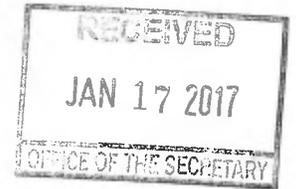


**HARD COPY**

**UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION**



**Administrative Proceeding  
File No. 3-17528**

**In the Matter of**

**AARON NASH KAZINEC,**

**Respondent.**

**DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION  
AGAINST RESPONDENT, AARON NASH KAZINEC  
AND SUPPORTING MEMORANDUM OF LAW**

**I. INTRODUCTION**

Pursuant to Rule 250 of the Commission's Rules of Practice, the Division of Enforcement (the "Division") respectfully moves for summary disposition and the imposition of an industry bar from association and a penny stock bar against Respondent Aaron Nash Kazinec ("Respondent" or "Kazinec") pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 ("Exchange Act"), and an industry bar from association pursuant to Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act"). The Division sets forth its grounds below.

**II. HISTORY OF THE CASE**

The Commission issued the Order Instituting Proceedings ("OIP") on September 7, 2016, pursuant to Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act. In summary, the OIP alleges that Kazinec was a registered representative associated with a dually

registered broker dealer and investment adviser who fraudulently obtained customer funds, which he used mostly for gambling. These facts led to Kazinec's guilty plea in the criminal case against him.

On December 14, 2016, a telephonic pre-hearing conference was held, and all parties were present. At the conference, as confirmed in a written order issued that same day (AP Rulings Rel. No. 4450), the Law Judge set a filing deadline of January 13, 2017 for the Division's motion for summary disposition.<sup>1</sup>

### **III. MEMORANDUM OF LAW**

#### **A. Kazinec's Criminal Case**

On June 6, 2014, the United States Attorney for the Southern District of Florida filed a one-count Information against Kazinec, charging him with wire fraud, in violation of 18 U.S.C. § 1343. (D.E. 1, Information, *United States v. Kazinec*, No. 0:14-cr-60126 (S.D. Fla.) (attached as Exhibit 2)). On July 15, 2014, pursuant to a plea agreement, Kazinec pleaded guilty to the Information. (D.E. 14, Plea Agreement; D.E. 13, Criminal Minutes (attached respectively as Exhibits 3 and 4)). On November 10, 2014, the district court judge sentenced Kazinec to 55 months imprisonment and a three-year supervised release term. (D.E. 30, Judgment (attached as Exhibit 5)). The court later ordered Kazinec to pay restitution in the amount of \$1,391,250. (D.E. 36, Order Amending Judgment (attached as Exhibit 6)).

---

<sup>1</sup>Pursuant to the order, the Division provided its investigative file to Respondent the following day. (See correspondence and USPS and UPS delivery confirmations, attached as composite Exhibit 1.)

## **B. Facts Determined Against Kazinec**

In summary, the plea agreement's stipulated statement of facts, which Kazinec "acknowledge[d], adopt[ed], admit[ted] and confirm[ed] to be true and correct" (Exh. 2 [Plea Agr.], at pdf p.14),<sup>2</sup> establishes the following (*id.*, at pp. 15-18):

Beginning in 2007, Kazinec was a financial services representative with a series six license associated with MetLife in Fort Lauderdale, Florida. Kazinec had previously held a similar position with Massachusetts Mutual Life Insurance Company ("Mass Mutual"), and several of Kazinec's Mass Mutual clients followed him to MetLife. The customers who were victims of his scheme had annuity contracts with Allianz Life Insurance Company of North America and/or held other investments as part of their MetLife account holdings.

Between March 2009 and December 2012, Kazinec defrauded his customers using the following method: (1) Kazinec told them he could reinvest their annuities and other investments in certain purported alternative investments at a higher rate of return, (2) customers who were amenable to the proposal would liquidate some or all of their annuities, deposit the funds in their checking accounts, and then provide checks to Kazinec for the purported "alternative" investment, and (3) Kazinec would, instead of investing the funds, deposit the money into his own bank account and use it for personal expenses, mostly casino gambling. Kazinec misappropriated approximately \$1.4 million pursuant to this scheme.

---

<sup>2</sup> A conviction resulting from a guilty plea binds the respondent to the facts he has admitted. See *Gary L. McDuff*, AP File No. 3-15764, 2015 WL 1873119, \*3 & n.18 (Apr. 23, 2015) (Commission Order); *Don Warner Reinhard*, AP File No. 3-13280, 2011 WL 121451, \*7 (Jan. 14, 2011) (Commission Opinion) (respondent who pleaded guilty "cannot now dispute the accuracy of the findings set out in the Factual Basis for Plea Agreement").

**C. Summary Disposition is Appropriate**

**1. Because of Kazinec's Conviction, There are No Disputed Facts**

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

The Commission has repeatedly upheld use of summary disposition in cases such as this, where the respondent has been enjoined or convicted and the sole determination concerns the appropriate sanction. Under Commission precedent, the circumstances in which summary disposition in a follow-on proceeding involving fraud is not appropriate will be rare.

*Daniel Paez*, AP File No. 3-16824, 2016 WL 1239125, \*2 (Mar. 30, 2016) (Initial Decision) (citations and quotation omitted).

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

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

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

\* \* \* \*

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

15. U.S.C. § 78o(b)(6)(A). The Division also seeks relief under Advisers Act Section 203(f), which provides for an identical associational bar (but not a penny stock bar) for a person with a qualifying conviction who at the time of the misconduct was associated with an investment adviser. *See* 15 U.S.C. § 80b-3(f).

As shown below, the requirements of Exchange Act Section 15(b)(6) and Advisers Act Section 203(f)—timely issuance of the OIP, conviction under a qualifying statute, and misconduct committed while Kazinec was associated with either a broker or an investment adviser—are satisfied here.

**a. The Division Timely Filed This Action**

The Division must commence a proceeding under Exchange Act Section 15(b)(6)(A)(ii) and Advisers Act Section 203(f) within ten years of the criminal conviction. *See Joseph Contorinis*, AP File No. 3-15308, 2014 WL 1665995, \*3 (Apr. 25, 2014) (Commission Opinion) (10-year limitations period runs from date of conviction, not underlying conduct). Here, Kazinec was convicted in 2014, and the OIP was issued in 2016. Therefore, this matter was timely filed.

**b. Kazinec Was Convicted of a Qualifying Offense**

Kazinec’s wire fraud conviction constitutes a “felony . . . which . . . involves the violation of section . . . 1343 . . . of Title 18,” thus triggering the Commission’s ability to sanction him under both the Exchange Act and the Advisers Act. *See* Exchange Act Sections 15(b)(4)(B)(iv), 15(b)(6)(A)(ii), 15 U.S.C. §§ 78o(b)(4)(B)(iv), 78o(b)(6)(A)(ii); Advisers Act Sections 203(e)(2)(D), 203(f), 15 U.S.C. §§ 80b-3(e)(2)(D), 80b-3(f).

**c. Kazinec Was Associated with a Broker and an Investment Adviser at the Time of the Misconduct**

Exchange Act Section 15(b)(6)(A) requires that Kazinec have been a “person . . . associated with a broker” at the time of the misconduct. 15 U.S.C. § 78o(b)(6)(A). Advisers Act

Section 203(f) similarly requires that Kazinec have been “a person associated with an investment adviser” at the time of the misconduct. 15 U.S.C. § 80b-3(f). Here, Kazinec admits the OIP’s allegation that “[f]rom March 2007 through November 2012, Respondent was a registered representative associated with a broker-dealer and investment adviser dually registered with the Commission.” (OIP § II.A.1; Ans. § II.A.1) Therefore, Kazinec is subject to sanction under the Exchange Act and the Advisers Act.

