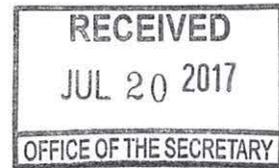


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-17828

In the Matter of

ROSALIND HERMAN,

Respondent.

**DIVISION OF ENFORCEMENT'S MOTION FOR SUMMARY DISPOSITION
AGAINST RESPONDENT ROSALIND HERMAN**

The Division of Enforcement ("Division") pursuant to the Commission's Rule of Practice 250, respectfully moves the Court for an order granting summary disposition to the Division and imposing a permanent associational and collateral bar against the Respondent Rosalind Herman. As grounds for this requested relief, the Division submits the accompanying memorandum of law and the supporting Declaration of Kathleen Shields.

Dated: July 19, 2017

Respectfully submitted,



Kathleen B. Shields
Susan Anderson
Securities and Exchange Commission
Boston Regional Office
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COUNSEL FOR
DIVISION OF ENFORCEMENT

CERTIFICATE OF SERVICE

I, Kathleen Shields, hereby certify that on July 19, 2017, I caused the Division of Enforcement's Motion for Summary Disposition, the accompanying memorandum of law in support of that motion, and the accompanying Declaration of Kathleen Shields to be served in the manner indicated below:

Office of the Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

(by overnight mail – original and three copies)

Rosalind Herman

Register No. [REDACTED]

Route [REDACTED]

Danbury, CT [REDACTED]

(by first class mail)

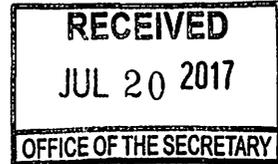
A courtesy copy was provided to:
Judge Carol Foelak
Office of Administrative Law Judges
Securities and Exchange Commission
100 F Street, NE, Mail Stop 2585
Washington, DC 20549

(by overnight mail)

Dated: July 19, 2017



Kathleen B. Shields



UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

ADMINISTRATIVE PROCEEDING
File No. 3-17828

In the Matter of
ROSALIND HERMAN,
Respondent.

**DIVISION OF ENFORCEMENT'S
MEMORANDUM OF LAW IN SUPPORT OF ITS MOTION FOR
SUMMARY DISPOSITION AGAINST RESPONDENT ROSALIND HERMAN**

Respectfully submitted,

DIVISION OF ENFORCEMENT

By its attorneys,

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Dated: July 19, 2017

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The Division of Enforcement (the “Division”), pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.250, and with the leave of the Court, hereby moves for summary disposition against Respondent Rosalind Herman (“Herman”). All facts necessary for summary disposition have been resolved by Herman’s federal criminal conviction for committing investment adviser fraud in violation of 15 U.S.C. §80b-6, and -17. Herman may not re-litigate the jury’s finding of guilt, which has been affirmed on appeal. The Division asserts that summary disposition is appropriate in this matter and that a permanent associational and collateral bar is in the public interest and should be imposed on Herman.

I. Procedural History

On February 7, 2017, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Proceedings (“OIP”) pursuant to Section 203(f) of the Investment Advisers Act of 1940 (“Advisers Act”) against Herman. *See* Declaration of Kathleen Shields (“Shields Dec.”), Ex. A. On or about June 2, 2017, after an extension of time to permit Herman to obtain counsel, the Division was served with Herman’s Answer to the OIP. *See id.*, Ex. B.

The OIP alleged that on April 5, 2016, Herman was convicted of, *inter alia*, one count of conspiracy in violation of 18 U.S.C. §371, one count of investment adviser fraud in violation of 15 U.S.C. §80b-6 and 80b-17, and four counts of wire fraud in violation of 18 U.S.C. §1343, before the United States District Court for the District of Massachusetts in *United States v. Rosalind Herman*, Crim. No. 12-10015-WGY. *See* Shields Dec., Ex. A, ¶2. Herman was sentenced to seven years in prison and ordered to pay approximately \$1.82 million in restitution. A copy of the criminal judgment against Herman is attached to the Shields Declaration as Ex. C. Heman’s Answer to the OIP admits both the facts of her criminal conviction and her sentence. *See* Shields Dec., Ex. B, ¶2. Following Herman’s criminal

conviction, she appealed her conviction and sentence and the First Circuit affirmed. *See United States v. Herman*, 848 F.3d 55 (1st Cir. 2017).

