of the Guidelines range as calculated by the defendant.

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The Government and the defendant reserve their rights to seek a departure or a non-Guidelines sentence, and both sides reserve their right to object to a departure or a non-Guidelines sentence.

In the event the United States Probation Office or the Court contemplates any sentencing calculations different from those stipulated or advocated by the parties, the parties reserve the right to respond to any inquiries and make appropriate legal arguments regarding the proposed alternate calculations. Moreover, the parties reserve the right to defend any sentencing determination, even if it differs from that stipulated by the parties, in any post-sentencing proceeding.

Waiver of Right to Appeal or Collaterally Attack Conviction and Sentence

The defendant acknowledges that under certain circumstances she is entitled to challenge her conviction and sentence. The defendant agrees not to appeal or collaterally attack her conviction in any proceeding, including but not limited to a motion under 28 U.S.C. § 2255 and/or § 2241. Nor will she pursue such an appeal or collateral attack to challenge the sentence imposed by the Court if that sentence does not exceed 60 months of imprisonment, a three-year term of supervised release, a \$100 special assessment, a fine of \$250,000, and restitution in the amount of \$10,725,254, even if the Court imposes such a sentence based on an analysis different from that specified above. The Government and the defendant agree that this waiver applies regardless of whether the term of imprisonment is imposed to run consecutively to or concurrently with, in whole or in part, the undischarged portion of any other sentence that has been imposed on the defendant at the time of sentencing in this case. The defendant acknowledges that she is knowingly and intelligently waiving these rights. Furthermore, the parties agree that any challenge to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentence that is inconsistent with (or not addressed by) this waiver. Nothing in the foregoing waiver of appellate and collateral review rights shall preclude the defendant from raising a claim of ineffective assistance of counsel in an appropriate forum.

Information to the Court

The Government reserves its right to address the Court with respect to an appropriate sentence to be imposed in this case. Moreover, the Government will discuss the facts of this case, including information regarding the defendant's background and character, 18 U.S.C. § 3661, with the United States Probation Office and will provide the Probation Officer with access to material in its file, with the exception of grand jury material.

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WAIVER OF RIGHTS

Waiver of Right to Indictment

The defendant understands that she has the right to have the facts of this case presented to a federal grand jury, consisting of between sixteen and twenty-three citizens, twelve of whom would have to find probable cause to believe that she committed the offense set forth in the information before an indictment could be returned. The defendant acknowledges that she is knowingly and intelligently waiving her right to be indicted.

Waiver of Trial Rights and Consequences of Guilty Plea

The defendant understands that she has the right to be represented by an attorney at every stage of the proceeding and, if necessary, one will be appointed to represent her.

The defendant understands that she has the right to plead not guilty or to persist in that plea if it has already been made, the right to a public trial, the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against her, the right not to be compelled to incriminate herself, the right to testify and present evidence, and the right to compel the attendance of witnesses to testify in her defense. The defendant understands that by pleading guilty she waives those rights and that, if the plea of guilty is accepted by the Court, there will not be a further trial of any kind.

The defendant understands that, if she pleads guilty, the Court may ask her questions about each offense to which she pleads guilty, and if she answers those questions falsely under oath, on the record, and in the presence of counsel, her answers may later be used against her in a prosecution for perjury or making false statements.

Waiver of Statute of Limitations

The defendant agrees that, should the conviction following defendant's guilty plea be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this plea agreement (including any indictment or counts the Government has agreed to dismiss at sentencing pursuant to this plea agreement) may be commenced or reinstated against the defendant, notwithstanding the expiration of the statute of limitations between the signing of this plea agreement and the commencement or reinstatement of such prosecution. The defendant agrees to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date the plea agreement is signed.

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ACKNOWLEDGMENT OF GUILT AND VOLUNTARINESS OF PLEA

The defendant acknowledges that she is entering into this agreement and is pleading guilty freely and voluntarily because she is guilty. The defendant further acknowledges that she is entering into this agreement without reliance upon any discussions between the Government and her (other than those described in the plea agreement letter), without promise of benefit of any kind (other than the concessions contained in the plea agreement letter), and without threats, force, intimidation, or coercion of any kind. The defendant further acknowledges her understanding of the nature of the offense to which she is pleading guilty, including the penalties provided by law. The defendant also acknowledges her complete satisfaction with the representation and advice received from her undersigned attorney. The defendant and her undersigned counsel are unaware of any conflict of interest concerning counsel's representation of the defendant in the case.

SCOPE OF THE AGREEMENT

The defendant acknowledges that this agreement is limited to the undersigned parties and cannot bind any other federal authority, or any state or local authority. The defendant acknowledges that no representations have been made to her with respect to any civil or administrative consequences that may result from this plea of guilty because such matters are solely within the province and discretion of the specific administrative or governmental entity involved. Finally, the defendant acknowledges that this agreement has been reached without regard to any civil tax matters that may be pending or which may arise involving her.

COLLATERAL CONSEQUENCES

The defendant understands that she will be adjudicated guilty of each offense to which she has pleaded guilty and will be deprived of certain rights, such as the right to hold public office, to serve on a jury, to possess firearms and ammunition, and in some states, the right to vote. Further, the defendant understands that if she is not a citizen of the United States, a plea of guilty may result in removal from the United States, denial of citizenship, and denial of admission to the United States in the future. The defendant understands that pursuant to section 203(b) of the Justice For All Act, the Federal Bureau of Prisons or the United States Probation Office will collect a DNA sample from the defendant for analysis and indexing. Finally, the defendant understands that the Government reserves the right to notify any state or federal agency by which she is licensed, or with which she does business, as well as any current or future employer of the fact of her conviction.