**d. Industry and Penny Stock Bars are Appropriate Sanctions**

In determining whether an administrative sanction is in the public interest, the Commission considers: (1) the egregiousness of a respondent’s actions; (2) the isolated or recurrent nature of the violations; (3) the degree of scienter involved; (4) the respondent’s assurances against future violations; (5) the respondent’s recognition of the wrongful nature of his conduct; and (6) the likelihood the respondent’s occupation will present opportunities for future violations. *See Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979). “Absent ‘extraordinary mitigating circumstances,’ an individual who has been convicted cannot be permitted to remain in the securities industry.” *Frederick W. Wall*, AP File No. 3-11529, 2005 WL 2291407, \*8 (Sept. 19, 2005) (Commission Opinion).

Here, these factors weigh in favor of industry and penny stock bars. First, Kazinec’s actions were egregious. His conviction establishes that to feed his gambling habit, he executed a fraudulent investment scheme, promising high rates of return on “alternative” investments he never made. In short, Kazinec ran a flagrant scam.

Second, this was not a one-time lapse in judgment. Kazinec’s scheme took in \$1.4 million over a 45-month period. Third, Kazinec’s level of scienter was extremely high. He knew he was not investing the money in the manner he promised and was simply

misappropriating investors' funds. His scienter was so substantial it gave rise to a criminal conviction.

With respect to the fourth and fifth factors, notwithstanding his guilty plea, Kazinec has provided no assurances that he will avoid future violations of the law. Although “[c]ourts have held that the existence of a past violation, without more, is not a sufficient basis for imposing a bar[,] . . . ‘the existence of a violation raises an inference that it will be repeated.’” *Tzemach David Netzer Korem*, AP File No. 3-14208, 2013 WL 3864511, at \*23 n.50 (July 26, 2013) (Commission Opinion) (quoting *Geiger v. SEC*, 363 F.3d 481, 489 (D.C. Cir. 2004)). Kazinec can offer no evidence to rebut that inference, and based on his statements, he seems to want to continue to work in the industry in an unspecified capacity.

Finally, although Kazinec is serving a sentence, he will be released in the near future, and unless he is barred from the securities industry he will have the chance to again harm investors. Accordingly, a permanent bar is appropriate.

**e. Scope of the Industry Bars**

Pursuant to the Order Following Prehearing Conference, the Division addresses the issue of the “broad application of the industry bars.” If Kazinec were to be barred from association under Exchange Act Section 15(b)(6) and/or Advisers Act Section 203(f), the statutory language makes clear he would be barred from *any* association, including positions deemed clerical or ministerial.

Exchange Act Section 3(a)(18) contains the following pertinent definition:

The term “person associated with a broker or dealer” or “associated person of a broker or dealer” means any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or any employee of such broker or dealer, except that any person associated with a broker or dealer whose functions

are solely clerical or ministerial shall not be included in the meaning of such term for purposes of [Exchange Act § 15(b)] (other than paragraph (6) thereof).

The Advisers Act definition in Section 202(a)(17) is substantively identical. Thus, under the plain language of the statutes, the exception for clerical and ministerial employees does not limit the scope of a bar imposed under Exchange Act Section 15(b)(6) or Advisers Act Section 203(f). *Cf. Michael Batterman*, AP File No. 3-11259, 2004 WL 2785527, \*4 (Dec. 3, 2004) (Commission Opinion) (“[W]e have the power to discipline a person associated with an investment adviser even if that person is associated only in a clerical or ministerial capacity.”); *United States v. Emmenegger*, 329 F. Supp. 2d 416, 421 (S.D.N.Y. 2004) (“[T]he statutory inclusion of [clerical and ministerial] employees within the definition of associated persons for purposes of [Exchange Act] § 15(b)(6) specifically authorizes the . . . Commission to censure, suspend or bar such employees who violate, inter alia, [Exchange Act] § 10(b).”).

#### IV. CONCLUSION

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

Dated: January 13, 2017

Respectfully submitted,



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

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

**CERTIFICATE OF SERVICE**

I hereby certify that an original and three copies of the foregoing were filed with the Securities and Exchange Commission, Office of the Secretary, 100 F Street, N.E., Washington, D.C. 20549-9303, and that a true and correct copy of the foregoing has been served by U.S. Mail and as indicated below this 13<sup>th</sup> day of January, 2017, on the following persons entitled to notice.

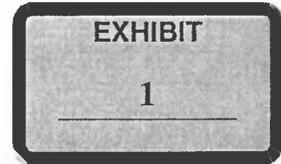
Honorable Jason S. Patil  
Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, DC 20549-2557  
*(also via Email)*

Mr. Aaron Nash Kazinec  
Registration Number [REDACTED]  
[REDACTED]  
[REDACTED]  
P.O. Box [REDACTED]  
Miami, FL [REDACTED]

  
\_\_\_\_\_  
Andrew O. Schiff



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
MIAMI REGIONAL OFFICE  
SUITE 1800  
801 BRICKELL AVENUE  
MIAMI, FLORIDA 33131  
(305) 982-6300



December 15, 2016

Via Certified Mail No. 7006 0810 0003 7461 7165, RRR

Aaron Nash Kazinec

Register Number: [REDACTED]

FCI Miami

[REDACTED]

P.O. Box [REDACTED]

Miami, FL [REDACTED]

**RE: *In the Matter of Aaron Nash Kazinec, Administrative Proceeding No. 3-17528***

Dear Mr. Kazinec:

Following yesterday's telephonic prehearing conference with Judge Patil and in accordance with the attached Order issued thereafter and Rule 230, enclosed are the Division's investigative files consisting of copies of the following:

1. FINRA Broker check as to Aaron N. Kazinec
2. Information (Docket Entry 1) re: US v. Kazinec
3. Plea Agreement (Docket Entry 14) re: US v. Kazinec
4. Judgment (Docket Entry 30) re: US v Kazinec
5. Order Amending Judgment (Docket Entry 36) re: US v Kazinec
6. Kazinec's FINRA Letter of Acceptance, Waiver and Consent
7. Web CRD - Composite Information re: Kazinec
8. Web CRD - Current Disclosure Summary re: Kazinec; and
9. Web CRD - U4 Employment History re: Kazinec

Should you have any questions, please contact Regional Trial Counsel, Andrew O. Schiff at 305-982-6390. Thank you.

Sincerely,

  
Lalaine A. Landau  
Senior Paralegal

cc: Andrew O. Schiff, Regional Trial Counsel



English

Customer Service

USPS Mobile

Register / Sign In



# USPS Tracking®

Still Have Questions?

[Browse our FAQs >](#)



[Get Easy Tracking Updates >](#)  
[Sign up for My USPS.](#)

Tracking Number: 70060810000374617165

## Product & Tracking Information

Postal Product:

Features:  
Certified Mail™

DATE & TIME

STATUS OF ITEM

LOCATION

December 20, 2016 , 9:42 am

Delivered, To Agent

MIAMI, FL 33177

Your item has been delivered to an agent at 9:42 am on December 20, 2016 in MIAMI, FL 33177.

December 20, 2016 . 6:58 am

In Transit to Destination

December 18, 2016 . 6:58 pm

Departed USPS Facility

OPA LOCKA, FL 33054

December 17, 2016 . 12:08 am

Arrived at USPS Facility

OPA LOCKA, FL 33054

## Available Actions

[Text Updates](#)

[Email Updates](#)

## Track Another Package

Tracking (or receipt) number

[Track It](#)

## Manage Incoming Packages

Track all your packages from a dashboard.  
No tracking numbers necessary.