II. Factual Background Concerning Herman's Crimes

The indictment on which Herman was convicted alleged that Herman was an investment adviser who fraudulently induced her investment clients to loan money to her and to her business partner and co-defendant Gregg Caplitz ("Caplitz"), diverted investment clients' funds for her and her family's uses, and lulled her clients into allowing her to continue to control the clients' investments by fraudulent means. *See* Shields Dec., Ex. D (Indictment, ¶6, Counts 1, 2, 4-7). In ordering forfeiture of approximately \$1.3 million against Herman, the district court found "the evidence at trial established that [Herman] and co-defendant Gregg Caplitz [] defrauded investors of \$1,385,257 from May, 2008 through March 2013, telling them that their funds would be invested in a hedge fund company, when instead the money was used to fund the personal spending account of [Herman]" and that the court's calculation was supported by the trial testimony of Herman's victims, the bank records of Herman's companies and the testimony of the government's summary witness. *See* Shields Dec., Ex. E (Order of Forfeiture (Money Judgment)) at 2.

Herman held various officer and director positions in several financial planning businesses including Financial Resources Network, Inc., Financial Family Holdings, LLC, Financial Designing Consultants, Inc., The Knew Finance Experts, Inc., Insight Onsite Strategic Management, LLC ("Insight Management") and Insight Onsite Strategic Partners, LLC ("Insight Partners"). Shields Dec., Ex. D, ¶¶8-11, 15-18. Herman was the President, Chief Executive Officer and Chief Investment Officer of Insight Management, which was an investment adviser registered with the Commission. *See id.*, ¶¶15-16. "According to its Limited Liability Company Agreement, which was signed by Herman, Insight Partners was

formed, among other things, to serve as the general partner of Insight Onsite Strategic Fund, LP (the “Insight Fund”), a hedge fund that Herman and Caplitz purported to be starting.” *Id.*, ¶19. Caplitz and Herman fraudulently induced their existing investment advisory clients to purchase ownership shares in Insight Partners. *See id.*, ¶¶23-24. Instead of using the clients’ funds to start or operate a hedge fund, the clients’ money was deposited into bank accounts primarily belonging to Insight Management, and The Knew Finance Experts, from which Herman and Herman’s family members spent those funds to fund their lifestyle and to pay Caplitz. *See id.*, ¶¶28-30. As a result of Herman’s fraud, client’s money “was used to pay for personal expenses such as car payments, vacations, debt payments, legal bills, pet care, Las Vegas hotel rooms, shopping trips and fitness club memberships, among many other things.” *Id.*, ¶30.

When clients asked about the status of their investments or being repaid, Caplitz and Herman told a number of lies to their clients, provided them with false documents, made partial payments to some, and made false promises of payments to others, all in order to lull the clients into allowing Caplitz and Herman to continue to control their investment funds. *See id.*, ¶¶31-32.

Caplitz pled guilty for his role in the investment adviser fraud scheme described above and testified against Herman at her trial. *See United States v. Caplitz*, Crim. No. 12-cr-10015-WGY (D. Mass.). Caplitz was sentenced to three and a half years in prison and was ordered to pay restitution of approximately \$1.9 million. *See Shields Dec., Ex. F.* Caplitz was also barred by the Commission from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization. *See In the Matter of Gregg D. Caplitz*, Advisers Act Rel. No. 4644 (Feb. 7, 2017).

Herman’s crimes targeted particularly vulnerable victims, including a telephone operator who had a progressively disabling medical condition and saved for her medical costs

in retirement, and other small business owners who saved for their retirement. *See* Shields Dec., Ex. J at 18 (transcript of sentencing hearing).

III. Argument

Summary disposition in favor of the Division is appropriate in this case because there “is no genuine issue with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law.” Comm’n Rule 250(b). “Use of the summary disposition procedure has been repeatedly upheld in case such as this one where the respondent has been enjoined or convicted, and the sole determination concerns the appropriate sanction.” *In the Matter of Jeffrey Gibson*, Exchange Act Rel. No. 2700, 2008 WL 294717, *5 (Feb. 4, 2008).