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In addition, before the time of sentencing in this case, the defendant agrees to petition the Colorado Supreme Court to permit her to resign from the practice of law.

SATISFACTION OF FEDERAL CRIMINAL LIABILITY; BREACH

The defendant's guilty plea, if accepted by the Court, will satisfy the federal criminal liability of the defendant in the District of Connecticut as a result of her participation in the conduct which forms the basis of the information in this case.

The defendant understands that if, before sentencing, she violates any term or condition of this agreement, engages in any criminal activity, or fails to appear for sentencing, the Government may void all or part of this agreement. If the agreement is voided in whole or in part, defendant will not be permitted to withdraw her guilty plea.

NO OTHER PROMISES

The defendant acknowledges that no other promises, agreements, or conditions have been entered into other than those set forth in this plea agreement, and none will be entered into unless set forth in writing, signed by all the parties.

This letter shall be presented to the Court, in open court, and filed in this case.

Very truly yours,

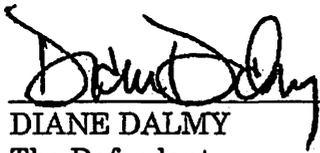
JOHN H. DURHAM
UNITED STATES ATTORNEY



AVI M. PERRY
ASSISTANT UNITED STATES ATTORNEY

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The defendant certifies that she has read this plea agreement letter and its attachment(s) or has had it read or translated to her, that she has had ample time to discuss this agreement and its attachment(s) with counsel and that she fully understands and accepts its terms.



DIANE DALMY
The Defendant

2/6/18
Date

I have thoroughly read, reviewed and explained this plea agreement and its attachment(s) to my client who advises me that she understands and accepts its terms.



DANIEL E. WENNER, ESQ.
Attorney for the Defendant

2/6/18
Date

*February 6, 2018 Letter to Attorney Daniel E. Wenner
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STIPULATION OF OFFENSE CONDUCT AND RELEVANT CONDUCT

The defendant and the Government stipulate to the following offense conduct and relevant conduct that give rise to the defendant's agreement to plead guilty to the information:

The defendant was an attorney who was licensed to practice law in Colorado and who specialized in securities law. The defendant served as securities counsel for, and otherwise performed securities-related legal work on behalf of, several public companies, including Mammoth Energy Group, Inc. ("Mammoth"), a company that later became known as Strategic Asset Leasing Inc. ("Lease"); and Fox Petroleum, Inc. ("Fox") (collectively, the "Subject Companies").

Between approximately January 2009 and July 2016, the defendant knowingly and willfully conspired with others to execute a wire fraud scheme to defraud investors who purchased stock issued by the Subject Companies. The defendants' co-conspirators included William Lieberman and, later, Christian Meissenn. During the course of the conspiracy, the defendant acted largely at Lieberman's direction.

The defendant knew and understood that the Subject Companies were under the control of Lieberman and others. The defendant knew or should have known that Lieberman, Meissenn, and others (the "Co-Conspirators") had been and were running fraudulent stock promotions for the Subject Companies. In a typical promotion, the Co-Conspirators disseminated materially false, positive information about one or more of the Subject Companies through press releases, email marketing blasts, hardcopy mailers, and telephone solicitations, as well as by incorporating the misleading information into the company's public filings. After the hype led to artificially-inflated share prices for the company's stock, the Co-Conspirators sold their own large positions in the stock at a profit. They then ended the promotion and allowed the share price to plummet, leaving investors holding worthless and unsalable stock. The defendant never owned or sold any stock in any of the Subject Companies.

The defendant participated in the conspiracy by writing, and permitting Lieberman to write in her name, fraudulent opinion letters that were used to unrestrict the Co-Conspirators' stock so that the stock could be freely traded on the open market (without having to register the stock with the Securities and Exchange Commission). These letters were intended to, and did, permit the Co-Conspirators to sell their shares at times of their choosing, including to coincide with their fraudulent stock promotion campaigns, without concern for the time restrictions, notice requirements, and other provisions of the federal securities laws and regulations, and in particular 17 C.F.R. § 230.144 (also known as "Rule 144"). The defendant's opinion letters were materially false in various respects, including

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Page 12

as to whether the issuing company was a shell company, whether the shareholder was an affiliate of the issuer, whether the transactions described in the letters actually had occurred, and whether the defendant had performed the due diligence that she described in the letters.

The defendant also ghost-wrote fraudulent opinion letters for the Subject Companies in another attorney's name (referred to in the information as "Attorney 1"), and permitted Lieberman to do so. These included four "adequacy" letters that were posted on a website maintained by an electronic securities marketplace in 2010. In general, an "adequacy" letter accompanies a public filing by an issuer and states that, after appropriate investigation, it is the authoring attorney's opinion that adequate current information about the issuer is publicly available for investors to review. Hence, this type of opinion letter might be relied upon by investors in making their discretionary investment decisions. In certain instances, the defendant ghost-wrote letters that Attorney 1 placed onto his letterhead and signed. In one other instance, the defendant and Lieberman wrote the opinion letter in Attorney 1's name without the knowledge and consent of Attorney 1. In all instances, the letters were materially false in various respects, including as to whether the issuing company was a shell company, whether the defendant (or Attorney 1) had performed the due diligence described in the letters, and whether adequate current information about the issuer was publicly available for investors to review.