[Sign up for My USPS >](#)



### HELPFUL LINKS

[Contact Us](#)  
[Site Index](#)  
[FAQs](#)

### ON ABOUT.USPS.COM

[About USPS Home](#)  
[Newsroom](#)  
[USPS Service Updates](#)  
[Forms & Publications](#)  
[Government Services](#)  
[Careers](#)

### OTHER USPS SITES

[Business Customer Gateway](#)  
[Postal Inspectors](#)  
[Inspector General](#)  
[Postal Explorer](#)  
[National Postal Museum](#)  
[Resources for Developers](#)

### LEGAL INFORMATION

[Privacy Policy](#)  
[Terms of Use](#)  
[FOIA](#)  
[No FEAR Act EEO Data](#)



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
MIAMI REGIONAL OFFICE  
SUITE 1800  
801 BRICKELL AVENUE  
MIAMI, FLORIDA 33131  
(305) 982-6300

December 15, 2016

Via UPS- Tracking No. 1Z A37 48W 01 9277 1004

Aaron Nash Kazinec

Register Number: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Miami, FL [REDACTED]

**RE: *In the Matter of Aaron Nash Kazinec, Administrative Proceeding No. 3-17528***

Dear Mr. Kazinec:

Following yesterday's telephonic prehearing conference with Judge Patil and in accordance with the attached Order issued thereafter and Rule 230, enclosed are the Division's investigative files consisting of copies of the following:

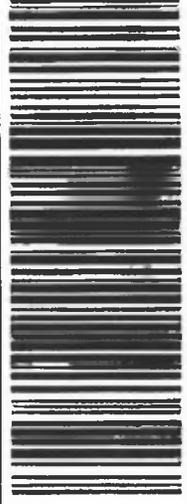
1. FINRA Broker check as to Aaron N. Kazinec
2. Information (Docket Entry 1) re: US v. Kazinec
3. Plea Agreement (Docket Entry 14) re: US v. Kazinec
4. Judgment (Docket Entry 30) re: US v. Kazinec
5. Order Amending Judgment (Docket Entry 36) re: US v. Kazinec
6. Kazinec's FINRA Letter of Acceptance, Waiver and Consent
7. Web CRD - Composite Information re: Kazinec
8. Web CRD - Current Disclosure Summary re: Kazinec; and
9. Web CRD - U4 Employment History re: Kazinec

Should you have any questions, please contact Regional Trial Counsel, Andrew O. Schiff at 305-982-6390. Thank you.

Sincerely,

Lalaine A. Landau  
Senior Paralegal

cc: Andrew O. Schiff, Regional Trial Counsel

|  |  |  |  |   |
|--|--|--|--|---|
| <p>MIRO USERS<br/>305-982-6353<br/>SEC. MIAMI<br/>801 BRICKELL AVE., SUITE 1800<br/>MIAMI FL 33131</p> <p>SHIP TO:<br/>AARON KAZINEC, REG.# [REDACTED]<br/>MIAMI FL [REDACTED]</p> | <p>1.0 LBS LTR 1 OF 1</p> <p>FL 331 1-02</p>   | <p>UPS NEXT DAY AIR</p> <p>TRACKING #: 1Z A37 48W 01 9277 1004</p> <p><b>1</b></p> |  | <p>BILLING: P/P</p> <p>Reference # 1: 66211</p> <p>CS 18.5.46 WATNPS0 01.0A.10/2016</p>  |
|--|--|--|--|---|

**From:** [UPS Quantum View](#)  
**To:** [Landau, Lalaine](#)  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA3748W0192771004  
**Date:** Friday, December 16, 2016 10:38:11 AM

---



**Your package has been delivered.**

**Delivery Date:** Friday, 12/16/2016  
**Delivery Time:** 10:32 AM

At the request of SEC MIAMI REG OFFICE, this notice alerts you that the status of the shipment listed below has changed.

## Shipment Detail

---

**Tracking Number:** [1ZA3748W0192771004](#)  
Aaron Kazinec, Reg.# [REDACTED]  
**Ship To:** [REDACTED]  
MIAMI, FL [REDACTED]  
US  
**UPS Service:** UPS NEXT DAY AIR  
**Number of Packages:** 1  
**Weight:** 1.0 LBS  
**Delivery Location:** DOCK  
**Signed by:** DELL  
**Reference Number 1:** 66211

 [Get the UPS My Choice app for Facebook](#)

 [Download the UPS mobile app](#)

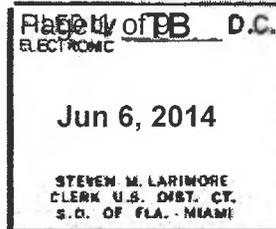
---

© 2016 United Parcel Service of America, Inc. UPS, the UPS brandmark, and the color brown are trademarks of United Parcel Service of America, Inc. All rights reserved.

All trademarks, trade names, or service marks that appear in connection with UPS's services are the property of their respective owners.

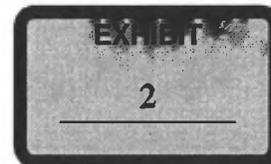
Please do not reply directly to this e-mail. UPS will not receive any reply message.  
For more information on UPS's privacy practices, refer to the UPS Privacy Notice.  
For questions or comments, visit Contact UPS.

This communication contains proprietary information and may be confidential. If you are not the intended recipient, the reading, copying, disclosure or other use of the contents of this e-mail is strictly prohibited



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
**14-60126-CR-HURLEY/HOPKINS**  
CASE NO.

18 U.S.C. §1343  
18 U.S.C. §2  
18 U.S.C. §981(a)(1)(C)



UNITED STATES OF AMERICA

vs.

AARON NASH KAZINEC,

Defendant.

\_\_\_\_\_ /

INFORMATION

The United States Attorney charges that:

GENERAL ALLEGATIONS

At all times relevant to this Information:

1. MetLife, Inc. ("MetLife") and Allianz Life Insurance Company of North America ("Allianz") were insurance companies, headquartered respectively in New York and Minnesota.
2. MetLife and Allianz each offered various types of life insurance and retirement-oriented financial products to the public, including fixed and variable rate annuity contracts ("annuities").
3. MetLife conducted a significant portion of its day-to-day business operations and dealings with current and prospective clients from various branch offices which MetLife maintained throughout the country, including one such office in Fort Lauderdale, Florida which conducted business under the name "Cypress Financial Group."
4. Within each of its branch offices, MetLife employed the services of individuals identified as "Financial Services Representatives" for the purpose of marketing its insurance and

annuity products and to initiate and transact the process of establishing, executing and implementing annuities with regard to those clients who had elected to invest in such contracts.

5. MetLife's Financial Services Representatives also engaged in a wide range of activities on behalf of the company's clients, including providing financial advice, oversight, account management, and transactional assistance. Routinely, the individual Financial Services Representative who was responsible for acquiring a particular client and establishing his or her relationship with MetLife would assume this responsibility.

6. Defendant **AARON NASH KAZINEC** was employed by MetLife as a registered Financial Services Representative working from within Cypress Financial Group, MetLife's Fort Lauderdale, Florida office. Prior to commencing his employment with MetLife, **KAZINEC** had been employed in a similar capacity with another insurance company.

7. Concurrent with his employment with MetLife, or shortly thereafter, **AARON NASH KAZINEC** convinced certain of his annuity clients at his prior employer to effectively transfer their annuity accounts to MetLife management with **KAZINEC** functioning as their designated Financial Services Representative. In a number of instances, these clients had existing annuity contracts with Allianz which were thereafter transferred in this manner.

**WIRE FRAUD  
(18 U.S.C. § 1343)**

From in or around at least as early as March 2009, to in or around December 2012, in Broward County, in the Southern District of Florida, and elsewhere, the defendant,

**AARON NASH KAZINEC,**

did knowingly and with the intent to defraud devise, and intend to devise, a scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent

pretenses, representations and promises, knowing that the pretenses, representations, and promises were false and fraudulent when made, and for the purpose of executing such scheme and artifice did transmit and cause to be transmitted, by means of wire communications in interstate and foreign commerce, certain writings, signs, and signals.

**PURPOSE OF THE SCHEME AND ARTIFICE**

8. It was the purpose of the scheme and artifice for **AARON NASH KAZINEC**, in his capacity as a MetLife Financial Services Representative, to fraudulently obtain, misappropriate, and make personal use of funds supplied and entrusted to him by clients of MetLife whose annuity and other accounts had been assigned to **KAZINEC** for the purpose of providing financial advice, oversight, account management, and transactional assistance (hereinafter referred to as "clients").