A. Herman’s Criminal Conviction Provides a Basis for a Collateral Industry Bar.

Section 203(f) of the Advisers Act allows the Commission, if it finds that it is in the public interest to do so, to censure, place limitations on the activities of, or suspend or bar from association with an investment adviser, broker, dealer, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization, any person associated, seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated with an investment adviser, who has been convicted of any offense described in Section 203(e)(2) of the Advisers Act within ten years of the commencement of the proceedings or has willfully violated any provision of the Advisers Act. *See* 15 U.S.C. §80b-3(f). Section 203(e)(2)(B) pertains to persons who have been convicted of any felony or misdemeanor that “arises out of the conduct of the business of a[n]. . . investment adviser.” 15 U.S.C. §80b-3(e)(2)(B). Section 203(e)(5) pertains to people who have “willfully violated any provision of . . . this title.” 15 U.S.C. §80b-3(e)(5).

Herman's crime of investment adviser fraud, in violation of 15 U.S.C. §80b-6, easily satisfies both of these subsections, (e)(2)(B) and (e)(5). Investment adviser fraud necessarily arises out of the business of an investment adviser and Herman's conviction occurred less than a year before this action was commenced. *See* Shields Dec., Ex. A (OIP instituted on February 7, 2017). Herman's criminal conviction establishes that "at the time of the alleged misconduct, [she was] associated or seeking to become associated with an investment adviser." *See* 15 U.S.C. §80b-3(f). One of the elements of investment adviser fraud that the government had to prove beyond a reasonable doubt is that Herman "was an investment advisor or she was a person associated with an investment advisor." Shields Dec., Ex. G (district court's jury instructions on investment adviser charge) at 99.¹

In her Answer to the OIP, Herman disputes certain of the facts alleged in the criminal indictment, and disputes her role as an officer of Insight Management. *See* Shields Dec., Ex. B at ¶¶1, 3. The thrust of Herman's argument appears to be that she was not an investment adviser or associated with an investment adviser, did not have the necessary sophistication to commit any crimes, and that Caplitz, not her, was the person who defrauded the victims in this case. Herman's attempts to deny and deflect the jury's findings that underpin an essential element of her criminal conviction – that she was an investment adviser or associated with an investment adviser – are barred by the doctrine of collateral estoppel.

Under the doctrine of collateral estoppel, summary judgment is appropriate when all

¹ The Court's full charge on this element read: "Third, that she was an investment advisor or she was a person associated with an investment advisor. Now what does that mean? Be specific here. That means that they must prove the following. The term "person associated with an investment advisor" means any partner, officer, director of such investment advisor, or any person performing similar functions, or any person directly or indirectly controlling or controlled by such investment advisor, including any employees of such investment advisor. Now the government argues it both ways, they say they've got evidence that she was a registered investment advisor herself and, if you don't believe that, they say well she was a person associated with any investment advisor, the investment advisor being Mr. Caplitz. That's what they argue to you. But they've got to prove one of those, either she was an investment advisor or a person associated with an investment advisor." Shields Dec., Ex. G at 99-100.

issues were “actually and necessarily resolved in a prior proceeding.” *SEC v. Freeman*, 290 F. Supp. 2d 401, 404 (S.D.N.Y. 2003); *see also SEC v. Chapman*, 826 F. Supp. 2d 847, 855-56 (D. Md. 2011) (granting motion for summary judgment on SEC’s investment adviser fraud claim after defendant convicted in parallel criminal case of mail and wire fraud for identical conduct). A criminal conviction, whether by jury verdict or guilty plea, collaterally estops a defendant from disputing the facts that formed the basis of that conviction in a subsequent civil action. *See SEC v. Shehyn*, 2010 WL 3290977, *3 (S.D.N.Y. Aug. 9, 2010) (citing *United States v. Podell*, 572 F.2d 31, 35 (2d Cir. 1978)). As observed by one district court: “[t]he prevalence of estoppel in civil cases following their criminal counterparts is due in part to the court’s desire to avoid inconsistent verdicts in light of the higher burden of proof required in the prior criminal case.” *SEC v. Blackwell*, 477 F. Supp. 2d 891, 899 (S.D. Ohio 2007); *see also Emich Motors Corp. v. General Motors Corp.*, 340 U.S. 558, 568 (1951); *SEC v. Haligiannis*, 470 F. Supp. 2d 373, 382 (S.D.N.Y. 2007).