The defendant also participated in the conspiracy by providing the Co-Conspirators with capital. The defendant provided the capital based on the ongoing requests of the Co-Conspirators. The defendant knew or should have known that the Co-Conspirators would not use these funds for legitimate purposes. The defendant provided the capital by advancing money from her Lawyer Trust Account ("IOLTA"). These funds belonged to other clients of the defendant's law practice. The clients did not know that their funds had been advanced to the Co-Conspirators by the defendant.

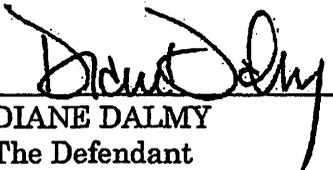
Finally, between February 2015 and July 2016, the defendant also laundered a portion of the proceeds of the wire fraud scheme on behalf of the Co-Conspirators. The defendant helped Lieberman to incorporate and open bank accounts for a private company, Queen Asia Pacific Ltd. ("Queen Asia"), which was controlled by Lieberman. These bank accounts were used to receive proceeds of the scheme from a brokerage account in Queen Asia's name. The defendant knew or should have known that the money received in Queen Asia's bank accounts was the proceeds of a stock promotion scheme. The defendant periodically received money in Queen Asia's bank accounts, transferred those funds to her IOLTA, and then transferred the funds again to Lieberman, Meissenn, and others at Lieberman's instruction. As the defendant knew and understood, this two-step process helped to conceal the source and recipients of the funds. In total, the defendant laundered approximately

February 6, 2018 Letter to Attorney Daniel E. Wenner
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\$825,000 on behalf of the Co-Conspirators through Queen Asia's bank accounts and the defendant's IOLTA. The defendant's total gain from her participation in the conspiracy, and related legal work for the Subject Companies, was approximately \$30,000 over more than seven years.

As described in the information, in furtherance of the underlying wire fraud scheme, the defendant and the Co-Conspirators sent and caused to be sent interstate wires, including emails, telephone calls, and money wires into and out of Connecticut from other states. Moreover, the defendant or one of the Co-Conspirators knowingly committed the overt acts charged in the information and did so in order to further the object of the conspiracy.

This written stipulation is part of the plea agreement. The defendant and the Government reserve their right to present additional offense conduct and relevant conduct to the Court in connection with sentencing.


DIANE DALMY
The Defendant


AVI M. PERRY
ASSISTANT UNITED STATES ATTORNEY


DANIEL E. WENNER, ESQ.
Attorney for the Defendant

February 6, 2018 Letter to Attorney Daniel E. Wenner

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RIDER CONCERNING RESTITUTION

The Court shall order that the defendant make restitution under 18 U.S.C. § 3663A as follows:

1. If the offense resulted in damage to or loss or destruction of property of a victim of the offense:

A. Return the property to the owner of the property or someone designated by the owner; or

B. If return of the property is impossible, impracticable, or inadequate, pay an amount equal to:

The greater of -

(I) the value of the property on the date of the damage, loss, or destruction;
or

(II) the value of the property on the date of sentencing, less the value as of the date the property is returned.

2. In any case, reimburse the victim for lost income and necessary child care, transportation, and other expenses incurred during participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense.

The order of restitution has the effect of a civil judgment against the defendant. In addition to the Court-ordered restitution, the Court may order that the conditions of its order of restitution be made a condition of probation or supervised release. Failure to make restitution as ordered may result in a revocation of probation, 18 U.S.C. § 3565, or a modification of the conditions of supervised release, 18 U.S.C. § 3583(e). Failure to pay restitution may also result in the defendant being held in contempt, or the defendant's re-sentencing to any sentence which might originally have been imposed by the Court. See 18 U.S.C. §§ 3613A, 3614. The Court may also order that the defendant give notice to any victim(s) of her offense under 18 U.S.C. § 3555.

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

----- x
: UNITED STATES OF AMERICA : No. 3:18CR21 (JAM)
: :
: vs. :
: :
: DIANE DALMY, :
: :
: : New Haven, Connecticut
: Defendant : February 6, 2018
: :
----- x

WAIVER OF INDICTMENT AND GUILTY PLEA

BEFORE:

THE HONORABLE JEFFREY ALKER MEYER, U.S.D.J.

A P P E A R A N C E S:

FOR THE GOVERNMENT:

OFFICE OF THE UNITED STATES ATTORNEY
157 Church Street, 24th Floor
New Haven, Connecticut 06510
BY: AVI PERRY, AUSA
DAVID E. NOVICK, AUSA

FOR THE DEFENDANT:

DAY PITNEY, LLP
242 Trumbull Street
Hartford, Connecticut 06103-1212
BY: DANIEL E. WENNER, ESQ.

Diana Huntington, RDR, CRR
Official Court Reporter

1 guilty in a way that satisfies those elements and will
2 hopefully satisfy the Court.

3 Should we approach?

4 THE COURT: Yes, certainly.

5 Mr. Perry, is that right?

6 MR. PERRY: I believe it is. I reviewed the
7 proposed allocution, I think it's sufficient.

8 THE COURT: We're not looking at a change in
9 terms of the agreement itself or the stipulation, for that
10 matter?

11 MR. WENNER: No, Your Honor.

12 MR. PERRY: No, Your Honor.

13 THE COURT: If you'd like to proceed.

14 THE DEFENDANT: Thank you, Your Honor.

15 I agreed with Lieberman to engage in conduct to
16 defraud investors, including by authorizing false opinion
17 letters that falsely unrestricted stock that could be sold
18 as part of the stock promotion scheme and that falsely
19 verified issuing companies' disclosures. In so doing, I
20 deprived investors of information that I understood was
21 material to their economic decision-making.