**THE SCHEME AND ARTIFICE**

The manner and means by which the defendant sought to accomplish the purpose of the scheme and artifice included, among others, the following:

9. As part of the scheme and artifice, **AARON NASH KAZINEC** would inform his clients that their annuity investments would be put to better use if these funds were converted or withdrawn from the client's annuity investment(s) and positioned into certain alternative investment products offered by **KAZINEC**. According to **KAZINEC**, these annuity alternatives would consist of certain vaguely described cash equivalent-type investments which would, according to **KAZINEC**, generate higher rates of return and/or greater appreciation.

10. As part of the scheme and artifice, **AARON NASH KAZINEC** would request that his clients prepare, sign, or otherwise authorize certain documents, including pre-filled forms and other items of correspondence, through which **KAZINEC** would inform Allianz, by

means of interstate fax transmissions of these documents, as well as through other forms of wire communication, of his clients' requests to prematurely surrender and liquidate their annuities or, in certain instances, to obtain other types of funds disbursements from their annuities in the form of elective cash withdrawals or loans.

11. As part of the scheme and artifice, **AARON NASH KAZINEC** would further request his clients to instruct Allianz to disburse the aforementioned annuity funds via interstate wire transfer to their respective personal checking accounts in the Southern District of Florida. Upon their receipt of these funds, **KAZINEC** would request that each such client prepare checks drawn upon these same funds, or in anticipation of the arrival of these funds, and to leave the payee line on each such check blank or payable to "cash."

12. As part of the scheme and artifice, and in furtherance of instructions from **AARON NASH KAZINEC**, the clients would deliver the requested personal checks to **KAZINEC** with the understanding, based upon representations made to them by **KAZINEC**, that **KAZINEC** would arrange for the deposit of these funds with the entity from which the clients' purported alternative investments would be acquired.

13. As part of the scheme and artifice, and contrary to the representations which **AARON NASH KAZINEC** would make and cause to be made to his clients, **KAZINEC** would intentionally fail to use his clients' funds for the stated purpose of obtaining alternative investment products for them, such that **KAZINEC's** representations concerning the intended use of his clients' funds were materially false and fraudulent when made. Rather, **KAZINEC** would intend to misappropriate, and did, in fact, misappropriate, these same funds.

14. As part of the scheme and artifice, and in furtherance of his misappropriation of his clients' funds, **AARON NASH KAZINEC** would write in the word "cash" on the payee line

of those checks received from his clients in which the payee line had been left blank in accordance with **KAZINEC**'s instructions. Thereafter, **KAZINEC** would deposit or cause to be deposited each of the checks thus obtained from his clients into **KAZINEC**'s own personal bank account.

15. As part of the scheme and artifice, and once client funds had been misappropriated in the above-described manner, **AARON NASH KAZINEC** would proceed to convert these same funds to his own personal use and benefit by making use of these funds for his own purely personal expenses and purchases, the majority portion of which were expended in connection with **KAZINEC**'s casino gambling activities and related gambling losses.

16. As part of the scheme and artifice, **AARON NASH KAZINEC**, having failed to invest his clients' funds to any extent whatsoever, and being unable to return the subject funds to clients due to his false and fraudulent use and exhaustion of such funds, would misappropriate additional funds which **KAZINEC** would obtain from other clients through the subject scheme and artifice. In so doing, **KAZINEC** would falsely and fraudulently utilize these more recently acquired client funds to make regularly recurring payments, or individual payments upon request, to certain of his clients who had requested disbursements of a portion of their funds, partially in the form of perceived returns on their investment, which returns were, unbeknownst to the clients, never generated, since the funds which they had supplied to **KAZINEC** for the purpose of investment had never been invested.

17. **AARON NASH KAZINEC**'s unauthorized misappropriation and false and fraudulent transfer of client-supplied funds: (a) to himself, (b) to third parties for his personal use and benefit, and (c) to other clients masquerading as investment returns in the above-described manner, all constituted material facts which **KAZINEC** would conceal, and did conceal, from

the affected clients.

**USE OF THE WIRES**

18. On or about August 4, 2011, **AARON NASH KAZINEC**, for the purpose of executing and in furtherance of the scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises, knowing that the pretenses, representations and promises were false and fraudulent when made, did transmit and cause to be transmitted by means of wire communication in interstate commerce certain writings, signs, and signals, to wit, an interstate facsimile transmission from a facsimile device located in Broward County in the Southern District of Florida and associated with telephone number 954-340-8525 to Allianz Life Insurance Company of North America offices in Minnesota at a fax device associated with telephone number 763-582-6006, which interstate facsimile transmission consisted of a cover page with written instructions addressed to "Allianz Life Annuity Service Center," and which included an attached two-page "Withdrawal Request Form for Annuity Contract" identifying victim MG as the "contract owner" making the request for "full surrender" of annuity contract number \*\*\*\*\*891," in violation of Title 18, United States Code, Sections 1343 and 2.

**FORFEITURE**  
**(18 U.S.C. § 981(a)(1)(C))**

1. The allegations in this Information are realleged and fully incorporated herein by reference for the purpose of alleging forfeiture to the United States of America of certain property in which the defendant, **AARON NASH KAZINEC** may have an interest.

2. Upon conviction of the violation alleged in this Information, **AARON NASH KAZINEC** shall forfeit to the United States of America, pursuant to Title 18, United States

Code, Section 981(a)(1)(C), any property, real or personal, which constitutes, or is derived from, any proceeds traceable to such violation.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), made applicable through Title 28, United States Code, Section 2461(c), and the procedures set forth at Title 21, United States Code, Section 853.



---

WIFREDO A. FERRER  
UNITED STATES ATTORNEY



---

PETER B. OUTERBRIDGE  
ASSISTANT UNITED STATES ATTORNEY

UNITED STATES OF AMERICA

CASE NO. \_\_\_\_\_

vs.

**CERTIFICATE OF TRIAL ATTORNEY\***

AARON NASH KAZINEC,

Defendant.

**Superseding Case Information:**

Court Division: (Select One)

Miami FTL     Key West WPB     FTP

New Defendant(s) Yes \_\_\_\_\_ No \_\_\_\_\_  
Number of New Defendants \_\_\_\_\_  
Total number of counts \_\_\_\_\_

I do hereby certify that:

- I have carefully considered the allegations of the indictment, the number of defendants, the number of probable witnesses and the legal complexities of the Indictment/Information attached hereto.
- I am aware that the information supplied on this statement will be relied upon by the Judges of this Court in setting their calendars and scheduling criminal trials under the mandate of the Speedy Trial Act, Title 28 U.S.C. Section 3161.
- Interpreter: (Yes or No) NO  
List language and/or dialect \_\_\_\_\_
- This case will take 0 days for the parties to try.
- Please check appropriate category and type of offense listed below:

(Check only one)

(Check only one)

|     |                  |          |         |          |
|-----|------------------|----------|---------|----------|
| I   | 0 to 5 days      | <u>X</u> | Petty   | _____    |
| II  | 6 to 10 days     | _____    | Minor   | _____    |
| III | 11 to 20 days    | _____    | Misdem. | _____    |
| IV  | 21 to 60 days    | _____    | Felony  | <u>X</u> |
| V   | 61 days and over | _____    |         |          |

6. Has this case been previously filed in this District Court? (Yes or No) No No

If yes: Judge: \_\_\_\_\_ Case No. \_\_\_\_\_  
(Attach copy of dispositive order)

Has a complaint been filed in this matter? (Yes or No) No

If yes: Magistrate Case No. \_\_\_\_\_

Related Miscellaneous numbers: \_\_\_\_\_

Defendant(s) in federal custody as of \_\_\_\_\_

Defendant(s) in state custody as of \_\_\_\_\_

Rule 20 from the \_\_\_\_\_ District of \_\_\_\_\_

Is this a potential death penalty case? (Yes or No) X

7. Does this case originate from a matter pending in the Northern Region of the U.S. Attorney's Office prior to October 14, 2003? \_\_\_\_\_ Yes X No