Collateral estoppel should be applied when (1) the issues in both proceedings are identical; (2) the issue in the prior proceeding was actually litigated and actually decided; (3) there was a full and fair opportunity for litigation in the prior proceeding; and (4) the issue previously litigated was necessary to the judgment. *See Gelb v. Royal Globe Ins. Co.*, 798 F.2d 38, 44 (2d Cir. 1986). “It is well-settled that a criminal conviction, whether by a jury verdict or guilty plea, constitutes estoppel in favor of the United States in a subsequent civil proceeding as to those matters determined by the judgment in the criminal case.” *Podell*, 572 F.2d at 35. Courts have applied collateral estoppel in investment adviser fraud cases because the elements necessary to establish civil liability under the Advisers Act antifraud provisions are identical to, and in some ways, even less than, those needed to prove criminal liability under those same provisions. *Haligiannis*, 470 F. Supp. at 383 (granting SEC’s motion for summary judgment

where defendant entered guilty plea to investment adviser fraud in criminal case).

Like the district courts, the Commission does not permit a respondent to re-litigate issues that were addressed and actually litigated in a prior proceeding and were determined adversely to the respondent. *See In the Matter of James E. Franklin*, Rel. No. 56649, 2007 WL 2974200, *4 (Oct. 12, 2007) (injunction entered after trial); *In the Matter of Joseph P. Galluzzi*, Rel. No. 46405, 2002 WL 1941502, *3 (Aug. 23, 2002) (finding that “a party cannot challenge his injunction or criminal conviction in a subsequent administrative proceeding”). Herman’s efforts to convince this court to revisit the necessary elements underlying her conviction, including the finding that she acted as or was associated with an investment adviser, are thus unavailing.

B. Herman’s Egregious Misconduct Justifies Imposition of an Industry Bar.

Section 203(f) of the Advisers Act provides that the Commission shall sanction a respondent if such sanction is in the public interest. The facts stated above demonstrate that this Court should impose an industry bar upon Herman.

To determine whether an industry bar is in the public interest, this Court must consider the factors set forth in *Steadman v. SEC*, 603 F.2d 1126, 1140 (5th Cir. 1979). *See, e.g., Douglas L. Swenson, CPA*, Admin. Proc. Rulings Release No. 795, 2015 SEC LEXIS 1957, at *13 (May 19, 2015); *In the Matter of Robert Burton*, Rel. No. 1014, 2016 WL 3030850, *4 (May 27, 2016). Those factors include “the egregiousness of the [respondent’s] actions, the isolated or recurrent nature of the infraction, the degree of scienter involved, the sincerity of the [respondent’s] assurances against future violations, the [respondent’s] recognition of the wrongful nature of his conduct, and the likelihood that the [respondent’s] occupation will present opportunities for future violations.” *Swenson*, at *13-14 (*citing Steadman*, 603 F.2d at 1140); *Burton*, at *4. The Commission may also consider “the degree of harm to investors”

resulting from the violation. *Burton*, at *4. “The public interest requires a severe sanction when a respondent’s past misconduct involves fraud because opportunities for dishonesty recur constantly in the securities business.” *Burton*, *4 (quoting *Vladimir Boris Bugarski*, Exchange Act Rel. No. 66842, 2012 SEC LEXIS 1267, *18 n. 26 (Apr. 20, 2012)).

In this case, it is beyond question that the public interest would be served by imposing a collateral industry bar upon Herman. Each of these factors weighs in favor of imposing a bar.