22 THE COURT: I see. Okay.

23 And so did you know what you were doing was
24 wrong?

25 THE DEFENDANT: Yes, Your Honor.

1 MR. WENNER: No, Your Honor.

2 I can tell Your Honor that obviously we've had
3 extensive discussions and I've advised Ms. Dalmy on
4 repeated occasions that she is, even as we stand here at
5 this moment, under no obligation to plead guilty and can
6 certainly exercise her right to plead not guilty, and
7 she's expressed to me what she expressed to the Court
8 which is that she understands that and is still interested
9 in entering a guilty plea.

10 THE COURT: Understood.

11 If the courtroom deputy would put Ms. Dalmy to
12 plea, please.

13 THE CLERK: In the case of United States of
14 America v. Diane Dalmy, Criminal No. 318CR21(JAM), as to
15 Count One of the Information charging you with violation
16 of Title 18 U.S.C. Section 371, what is your plea?

17 THE DEFENDANT: Guilty.

18 THE CLERK: Your Honor, the defendant pleads
19 guilty to Count One of the Information.

20 THE COURT: Okay. So on the basis of
21 Ms. Dalmy's representations under oath today and the
22 statements of all counsel, I'll make the following
23 findings:

24 That Ms. Dalmy is competent to enter a plea of
25 guilty, that she knows of her right to plead not guilty

1 and to a trial and the related rights that I reviewed with
2 her, and she is in fact giving up those rights by entering
3 a plea of guilty today.

4 I find that she knows the elements of and the
5 nature of the conspiracy charge to which she's entering a
6 plea of guilty.

7 I find that she knows the maximum possible
8 sentence that could be imposed as was reviewed with her in
9 great detail in terms of imprisonment, supervised release,
10 monetary fine, restitution, and payment of a special
11 assessment.

12 I also find that she knows of my obligation to
13 consider the sentencing law that Congress has passed and
14 the purposes of sentencing, as well as the Sentencing
15 Guidelines that were reviewed and discussed in the plea
16 agreement, and that she knows of and has accepted the
17 terms of the plea agreement that limit, to some extent,
18 her right to appeal her conviction and her sentence under
19 certain circumstances.

20 I also find that Ms. Dalmy's plea today is
21 voluntary, it's not the result of any force, threat, or
22 promises other than the promises that have been set forth
23 in writing between the parties, although I certainly
24 acknowledge that it's a very difficult decision for
25 Ms. Dalmy to make today.

1 And I find that there's a clear factual basis
2 for the plea of guilty.

3 So a finding of guilt will enter and shall enter
4 forthwith in the case, and the case is referred to the
5 Probation Office for a presentence investigation.

6 We've got a sentencing scheduling order here
7 of -- I'm going to set sentencing for the 1st of May at
8 10:00 in the morning. Is that going to be a problem?

9 MR. WENNER: Your Honor, I know that I have a
10 sentencing before Judge Hall exactly that same time on
11 that same day. If there's another day that might work?

12 THE COURT: Why don't we go to May 2nd, then, if
13 we can.

14 MR. WENNER: Thank you, Your Honor.

15 THE COURT: Let's try May 2nd. And if need be,
16 we'll work with those dates there.

17 And then we'll have the initial Presentence
18 Report on March 20; any objections to the Presentence
19 Report, April 3rd; and then final Presentence Report on
20 April 13.

21 And then, Mr. Wenner, if you could file your
22 sentencing memo on April 18.

23 And the government's on April 25.

24 I think that queues us up for the 2nd of May.

25 In the event that there's a need to adjust those

EXHIBIT 3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

----- x
: UNITED STATES OF AMERICA : No. 3:18CR21 (JAM)
: :
: vs. :
: :
: DIANE DALMY, :
: : New Haven, Connecticut
: Defendant : May 15, 2018
: :
----- x

SENTENCING

BEFORE:

THE HONORABLE JEFFREY ALKER MEYER, U.S.D.J.

A P P E A R A N C E S:

FOR THE GOVERNMENT:

OFFICE OF THE UNITED STATES ATTORNEY
157 Church Street, 24th Floor
New Haven, Connecticut 06510

BY: AVI PERRY, AUSA
DAVID E. NOVICK, AUSA

FOR THE DEFENDANT:

DAY PITNEY, LLP
242 Trumbull Street
Hartford, Connecticut 06103-1212

BY: DANIEL E. WENNER, ESQ.

Diana Huntington, RDR, CRR
Official Court Reporter

1 minutes' time. Thank you.

2 (Whereupon, a recess followed.)

3 THE COURT: Please be seated.

4 Ms. Dalmy, at this point in time I want to talk
5 to you a little bit about -- before I impose sentence, I
6 want to talk to you about what I've considered.

7 The law I'm sure you well know, as an attorney
8 yourself, in terms of what Congress tells me what I have
9 to consider in terms of your background, what you did
10 wrong, what you've done right, and the purposes of a
11 criminal sentence, which I'm sure you're very familiar
12 with in terms of punishment, deterrence, and
13 rehabilitation, and the Sentencing Guidelines, the advice
14 they give me, as well as the need to avoid unwarranted
15 differences between the sentence I'd impose in your case
16 and that imposed in a similar case. And clearly we've
17 already had discussion about some of that today. I have
18 to think as well about the need to provide restitution.

19 Basically, I have to think, as Congress tells
20 me, in light of everything I know about you, weigh that
21 and determine a sentence that's fair and that's just and
22 reasonable, and also one that's not greater than necessary
23 to serve those purposes of sentencing.