8. Does this case originate from a matter pending in the Central Region of the U.S. Attorney's Office prior to September 1, 2007? \_\_\_\_\_ Yes X No

PETER OUTERBRIDGE  
ASSISTANT UNITED STATES ATTORNEY  
Florida Bar No. 289914

\*Penalty Sheet(s) attached

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

PENALTY SHEET

Defendant's Name: AARON NASH KAZINEC

Case No: \_\_\_\_\_

Count #:1

Wire Fraud

Title 18, United States Code, Section 1343

\* Max. Penalty: Twenty (20) years' imprisonment

Counts #:

\_\_\_\_\_  
\_\_\_\_\_

\*Max. Penalty:

Count #:

\_\_\_\_\_  
\_\_\_\_\_

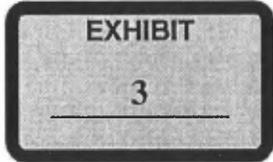
\*Max. Penalty:

Count #:

\_\_\_\_\_  
\_\_\_\_\_

\*Max. Penalty:

**\*Refers only to possible term of incarceration, does not include possible fines, restitution, special assessments, parole terms, or forfeitures that may be applicable.**



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-60126-CR-HURLEY

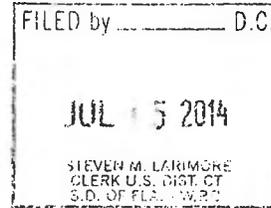
UNITED STATES OF AMERICA,

Plaintiff,

vs.

AARON NASH KAZINEC,

Defendant.



PLEA AGREEMENT

The United States of America (the "United States") and AARON NASH KAZINEC (hereinafter referred to as the "defendant") do hereby enter into the following agreement (the "Plea Agreement"):

1. The defendant agrees to enter a plea of guilty in connection with one count of a one-count Information which will be filed by the United States with the Clerk of the Court at some point subsequent to the date upon which this Plea Agreement is executed by the defendant and his counsel. The specific date on which this Information will be filed will be at the sole discretion of the United States.

2. The single count of the one-count Information concerning which the defendant will tender his plea of guilty will allege offenses as follows:

Count 1 – Wire Fraud, in violation of Title 18, United States Code, Section 1343.

3. In order to make the contemplated guilty plea, sentencing, and other procedural events addressed in this Plea Agreement possible, the defendant agrees to perform the following acts:

a. Within forty-eight (48) hours of the date and time by which the defendant's counsel is informed that an Information has been filed with the Clerk of the Court, or at a later time as directed by the United States, the defendant, accompanied by counsel, will voluntarily appear at the Miami Office of the Federal Bureau of Investigation ("FBI") for processing by that agency and immediately thereafter voluntarily surrender himself to the appropriate United States Marshals Service ("USMS") facility where the defendant will be held pending his initial appearance/arraignment. Alternatively, and at the sole discretion of the United States, the defendant may be required to submit himself for FBI processing upon an earlier occasion prior to the day of his surrender to the aforementioned USMS facility.

b. The defendant will also execute a waiver of indictment prior to the filing of the Information, and again in open court at the time of his initial appearance, with respect to his prosecution upon the charges addressed in the Information.

c. With respect to issues concerning any request by the defendant at his initial appearance for conditions of release pending change of plea, sentencing, and eventual surrender to commence his sentence (or any recommendation by the United States concerning such matters), no agreements concerning the conditions of any such release are addressed in this Plea Agreement. Agreements and stipulations concerning the defendant's pretrial release status will be the subject of separate negotiation by the parties and/or judicial determinations to be made at the time of initial appearance/arraignment.

d. At a time to be selected by the United States, the defendant's counsel, along with counsel for the United States, will notify the district court of the defendant's desire to change his plea and will make a joint request that the district court calendar the defendant's change of plea hearing at a time which is mutually acceptable to the parties and the district court.

4. In factual support of the defendant's contemplated guilty plea, the defendant will admit before the Court at the time of his change of plea and, if required by the Court or the United States, admit again in a signed first person factual statement or stipulation sworn before the Court pursuant to Fed. R. Crim. P. 11(b)(3), to having engaged in the illicit activities attributed to him as alleged in the single count of the Information which will be the subject of his guilty plea, including all relevant offense conduct on his part, as well as all relevant offense conduct consisting of any activities committed as part of any ongoing common scheme, plan or "scheme and artifice" to defraud.

5. The defendant is aware that his sentence will be imposed by the Court after considering the Sentencing Guidelines. The defendant further acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying, in part, upon the results of a Pre-Sentence Investigation Report prepared by the Court's probation office, which investigation will commence after the defendant's guilty plea has been tendered and accepted by the Court. The defendant is further aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower the computed advisory sentence under the Sentencing Guidelines. The defendant is thus aware and understands that the Court is *required to consider* the advisory guideline sentencing range

determined under the Sentencing Guidelines, but is *not bound to impose* that sentence. Rather, the defendant understands that the Court is permitted to tailor the ultimate sentence it pronounces in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offense identified in paragraph 2 herein and that the defendant may not withdraw his guilty plea solely as a result of the sentence imposed. The parties have also agreed that the defendant may make argument, consistent with the factors set forth in 18 U.S.C. § 3553(a), in support of the Court considering a sentence which is less severe than the Sentencing Guidelines' advisory sentencing range eventually determined by the Court to be otherwise applicable to the defendant's sentencing.

6. The defendant also understands and acknowledges that the Court may impose a statutory maximum term of imprisonment as follows with respect to the single count of conviction: Count 1 (Wire Fraud) - up to twenty (20) years followed by a term of supervised release of up to three (3) years.

7. In addition to a term of imprisonment and supervised release, the Court may impose a fine of up to \$250,000.00 for the count of conviction or an amount equivalent to the greater of twice the gross pecuniary gain derived by the defendant from the offense or twice the loss suffered by all victims of the offense. In addition, the Court must order the defendant to make restitution to the victims of the offense in accordance with 18 U.S.C. § 3663A(c)(1)(A)(ii), since the offense concerning which the defendant will stand convicted constitutes "an offense against property under [Title 18, United States Code]." Accordingly, the defendant agrees to the

imposition of an order of restitution as a component of his eventual sentence, and further agrees that the amount and scope of such restitution, and the victims to whom such restitution shall be made, will flow from the losses directly or indirectly caused by the defendant's offense conduct in connection with the entire scheme and not merely the particular wire transmission addressed in the Information as an act in execution of the scheme. Moreover, such losses are not limited in scope only to losses arising from particular acts which the defendant personally performed, but will include losses adjudged by the Court to have been caused by the defendant's offense conduct.

8. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraphs 6 and 7 of this Plea Agreement, a special assessment in the amount of \$100 will be imposed upon the defendant for the count of conviction. The defendant agrees that any special assessment imposed shall be paid at the time of sentencing. If the defendant is financially unable to pay the special assessment, the defendant agrees to present evidence to the Office of the United States Attorney for the Southern District of Florida (hereinafter the "Office of the United States Attorney") and the Court at the time of sentencing as to the reasons for the defendant's failure to pay.

9. The United States, through the Office of the United States Attorney, reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this agreement, the Office of

the United States Attorney further reserves the right to make any recommendation as to the quality and quantity of punishment.