Herman’s conduct was egregious, persistent, and purposeful. She was convicted of conspiracy and investment adviser fraud that spanned five years – from May 2008 to March 2013 when her conspiracy with Caplitz was interrupted by the Commission’s filing of a civil case against Caplitz that obtained an asset freeze to protect further theft of their investment advisory clients’ assets. *See* Shields Dec., Ex. C (criminal judgment); Shields Dec., Ex. D at ¶41 (listing overt acts in furtherance of the conspiracy between Herman and Caplitz); Shields Dec., Ex. H (docket in *SEC v. Caplitz et al.*, No. 1:13-cv-10612-MLW; Dkt. No. 10 (temporary restraining order sought on Mar. 15, 2013, issued on Mar. 17, 2013)). She was also convicted of four counts of wire fraud spanning the years 2008 through 2012 and of committing a corrupt endeavor to impede the Internal Revenue Service during the years 2003 through 2012. *See* Shields Dec., Ex. C, D at ¶¶57, 61. Herman committed investment adviser fraud while already under indictment for tax fraud. *See* Shields, Ex. I (docket in *United States v. Herman*).

The egregiousness of Herman’s misconduct is further demonstrated by the vulnerability of the victims from whom she stole and the large sum of money that she stole. Herman’s victims were not wealthy or sophisticated investors. They were retirees, some were ill or disabled, and she stole a meaningful part of their retirement savings. *See* Shields Dec., Ex. J at

18 (sentencing argument by United States summarizing victims' testimony).² She was ordered to pay restitution in the amount of over \$1.3 million to 13 victims of her crimes. *See* Shields Dec., Ex. C at 6-7. Herman's misconduct was not an isolated instance. Instead, she victimized – again and again – people who trusted her as their investment adviser. The significant amount of money that Herman stole, combined with her multiple criminal convictions for crimes that spanned years, amply justify the Division's requested bars. *See* *Burton*, *4 (multiple securities fraud and tax fraud convictions were "egregious and recurrent" and demonstrate a high degree of scienter); *In the Matter of Jonathan D. Davey, CPA*, Rel. No. 959, 2016 WL 537549, *3 (Feb. 11, 2016) (same).

Next the *Steadman* factors relating to the "sincerity of the [respondent's] assurances against future violations," and "the [respondent's] recognition of the wrongful nature of [her] conduct," strongly weigh in favor of a bar. As demonstrated both in the prehearing conferences held in this matter, in Herman's Answer to the OIP, and as the trial court found, Herman has refused to accept any responsibility for her crimes. She continues, as she did at trial, to try to pin the blame for crimes on her co-conspirator Caplitz. Despite the overwhelming proof at trial that she orchestrated the dissipation of her investment client's funds to bankroll the lifestyle choices that she and her children made, she continues to deny any responsibility for the harm she has caused to others. The District Court summarized it best:

Ms. Herman, you're in denial here. I don't doubt that Mr. Caplitz was the brains here, I haven't doubted that for a moment, but you knew precisely what was going on – I take that back, not precisely, you knew what was going on was criminal from the

² The Assistant United States Attorney summarized the trial evidence as follows: "Folks like Patricia Wentzell who worked for 28 years as a telephone operator and saved every penny so that she knew she would be in a position to take care of herself and her health issues as she aged. Folks like the Bigelows who had a small plumbing company and saved their money so that they could have a comfortable retirement. Your Honor had the benefit of hearing the testimony from many of these victims, . . . regular folks who did not have significant income and who were not sophisticated investors." *Id.*

get-go, and you knew that you were stealing people's money, for years and years you were stealing people's money.

Shields Dec., Ex. J (transcript of sentencing hearing), at 32.

The last of the *Steadman* factors, the likelihood that Herman's "occupation will present opportunities for future violations," also weighs in favor of a bar. As demonstrated by the multiplicity of financial services and investment-related companies for which Herman has been an officer, director or owner since the mid-1990's, her primary business for the last two decades has been in providing financial and investment advice and management services. *See* Shields Dec., Ex. D, ¶¶8-19. This line of work put Herman in direct or indirect contact with investors who trusted and relied on her for investment advice and management. Herman severely abused her position by stealing from her clients time and again for her own personal benefit. Allowing Herman to remain in the industry would no doubt provide her with additional opportunities to engage in the same sort of fraudulent conduct she committed in the past. Further, there is an inference that there is a reasonable likelihood of future violations, given the repeated and egregious nature of Herman's misconduct. *See SEC v. Keller Corp.*, 323 F.2d 397, 402 (7th Cir. 1963) (improper past conduct "gives rise to the inference that there [is] a reasonable likelihood of future violations," even if a defendant has ceased her illegal activities prior to the commencement of an action).