24 I've taken that into account in your case. And
25 I share Mr. Perry's concern essentially concerning the

1 enormity, really, of times and amounts that you crossed
2 the line from being a lawyer to being a crook when you
3 started essentially making up and ghostwriting opinions
4 and when you started treating the process in the cavalier
5 way that you did that's reflected in so many of the emails
6 and other communications of record here.

7 I'm concerned about, notwithstanding -- I think
8 you have a natural inclination to minimize, as many of us
9 do, what you did wrong. It's demonstrated clearly in the
10 letter that you wrote to the Colorado Supreme Court.

11 But across the board in so many ways, you failed
12 your profession as a lawyer. And did so in a criminal way
13 with respect to the attorney opinions, with respect to
14 getting the investor lists, with respect to areas that you
15 had peculiar knowledge about from your securities
16 background, which makes it much harder for me to
17 understand and believe and credit your suggestions that
18 you didn't understand the implications of the consequences
19 of empowering a Lieberman and a Meissenn to do what they
20 would end up doing.

21 The intrusions and violations of your trust
22 account, really, there can be no excuse for that. And I
23 also credit essentially Attorney Perry's interpretation of
24 why you did that with respect to the Queen Asia amounts
25 that you -- and I do think it was laundered money,

1 \$825,000, and years, really, after you had a chance to
2 kind of reconsider the way you'd been doing things with
3 Lieberman. And it seems like you just took up where you
4 left off in 2015 and 2016 to do what you did.

5 I also -- we've talked a lot about the victims.
6 So many victims. I appreciate the fact that you want to
7 write a letter to each of them, but there's almost 10,000
8 victims overall in the case. I hope you've spent time
9 looking at many of the victim impact statements that go
10 into the reasons, and they talk very movingly about the
11 personal financial challenges that they're now in because
12 of what you and your colleagues did. People who are
13 nearing retirement, as you are, now 100,000-plus, some of
14 them, in the hole with people and their families who are
15 medically needy. There's really no way to understate
16 that, I think, in terms of the harm that you did in the
17 case.

18 And you know, attorneys in these cases, you must
19 know by now, they're the gatekeeper. They're supposed to
20 be the guardian that stops the Liebermans and the
21 Meissens of the world from plundering the public and the
22 gullible investor. It's the attorney that puts their name
23 on an opinion letter that gets involved. Time and again
24 victims look at that and say, "Well, there's an attorney
25 involved, it's probably on the up and up." It gives them

1 the confidence. I just can't imagine that you didn't know
2 that from the start.

3 So those are my concerns. The concerns I have
4 go beyond just your dealings with Lieberman that the
5 government has shown, in terms of your dealings with other
6 cases where you were cutting corners and not stopping at
7 stop signs, even when the OTC tells you something as plain
8 as we think Mammoth is a shell company. I think you knew
9 that.

10 So on the other side of the ledger, there's a
11 lot to say as well. Because, as you said yourself, you're
12 not defined by what it is you did wrong here. You have
13 other parts of your life. They certainly deserve
14 consideration.

15 You've raised a family successfully and they've
16 spoken eloquently on your behalf and they've succeeded,
17 your children. And you deserve credit for that.

18 You've participated in community events and
19 sometimes on the international stage I've heard a lot
20 about, whether it's Peru or Romania or closer to home.
21 That's also, to me, something that counts in terms of
22 deciding what kind of person you are in the sense of what
23 a sentence should be.

24 I've looked at and struggled with the issue of
25 how much money you made here, because you sold yourself

1 cheap in terms of what you were doing in terms of the risk
2 you were taking and the likely gain you could be giving to
3 your Lieberman-like people. And I think I come to the
4 conclusion that you have something about you that has some
5 sort of hopelessly and sometimes criminally unrealistic
6 expectations about what other people will do so that you
7 were willing, actually, to give away your services for
8 that little money that you ended up actually charging.
9 Now, whether Mr. Perry's correct that this was kind of
10 your whole practice model, I don't quite have enough to
11 know that. I think it extended a bit beyond what
12 Lieberman was doing, for sure, given what we see from the
13 other SEC proceedings.

14 But as I look at, in terms of trying to evaluate
15 what weight to put on the total amount of harm caused, but
16 not solely by yourself but in colleague with people like
17 Lieberman, Meissenn, who were far more culpable than you,
18 but who gained so much more money than you did, and your
19 \$30,000 that you gained, I see that ultimately as a
20 substantial mitigating factor in terms of how I look at
21 the case.

22 We've had a long conversation about you and
23 Mr. Brinson. And I ultimately conclude that there's not a
24 lot of daylight in terms of difference between the two of
25 you. You were both criminal lawyers. And made pretty

1 deliberate choices to do that. You both had big-firm
2 backgrounds so that you knew better. You had seen kind of
3 the rarefied way that law is practiced at the elite level
4 and you turned your back on that so shockingly.

5 You made a lot less money than Mr. Brinson who
6 was, I think, more brazen in the way of taking his cut
7 than you were.

8 And even, as the government suggests, you had
9 kind of an alternative motivation in some ways based on
10 your relations, I think, in part with Lieberman.

11 On the other hand, I agree with Mr. Perry's
12 assessment that across the board, you sold out -- in terms
13 of what you actually did, you ended up selling yourself
14 out in ways that were worse than what Mr. Brinson did in
15 terms of just the number of times that you fabricated
16 opinions and ignored warning signs. You put money through
17 your own account in the way you did, Queen Asia account.
18 And that you knew better because of your even superior
19 securities law expertise apart from having a general
20 expertise, and of course your teaching experience.