10. The United States agrees that it will recommend at sentencing that the Court reduce by two levels the sentencing guideline level applicable to the defendant's offense, pursuant to Section 3E1.1(a) of the Sentencing Guidelines, based upon the defendant's recognition and affirmative and timely acceptance of personal responsibility. Moreover, if at the time of sentencing the defendant's offense level is determined to be 16 or greater, the United States will make a motion requesting an additional one level decrease pursuant to Section 3E1.1(b) of the Sentencing Guidelines, stating that the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying authorities of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the Court to allocate their resources efficiently. The United States, however, will not be required to make this recommendation and motion if the defendant: (1) fails or refuses to make a full, accurate and complete disclosure to the probation office of the circumstances surrounding the relevant offense conduct; (2) is found to have misrepresented facts to the government prior to entering into this plea agreement; or (3) commits any misconduct after entering into this plea agreement, including but not limited to committing a state or federal offense, violating any term of release, or making false statements or misrepresentations to any governmental entity or official. *Moreover, conduct of this nature will constitute non-compliance with the terms of this Plea Agreement and subject the defendant to applicable consequences as set forth in Paragraph 15 herein.*

11. The United States and the defendant agree that they will *jointly and affirmatively stipulate and recommend* that the Court make the following findings and conclusions potentially affecting the guideline sentence, with the understanding that such agreements are not binding upon the probation office or the Court:

a) Applicable Offense Guideline Section: Pursuant to U.S.S.G. Appendix A - Statutory Index, the applicable Offense Guideline set forth in Chapter 2 of the Sentencing Guidelines is to be found at U.S.S.G. §2B1.1 (Offenses Involving Fraud and Deceit). The defendant and the United States also stipulate and agree that the applicable United States Sentencing Commission Guidelines Manual to be utilized at the time of the defendant's sentencing is the guidelines manual which is currently operative and which became effective as of November 1, 2013, notwithstanding the possible existence of any potential *ex post facto* argument in support of an earlier guidelines manual that *may* be arguable.

b) Base Offense Level: Pursuant to U.S.S.G. §2B1.1(a)(2), the base offense level is 7 in view of the fact that the offense of conviction, Title 18 United States Code, Section 1343, provides for a maximum term of imprisonment of twenty years.

c) Loss: Pursuant to U.S.S.G. § 2B1.1(b)(1) and Application Notes 3(A)(i)-(iv) and 3(A)(v)(III) thereto, the parties will assert at time of sentencing that the total amount of actual, probable and intended loss and reasonably foreseeable pecuniary harm under Section 2B1.1(b)(1) of the Sentencing Guidelines resulting from the defendant's relevant conduct, common scheme, plan, and similar course of conduct, including all acts and omissions committed, aided, abetted, counseled, commanded, induced, procured or willfully caused by the

defendant, is more than \$1,000,000, but less than \$2,500,000, in such event the defendant should receive a sixteen-level increase in accordance with U.S.S.G. §2B1.1(b)(1)(I).

d) Number of Victims: Pursuant to U.S.S.G. §2B1.1(b)(2)(A), the United States *may* determine that there exists a legal and factual basis to argue that the defendant should receive a two-level increase on the grounds that the offense involved 10 or more victims.

e) Abuse of Trust: Pursuant to U.S.S.G. § 3B1.3 and Application Note 2(B) thereto, the defendant should receive an additional two-level increase on the grounds that the defendant abused a position of public or private trust, or used a special skill in a manner that significantly facilitated the commission of the offense.

(f) Offense Characteristics or Adjustments Not Contemplated: No agreement has been reached by the parties with respect to any offense characteristics and adjustments not expressly addressed in this plea agreement, although the parties are unaware of any other potentially applicable offense characteristic or adjustment.

12. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant further understands and acknowledges, as previously acknowledged in paragraph 5 above, that the defendant may not withdraw his plea

based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the United States, or a recommendation made jointly by both the defendant and the United States.

13. This Plea Agreement excludes Title 26 offenses, crimes of violence, and any other proceeding or investigation which may be pending at the time this agreement is signed. This Plea Agreement is also limited to the United States Attorney's Office for the Southern District of Florida and, as such, does not and cannot bind other federal, state, regulatory or local prosecuting authorities. This Plea Agreement also ~~contemplates~~ <sup>AW</sup> that, should the defendant be afforded additional time to surrender in the event ~~he~~ <sup>AW</sup> receives a sentence of imprisonment at time of sentencing, that the defendant shall surrender at the time and in the manner directed by the Court, and that failure to do so, or failure to abide by the terms of ~~his~~ <sup>AW</sup> release at any time whether pending his surrender or prior to ~~his~~ <sup>AW</sup> sentencing, shall constitute non-compliance with the terms of this Plea Agreement and subject the defendant to the consequences set forth in Paragraph 15 herein.

14. The defendant reiterates in this Plea Agreement that all statements which he has previously made to federal law enforcement agents were provided by the defendant with the explicit understanding of both himself and with the concurrence of his undersigned counsel that Fed. R. Evid. 410 was not applicable to such statements, nor were there any other agreements which would serve to limit the extent to which the United States may make evidentiary use of these same prior statements to law enforcement agents. Moreover, to the extent that it may subsequently be entertained by a federal court as to whether Rule 410 did (or does) apply to any portion of the defendant's previous statements, the defendant, with the concurrence of his

undersigned counsel, hereby waives any claim of right, privilege or other benefit afforded to him by that Rule.

15. In the event the defendant withdraws (or is allowed by the Court to withdraw) from this Plea Agreement after the United States and the defendant have signed it, or in the event that the defendant materially fails to fully comply with any of the terms of this Plea Agreement, the United States will be released from its obligations under this agreement. The defendant further agrees and understands that, in such an eventuality: (a) he thereby waives any protection arguably afforded by Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence; and (b) agrees that, as a consequence of such withdrawal or material non-compliance, that any factual agreement or recitation executed by the defendant prior to the time of withdrawal, including the stipulated factual statement prepared for submission to the Court pursuant to Fed. R. Crim. P. 11(b)(3) and paragraph 4 of this Plea Agreement, will be available for evidentiary use against the defendant by the United States at any subsequent trial or proceeding notwithstanding the applicability of certain provisions within Rules 410 and 11(f) that would otherwise restrict the extent to which the United States could make evidentiary use of such statements.

16. The defendant recognizes that pleading guilty may have consequences with respect to the defendant's immigration status if the defendant is not a citizen of the United States or is a naturalized citizen of the United States. Under federal law, a broad range of crimes are removable offenses, including the offense(s) to which defendant is pleading guilty. In addition, under certain circumstances, removal (in the case of non-citizen defendants) or denaturalization followed by removal (in the case of naturalized U.S. citizens) may also be a consequence of

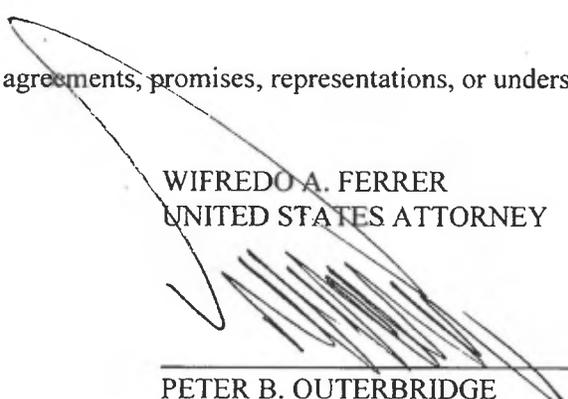
pleading guilty to a crime. Removal, denaturalization, and other immigration consequences are the subject of a separate proceeding, however, and defendant understands that no one, including the defendant's attorney or the Court, can predict to a certainty the effect of the defendant's conviction on the defendant's immigration status. Defendant nevertheless affirms that the defendant wants to plead guilty regardless of any immigration consequences that the defendant's plea may entail, even if the consequence is the defendant's denaturalization and automatic removal from the United States.

17. The United States represents that the undersigned prosecutor is unaware of any information establishing the factual innocence of the defendant in the offenses referred to in paragraph 2 of this Plea Agreement. The United States understands that it has a continuing duty to provide such information establishing factual innocence of the defendant. The defendant understands that if this case proceeded to trial, the United States would be required to provide impeachment information relating to any informants or other witnesses. In addition, if the defendant raised an affirmative defense, the United States would be required to provide information in its possession that supports such a defense. Further, if this case proceeded to trial, the United States would be required to provide other information and materials in accordance with Fed. R. Crim. P. 16 and the Southern District of Florida's Standing Discovery Order. In return for the United States' promises set forth in this Plea Agreement, the defendant waives the right to receive in discovery any such information and materials other than information and materials establishing the factual innocence of the defendant, and agrees not to attempt to withdraw the guilty plea based upon the existence of such information and materials other than information and materials establishing the factual innocence of the defendant.

18. The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure and/or a variance from the guideline range that the court establishes at sentencing. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney.

19. This is the entire agreement and understanding between the United States and the

defendant. There are no other agreements, promises, representations, or understandings.



WIFREDO A. FERRER  
UNITED STATES ATTORNEY

Date: 6/14/2014

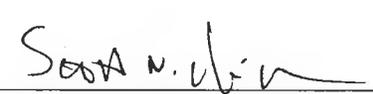
PETER B. OUTERBRIDGE  
ASSISTANT UNITED STATES ATTORNEY

Date: 6-4-14



AARON NASH KAZINEC  
DEFENDANT

Date: 6/4/14



SCOTT RICHARDSON, ESQ.  
COUNSEL FOR DEFENDANT KAZINEC

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-60126-CR-HURLEY  
MAGISTRATE JUDGE HOPKINS

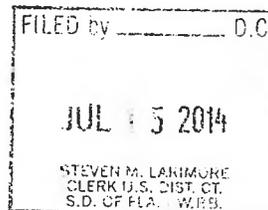
UNITED STATES OF AMERICA,

Plaintiff,

vs.

AARON NASH KAZINEC,

Defendant.



**STIPULATED STATEMENT OF FACTS BY DEFENDANT**  
**AARON NASH KAZINEC**

1. AARON NASH KAZINEC, hereby state the following:

1. I am knowledgeable and personally aware of the factual matters summarized throughout this Stipulated Statement of Facts.

2. I have consulted with my attorney regarding the factual assertions described in the pages which follow.

3. I hereby acknowledge, adopt, admit and confirm to be true and correct, as evidenced by my signature appearing at the end of this document, the factual assertions set forth herein.

4. I understand that this statement is being signed and supplied by me pursuant to Fed. R. Crim. P. 11(b)(3) with the understanding that I will be pleading guilty to a single count of the Information which has been filed in the case of *United States v. Aaron Nash Kazinec*, Case

No. 14-60126-CR-HURLEY, and which charges me with the offense of wire fraud in violation of Title 18, United States Code, Section 1343 as a consequence of the offense conduct described below.

a. In approximately March 2007, I commenced employment with MetLife, Inc. ("MetLife") as a Series Six licensed "Financial Services Representative" in Fort Lauderdale, Florida. Prior to my employment with MetLife, I had been employed in a similar capacity with Massachusetts Mutual Life Insurance Company ("Mass Mutual"). During my tenure with Mass Mutual, I established account relationships with a number of clients who later became clients of mine at MetLife. Some of these same clients eventually became victims of the unlawful scheme which I perpetrated while employed at MetLife and for which I am presently being prosecuted. Prior to my initiation of this scheme, each of these victims had taken out annuity contracts with Allianz Life Insurance Company of North America ("Allianz") and/or held other investments as part of their account holdings at MetLife.

b. Commencing in approximately March 2009, I began to implement the scheme in question by informing my victims that I could reinvest their annuities and other investments in certain purported alternative investments and, by so doing, obtain a higher rate of return.

c. Once a victim had expressed a willingness to surrender or liquidate a portion of his/her annuity-related investment assets or other investments for the purpose of reinvesting in my so-called alternative

investment offerings, I would give the victim specific instructions on how to make their annuity assets and other current investments available for this purpose. In so doing, I would convince many of the victims to initially make elective cash withdrawals from their annuities and ultimately I persuaded all such victims to surrender and liquidate the entire amounts of their annuity contracts.

d. In addition to prevailing upon the affected clients to engage in the requested transactions designed to generate liquid cash purportedly destined for reinvestment, I also requested that the victims specify that the proceeds of these transactions be wired to the victims' checking accounts. This was accomplished by faxed instructions and pertinent executed forms which requested the subject withdrawals and liquidations, as well as subsequent wire transfers of the funds that had thus been made available. With respect to Allianz annuity investments, I caused these fax communications to be transmitted from my MetLife offices in Fort Lauderdale, Florida to Allianz offices in Minnesota.

e. Once the funds had been received in the victims' checking accounts in the above-described manner, I advised each of the victims that they should supply me with checks drawn upon these same checking accounts (and funded by their recently liquidated investment proceeds) in amounts which I would specify. Additionally, I instructed each such victim to leave the

“payee” lines of these checks blank or, in some cases, to write in the payee as “cash.”

f. Throughout the period of my “scheme and artifice,” that is, from approximately March 2009 through December 2012, I obtained numerous checks payable to blank payees or to “cash” from my victims. In each instance, I informed the victim that checks of this type were necessary so that I could then make use of the funds represented by these checks for the purpose of acquiring the alternative investments that I had promised each victim I would obtain for them.

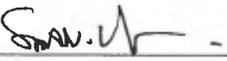
g. Instead of utilizing these funds to acquire alternative investments for these victims, as I had represented I would do, I deposited the checks into my own personal bank account and, as I had intended to do all along, converted these funds to my own personal use. Thereafter, I would consume most of these funds in connection with my gambling activities at various casinos.

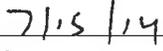
h. In addition to the above, I also defrauded an additional MetLife client by convincing him to liquidate certain existing investments and provide me with three checks funded by the liquidation proceeds and made payable to cash, which funds I promised would be applied toward a universal life insurance policy. Once I was supplied with these checks, I deposited two of them into my own personal bank account and converted the funds to my own personal use in the manner previously described.

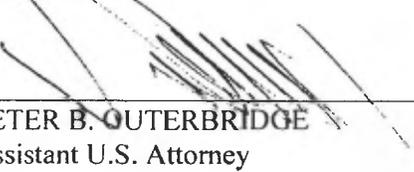
i. All totaled, I misappropriated at least \$1.4 million (but less than \$2.5 million) as a consequence of my scheme. After I was confronted by MetLife's corporate fraud and compliance division, as well as the F.B.I. in July 2013, I made a full confession concerning these same illegal activities.

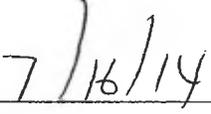
  
\_\_\_\_\_  
AARON NASH KAZINEC  
Defendant

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
SCOTT N. RICHARDSON, ESQ.  
Counsel for Defendant

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
PETER B. OUTERBRIDGE  
Assistant U.S. Attorney

  
\_\_\_\_\_  
Date

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA



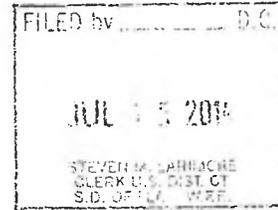
CASE NO. 14-60126-Cr-Hurley/Hopkins

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

AARON NASH KAZINEC

Defendant.



CHANGE OF PLEA MINUTES

On July 15, 2014 the above named defendant appeared in person before the Honorable James M. Hopkins, United States Magistrate Judge, with Scott Richardson, counsel retained and said defendant, stated in open court that he desired to withdraw the plea of Not Guilty heretofore entered and desired to enter a plea of Guilty as to Count(s) 1, of the Information.

After the defendant was duly sworn, the Court made inquiry as to guilt. The Court, being satisfied there was a factual basis for the plea, accepted the plea of Guilty and found the defendant guilty as charged.

Whereupon:

- ( ) The Court proceeded to pronounce sentence. (See J&C)
- ( x ) The Court postponed sentencing until :  
Sentencing Date to be set by Judge Hurley's Chambers
- ( x ) The defendant being allowed to remain on bond until sentencing.
- ( ) The defendant being remanded to the custody of the U. S. Marshal Service until a \_\_\_\_\_ bond in the amount of \$ \_\_\_\_\_ is approved and posted.
- ( ) The defendant being remanded to the custody of the U. S. Marshal awaiting sentencing.

The U. S. Attorney announced Count(s) \_\_\_\_\_ would be dismissed on the government's motion at sentencing.