21 But I do think, overall, as I look at you and
22 Mr. Brinson, I see similar culpability in the case. And I
23 don't see you -- in terms of looking at the purposes of
24 sentencing, I don't think you're someone who is going to
25 be back committing more times because you've lost your law

1 license. I don't think anyone is going to trust you with
2 money.

3 I do think, though, that the interest of just
4 punishment and promoting respect for the law and
5 particularly the public perception that lawyers when they
6 lie, cheat, and steal, will face a significant sentence of
7 imprisonment, that they're not above the law. That's a
8 principal reason why I'm going to impose the sentence I'm
9 going to impose today.

10 Ms. Dalmy, I'm going to ask you to stand at this
11 time for imposition of sentence.

12 Ms. Diane Dalmy, for the reasons I've explained,
13 I'm going to sentence you to a term of three years of
14 imprisonment. It's the same as Mr. Brinson. It's the
15 same amount of time that it takes to get a law degree:
16 three years. And three years is going to be winding it
17 back in some ways serving a term of imprisonment now
18 because of the way that you abused your law degree.

19 As you and I talked about, the time that you're
20 in prison, you're going to be with people who have
21 different educational background, many of them much
22 younger than you are. I should mention as well that
23 that's something mitigating, in my view, in terms of the
24 difference between you and Mr. Brinson is you're older in
25 terms of the amount of time that you have left in life. I

1 hope and trust that you will use that time, as difficult
2 as it will be, in a federal prison facility to appeal to
3 the better side of people and to appeal to the better side
4 of yourself.

5 Your term of imprisonment will be followed by a
6 term of supervised release of three years.

7 I'm not imposing a criminal fine because
8 restitution needs to be paramount here.

9 With respect to restitution, I've taken into
10 account the apportionment argument that's been raised here
11 by your counsel and in light of the apportionment that I
12 did with respect to Mr. Brinson, and I'm going to impose a
13 restitution amount of \$2 million. And that will be joint
14 and several with co-conspirators in the case.

15 I trust, Mr. Perry, you could prepare a
16 restitution judgment as you've done before.

17 And a \$100 special assessment.

18 I have detailed conditions of supervised
19 release.

20 You have the standard conditions under 5D1.3(c).
21 I also impose mandatory conditions that you not commit
22 another federal, state, or local offense; that you not
23 unlawfully possess a controlled substance; that you will
24 make restitution in accordance with the Court's order,
25 amount of restitution is due and payable immediately; that

1 you will pay the special assessment; you'll have to
2 cooperate in the collection of a DNA sample.

3 With respect to the restitution amount, I'm
4 going to require that you pay restitution in the amount of
5 \$500 per month or 10 percent of your gross income,
6 whichever is higher, during the three-year period of
7 supervised release.

8 You must not incur new credit card charges above
9 \$500 or open additional lines of credit without the
10 approval of the Probation Office. You must not add any
11 new names to the lines of credit or must not be added as a
12 secondary cardholder to anyone's line of credit. And
13 generally you must provide all requested financial
14 information to the Probation Office. And I suspect you'll
15 be back in Colorado, and the U.S. Probation Office would
16 assume the supervision at that time. And you'll have to
17 authorize the release of any financial information to the
18 Probation Office.

19 I'm also going to impose an order that you
20 participate in mental health testing and treatment as
21 deemed appropriate by the Probation Office to try to
22 grapple with the challenges that you've had, which I think
23 might explain some of the reasons and choices that you've
24 made.

25 Okay. So that is the Court's sentence.

1 I'll ask all counsel, apart from whether you
2 agree with the sentence, is there any reason why the Court
3 cannot lawfully impose the sentence I've just imposed?

4 MR. PERRY: No, Your Honor.

5 MR. WENNER: No, Your Honor.

6 If I might, I believe in Mr. Brinson case you
7 also waived interest on the restitution.

8 THE COURT: Yes, I'm waiving that as well.

9 MR. WENNER: Thank you, Your Honor.

10 THE COURT: Is there any recommendations you
11 would wish to make?

12 MR. WENNER: Yes, Your Honor. Ms. Dalmy would
13 prefer, if possible, that she be incarcerated at Danbury.

14 THE COURT: FCI Danbury?

15 MR. WENNER: Yes, Your Honor.

16 THE COURT: I'll make that recommendation to FCI
17 Danbury.

18 The judgment of the Court will be prepared for
19 my approval by the Clerk's Office.

20 Is there a request for voluntary surrender?

21 MR. WENNER: There is, Your Honor.

22 Ms. Dalmy is on pretrial release. I have her
23 passport. I understand from Mr. Perry that he's fine with
24 self surrender for a date fixed by Your Honor.

25 MR. PERRY: That's right.

1 THE COURT: So maybe we'll try in 30 days' time,
2 if we can. That puts us on Thursday, June 14.

3 And Mr. Wenner, if for any reason the
4 designation is delayed, let the Court know and the Court
5 would extend that so that she can report to the facility.

6 MR. WENNER: Thank you, Your Honor.

7 At noon on the 14th?

8 THE COURT: Yes, presumably to the institution
9 that the BOP will designate. It might be Danbury, but you
10 have to make sure with the BOP that that's taken place by
11 that point in time.

12 MR. WENNER: Yes, Your Honor. Thank you.

13 THE COURT: All right.

14 So with respect to your appellate rights,
15 Ms. Dalmy, under certain circumstances you may have the
16 right to appeal, as I'm sure you know. It may be limited
17 by your plea agreement. But if you were to choose to
18 appeal, you would need to do so within the next 14 days.
19 If you could not afford counsel, you would have counsel
20 appointed to represent you. Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: All right. Anything else to take up
23 at this point?

24 MR. PERRY: No, Your Honor. Thank you.

25 MR. WENNER: No, Your Honor.

THE COURT: Thank you all. Stand in recess.

(Proceedings adjourned at 12:51 p.m.)

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EXHIBIT 4

UNITED STATES DISTRICT COURT

District of Connecticut

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

v.

CASE NO.: 3:18-cr-00021-JAM-1

USM NO: 25737-014

Diane Dalmy

Avi Perry

Assistant United States Attorney

Daniel E. Wenner

Defendant's Attorney

THE DEFENDANT: pled guilty to count(s) 1 of the Information.

Accordingly the defendant is adjudicated guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Concluded</u>	<u>Count(s)</u>
18 U.S.C. § 371, 18 U.S.C. § 1343	Conspiracy to commit wire fraud	July 2016	1

The following sentence is imposed pursuant to the Sentencing Reform Act of 1984.

IMPRISONMENT

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total of 36 months on count 1.

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a total term of 3 years on count 1. The Mandatory and Standard Conditions of Supervised Release as attached are imposed. In addition, the following Special Conditions are imposed:

- (1) The defendant shall pay any restitution that is imposed by this judgment, [jointly and severally with defendants in related cases], in a lump sum immediately. If the defendant is unable to pay the full balance in a lump sum, any remaining balance is payable at a rate of not less than \$500 per month or 10% of the defendant's gross monthly income, whichever is greater. The monthly payment schedule may be adjusted based on the defendant's ability to pay as determined by the probation officer and approved by the Court.
- (2) The defendant must not incur new credit card charges above \$500 or open additional lines of credit without the approval of the probation officer. The defendant must not add any new names to any lines of credit, and must not be added as a secondary card holder on another's line of credit.
- (3) The defendant must provide the probation officer access to any requested financial information and authorize the release of any financial information. The United States Probation Office may share financial information with the U.S. Attorney's Office.
- (4) The defendant must participate in a program recommended by the United States Probation Office and approved by the Court for mental health treatment. The defendant must follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise the defendant's participation in the program. The defendant must pay all or a portion of costs associated with treatment based on your ability to pay as recommended by the probation officer and approved by the Court.

The defendant must pay the total criminal monetary penalties under the schedule of payments (as follows) or (as noted on the restitution order).

Special Assessment: \$100.00 on count 1 to be paid immediately.
Fine: \$
Restitution: \$ 2,000,000.00 to be joint and several with the respect to the related defendants. See special conditions of supervised release as to restitution. Restitution order to follow.

It is further ordered that the defendant will 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 paid.
The following counts have been dismissed:

JUDICIAL RECOMMENDATION(S) TO THE BUREAU OF PRISONS

The Court recommends that the defendant be designated to FPC Alderson in West Virginia.

The defendant shall surrender at the Institution designated by the Bureau of Prisons or as directed by the United States Marshal on June 14, 2018 at 12:00 noon.

May 15, 2018
Date of Imposition of Sentence

/s/ Jeffrey A. Meyer

United States District Judge
Date: May 16, 2018

In addition to the Standard Conditions listed below, the following indicated (■) Mandatory Conditions are imposed:

MANDATORY CONDITIONS

- (1) You must not commit another federal, state or local crime.
- (2) You must not unlawfully possess a controlled substance.
- (3) You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
- (4) ■ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
- (5) ■ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
- (6) You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
- (7) You must participate in an approved program for domestic violence. *(check if applicable)*

STANDARD CONDITIONS

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

- (1) You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
- (2) After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
- (3) You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
- (4) You must answer truthfully the questions asked by your probation officer.
- (5) You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- (6) You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
- (7) You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
- (8) You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
- (9) If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
- (10) You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
- (11) You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
- (12) You must follow the instructions of the probation officer related to the conditions of supervision.

Upon a finding of a violation of supervised release, I understand that the court may (1) revoke supervision and impose a term of imprisonment, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant

Date

U.S. Probation Officer/Designated Witness

Date

CERTIFIED AS A TRUE COPY ON THIS DATE: _____

By: _____
Deputy Clerk

RETURN

I have executed this judgment as follows:

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

Brian Taylor
Acting United States Marshal

By

Deputy Marshal

EXHIBIT 5

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

Docket No. 3:18CR21(JAM)

v.

DIANE DALMY

RESTITUTION ORDER

I. Restitution Liability

A. Restitution Amount

The Defendant, Diane Dalmy _____, shall pay restitution in the amount of \$ 2,000,000 _____ pursuant to 18 U.S.C. § 3663A

- This amount includes _____ in prejudgment interest.
- The Court does not order the inclusion of prejudgment interest.

B. Joint and Several Liability

- Restitution is joint and several with defendant(s) Corey Brinson, Damian Delgado Christian Meissenn, William Lieberman, Brian Ferraioli, & Thomas Heaphy, Jr. in case numbers 3:17cr9(JAM), 3:17cr93(JAM), 3:16cr201(JAM) 3:17cr96(JAM), 3:17cr177(JAM), and 3:17cr168(JAM)
- Restitution is joint and several with defendant(s) not presently named.
- Restitution is not joint and several with other defendants or with others not named herein.
- optional: Rather, pursuant to 18 U.S.C. § 3664(h), the Court has apportioned liability among the defendants to reflect the level of contribution to the victim's loss and the economic circumstances of each defendant.