Judge: USMJ James M. Hopkins

Court Reporter: Stephen Franklin

Interpreter : \_\_\_\_\_

AUSA: Peter Outerbridge

Courtroom Deputy: Tanya McClendon

**\*\*THE COURT WAIVES THE CONDITION OF BOND THAT ORDERS THE DEFENDANT TO SEEK FULL TIME EMPLOYMENT/EDUCATION AS THE DEFENDANT HAS BEEN RECEIVING DISABILITY AS OF AUGUST 2013.**



**United States District Court**  
**Southern District of Florida**  
FT. LAUDERDALE DIVISION

**UNITED STATES OF AMERICA**

**JUDGMENT IN A CRIMINAL CASE**

**v.**

**Case Number - 0:14CR60126-001**

**AARON NASH KAZINEC**

USM Number: [REDACTED]

Counsel For Defendant: Scott N. Richardson, Esq.  
Counsel For The United States: AUSA Peter B. Outerbridge  
Court Reporter: Tammy Nestor

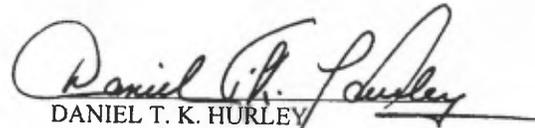
The defendant pleaded guilty to Count ONE of the One Count Information on July 15, 2014. The defendant is adjudicated guilty of the following offense:

| <u>TITLE/SECTION NUMBER</u> | <u>NATURE OF OFFENSE</u> | <u>OFFENSE ENDED</u> | <u>COUNT</u> |
|-----------------------------|--------------------------|----------------------|--------------|
| 18 U.S.C. § 1343            | Wire Fraud.              | December 2012        | ONE          |

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

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 any material changes in economic circumstances.

Date of Imposition of Sentence:  
November 10, 2014

  
DANIEL T. K. HURLEY  
United States District Judge

November 14, 2014

DEFENDANT: AARON NASH KAZINEC  
CASE NUMBER: 0:14CR60126-001

**IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **55 months. This is the total term of imprisonment imposed as to Count ONE of the One-Count Information**

The Court makes the following recommendations to the Bureau of Prisons:

The court recommend the term of imprisonment be served at the Federal Prison Camp in Pensacola FL.

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

**RETURN**

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By: \_\_\_\_\_  
Deputy U.S. Marshal

DEFENDANT: AARON NASH KAZINEC  
CASE NUMBER: 0:14CR60126-001

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of **3 years**. **This is the total term of supervised release imposed as to Count ONE of the One-Count Information.**

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

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

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

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

**The defendant shall cooperate in the collection of DNA as directed by the probation officer.**

If this judgment imposes a fine or a 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 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 fifteen 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 (10) days prior** to any change in residence or employment;
7. The defendant shall refrain from the excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
8. The defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
9. The defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
10. The defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
11. The defendant shall notify the probation officer within **seventy-two (72) hours** of being arrested or questioned by a law enforcement officer;
12. The defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
13. As directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: AARON NASH KAZINEC  
CASE NUMBER: 0:14CR60126-001

### **SPECIAL CONDITIONS OF SUPERVISION**

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

The defendant shall maintain full-time, legitimate employment and not be unemployed for a term of more than 30 days unless excused for schooling, training or other acceptable reasons. Further, the defendant shall provide documentation including, but not limited to pay stubs, contractual agreements, W-2 Wage and Earnings Statements, and other documentation requested by the U.S. Probation Officer.

The defendant shall provide complete access to financial information, including disclosure of all business and personal finances, to the U.S. Probation Officer.

The defendant shall participate in an approved inpatient/outpatient mental health treatment program. The defendant will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third party payment.

The defendant shall submit to a search of his person or property conducted in a reasonable manner and at a reasonable time by the U.S. Probation Officer.

The defendant shall not own, operate, act as a consultant, be employed in, or participate in any manner, in any related concern during the period of supervision.

The defendant shall obtain prior written approval from the Court before entering into any self-employment.

The defendant shall not apply for, solicit, or incur, any further debt, included but not limited to, loans, lines of credit, or credit card charges, either as a principal or cosigner, as an individual or through any corporate entity, without first obtaining permission from the U.S. Probation Officer.

DEFENDANT: AARON NASH KAZINEC  
CASE NUMBER: 0:14CR60126-001

**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on the Schedule of Payments sheet.

| <u>Total Assessment</u> | <u>Total Fine</u> | <u>Total Restitution</u> |
|-------------------------|-------------------|--------------------------|
| \$100.00                | \$                | TO BE ESTABLISHED        |

The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(1), all nonfederal victims must be paid before the United States is paid.

| <u>Name of Payee</u>                                  | <u>Total Amount of Loss</u> | <u>Amount of Restitution Ordered</u> | <u>Priority Order or Percentage of Payment</u> |
|---|-----------------------------|--------------------------------------|--|
| As indicated in the PreSentence Investigation Report. | TO BE ESTABLISHED           | TO BE ESTABLISHED                    |  |

The Court has 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, United States Code, for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: AARON NASH KAZINEC  
CASE NUMBER: 0:14CR60126-001

### 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.

It is further ordered that the defendant shall pay restitution an amount to be established by separate order. During the period of incarceration, payment shall be made as follows: (1) if the defendant earns wages in a Federal Prison Industries (UNICOR) job, then the defendant must pay 50% of wages earned toward the financial obligations imposed by this Judgment in a Criminal Case; (2) if the defendant does not work in a UNICOR job, then the defendant must pay a minimum of \$25.00 per quarter toward the financial obligations imposed in this order.

Upon release of incarceration, the defendant shall pay restitution at the rate of 10% of monthly gross earnings, until such time as the court may alter that payment schedule in the interests of justice. The U.S. Bureau of Prisons, U.S. Probation Office and U.S. Attorney's Office shall monitor the payment of restitution and report to the court any material change in the defendant's ability to pay. These payments do not preclude the government from using other assets or income of the defendant to satisfy the restitution obligations.

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

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

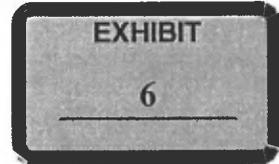
The assessment and restitution are payable to the CLERK, UNITED STATES COURTS and is to be addressed to:

U.S. CLERK'S OFFICE  
ATTN: FINANCIAL SECTION  
400 NORTH MIAMI AVENUE, ROOM 8N09  
MIAMI, FLORIDA 33128-7716

The assessment and restitution are payable immediately. The U.S. Bureau of Prisons, U.S. Probation Office and the U.S. Attorney's Office are responsible for the enforcement of this order.

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

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**



**CASE NO. 14-60126-CR-HURLEY**

**UNITED STATES OF AMERICA,  
Plaintiff,**

v.

**AARON NASH KAZINEC,  
Defendant.**

-----/

**ORDER AMENDING THE JUDGMENT IN A CRIMINAL CASE**

**THIS CAUSE** come before the court joint motion from the parties in the above captioned case to adopt stipulation concerning restitution and to issue a final amended judgment in a criminal case. Upon consideration, it is

**ORDERED and ADJUDGED:**

1. The joint motion to adopt stipulation concerning restitution and to issue the final amended judgment in a criminal case is **granted**.

2. The Judgment in a Criminal Case imposed on November 10, 2014, is **amended** as follows: The defendant shall pay restitution in the amount of \$1,391,250.00 to the victims indicated in the Presentence Investigation Report. The restitution is due and payable immediately.

3. All other terms and conditions of the Judgment Order shall remain in effect.

**DONE and SIGNED** in Chambers at West Palm Beach, Florida this 5<sup>th</sup> day of

January, 2015.

**copy furnished:**

AUSA Peter B. Outerbridge  
Scott N. Richardson, Esq.  
United States Marshal Service  
United States Probation Office  
United States Bureau of Prisons

A handwritten signature in black ink, appearing to read "Daniel T. K. Hurley".  
Daniel T. K. Hurley  
United States District Judge