C. Apportionment Among Victims

Restitution shall be paid to the victim(s) identified in Schedule A attached hereto on a (select one):

- pro rata basis, whereby each payment shall be distributed proportionally to each victim based upon the amount of loss for each victim as set forth more fully in Schedule A.
- percentage basis, as set forth more fully in Schedule A.
- specified basis set forth more fully in Schedule A.

II. Interest

The Defendant shall pay interest on any restitution amount of more than \$2,500.00, unless restitution is paid in full before the fifteenth day after the date of the judgment, in accordance with 18 U.S.C. § 3612(f)(1).

- All interest is waived pursuant to 18 U.S.C. § 3612(f)(3)(A).
- Accrual of interest is limited to \$ pursuant to 18 U.S.C. § 3612(f)(3)(B).
- Interest shall accrue only during the period of pursuant to 18 U.S.C. § 3612(f)(3)(C).
- All interest is waived by the Government pursuant to 18 U.S.C. § 3612(h).
- The following portion of interest is waived by the Government pursuant to 18 U.S.C. § 3612(h):

If a restitution payment is more than 30 days late, it is delinquent, and the Defendant shall pay, as a penalty, an amount equal to 10 percent of the principal amount that is delinquent. If a restitution payment is delinquent for more than 90 days, it is in default, and the Defendant shall pay, as a penalty, an additional amount equal to 15 percent of the principal amount that is in default. All penalties shall accrue, unless waived by the Government.

- All penalties are waived by the Government pursuant to 18 U.S.C. § 3612(h).

III. Time and Method of Payment

Pursuant to 18 U.S.C. § 3664(f)(2), in consideration of the financial resources and other assets of the Defendant, including whether any of these assets are jointly controlled; projected earnings and other income of the Defendant; and any financial obligations of the Defendant; including obligations to dependents, the Defendant is hereby ordered to pay restitution in the manner and according to the schedule that follows: (complete either Section A or B)

A. The total amount of restitution is due and payable immediately pursuant to 18 U.S.C. § 3572(d)(1):

upon entry of this judgment.

on the following date: _____.

h

Any amount not paid immediately will be paid:

lump sum, immediately.

in installments of not less than \$ _____, payable on the _____ of each month.

as specified by the Court:
in installments of not less than \$500 per month, or 10% of the defendant's gross monthly income, whichever is greater, payable on the 1st of each month.

B. In the interest of justice, restitution shall be payable in installments pursuant to 18 U.S.C. § 3572(d)(1) and (2).

1. The Defendant shall commence installment payments:

immediately upon entry of this judgment.

upon release from prison.

on the following date: _____.

as specified by the Court:

2. While serving the term of imprisonment, the Defendant shall make installment payments as follows:

The Defendant shall pay no less than \$ _____

in an amount equal to _____ percent of gross income,

as specified by the Court:

3. After completion of the term of imprisonment, or if the Defendant is not sentenced to a term of imprisonment, the Defendant shall make installment payments as follows:

no less than \$ _____ monthly

in an amount equal to _____ percent of the Defendant's gross income,

as specified by the Court:

IV. Payment Instructions

The Defendant shall make payment to the Clerk of Court. Payment may be made in the form of cash, check or money order. All payments by check or money order shall be made payable to the "Clerk, United States District Court," and each check shall be delivered to the United States District Court, Attention: Clerk's Office, 141 Church Street, New Haven, CT 06510 as required by 18 U.S.C. § 3611. The Defendant shall write the docket number of this case on each check delivered to the Clerk's Office. Any cash payments shall be hand delivered to the Clerk's Office using exact change, and shall not be mailed.

The Clerk shall distribute restitution payments to the victim(s) identified in this order in accordance with the District's Standing Order on the Disbursement of Restitution Payments by the Clerk of Court.

V. Additional Collection Provisions

The Defendant shall notify the Court, the United States Probation Office (during any period of probation or supervised release), and the United States Attorney's Office, of any material change in the Defendant's economic circumstances that might affect the Defendant's ability to pay restitution in accordance with 18 U.S.C. § 3664(k).

The Defendant shall notify the Court, the United States Probation Office (during any period of probation or supervised release), and the United States Attorney's Office, of any change in address.

Nothing in this order shall prevent the Bureau of Prisons from implementing restitution payments in accordance with its Inmate Financial Responsibility Program ("IFRP"), 28 U.S.C. § 545.10 et seq. up to the maximum amount permitted under the IFRP guidelines.

Furthermore, nothing in this order shall prevent the victim(s) or the United States from pursuing immediate collection through civil remedies allowed by law in accordance with 18 U.S.C. § 3664(m).

The Defendant shall apply to any restitution still owed the value of any substantial resources from any source the defendant receives during the period of incarceration, including inheritance, settlement or other judgment in accordance with 18 U.S.C. § 3664(n).

The liability to pay restitution shall terminate the later of 20 years from the entry of judgment or 20 years after the Defendant's release from prison, or upon the death of the Defendant.

It is so ordered.

Dated at New Haven , Connecticut on this 16th day of May , 2018 .

Jeffrey Alker Meyer, USDJ

CERTIFICATE OF SERVICE

I, Jack Kaufman, certify that, on May 24, 2018, I caused the Division of Enforcement's Notice of Additional Authority as to Respondent Diane Dalmy to be served upon the following persons in the manner stated below:

Office of the Secretary
Securities & Exchange Commission
100 F Street NE
Mail Stop 1090-Room 10915
Washington, D.C. 20549
(by UPS overnight delivery)

Diane Dalmy, Esq.
Pro Se Respondent
(By email: [REDACTED]@earthlink.net)



Jack Kaufman
Senior Trial Counsel
Division of Enforcement