The additional factor of the degree of harm also counsels in favor of a bar. Thirteen victims lost over \$1.3 million because of Herman's crimes. *See* Shields Dec., Ex. C at 6-7. Her criminal sentencing calculations were increased, as the trial court found, because her offenses caused "substantial hardship to five or more victims" and because "Ms. Herman knew or should have known that the victims of the offense were vulnerable." *See* Shields Dec., Ex. J at 15-16. Herman deprived hard-working individuals of their investment funds to fund her family's

lifestyle. Her conduct renders her utterly unworthy to serve as an investment adviser or to act in any other capacity in the securities industry.

CONCLUSION

For all of these reasons, the Court should impose a collateral industry bar upon Herman pursuant to Section 203(f) of the Investment Advisers Act of 1940.

Respectfully submitted,

DIVISION OF ENFORCEMENT

By its attorneys,



Kathleen B. Shields

Susan Anderson

U.S. Securities and Exchange Commission

Boston Regional Office

33 Arch Street, 24th Floor

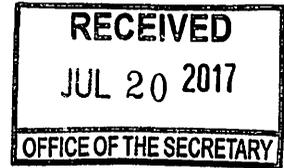
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Dated: July 19, 2017



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

**ADMINISTRATIVE PROCEEDING
File No. 3-17828**

**In the Matter of
ROSALIND HERMAN,
Respondent.**

**DECLARATION OF KATHLEEN SHIELDS
IN SUPPORT OF DIVISION'S OF ENFORCEMENT'S
MOTION FOR SUMMARY DISPOSITION**

I, Kathleen Burdette Shields, pursuant to 28 U.S.C. § 1746, declares:

1. I am a Senior Trial Attorney with the Division of Enforcement ("Division") of the Securities and Exchange Commission, and co-counsel for the Division in the above-captioned administrative proceeding. I am submitting this Declaration to in support of the Division's motion for summary disposition against Respondent Rosalind Herman ("Herman").
2. Attached as Exhibit A is a true and correct copy of the Division's Order Instituting Proceedings ("OIP") against Rosalind Herman.
3. Attached as Exhibit B is a true and correct copy of Herman's Answer to the OIP.
4. Attached as Exhibit C is a true and correct copy of the Judgment in a Criminal Case entered against Rosalind Herman in the action captioned *United States v. Herman*, Crim. No. 1:12-cr-10015-WGY (D. Mass.).

5. Attached as Exhibit D is a true and correct copy of the operative Indictment against Rosalind Herman in the action captioned *United States v. Herman*, Crim. No. 1:12-cr-10015-WGY (D. Mass.).

10. Attached as Exhibit E is a true and correct copy of the Order of Forfeiture (Money Judgment) entered against Rosalind Herman in the action captioned *United States v. Herman*, Crim. No. 1:12-cr-10015-WGY (D. Mass.).

11. Attached as Exhibit F is a true and correct copy of the Judgment in a Criminal Case entered against Gregg Caplitz in the action captioned *United States v. Caplitz*, Crim. No. 1:12-cr-10015-WGY (D. Mass.).

12. Attached as Exhibit G is a true and correct copy of relevant excerpts from the transcript of the Jury Charge in the action captioned *United States v. Herman*, Crim. No. 1:12-cr-10015-WGY (D. Mass.).

13. Attached as Exhibit H is a true and correct copy of the docket in the case captioned *SEC v. Caplitz et al.*, Civil Action No. 1:13-cv-10612-MLW (D. Mass.).

14. Attached as Exhibit I is a true and correct copy of the docket in the action captioned *United States v. Herman*, Crim. No. 1:12-cr-10015-WGY (D. Mass.).

15. Attached as Exhibit J is a true and correct copy of the transcript of the Sentencing Hearing in the action captioned *United States v. Herman*, Crim. No. 1:12-cr-10015-WGY (D. Mass.).

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 19, 2017.



Kathleen Burdette Shields

Exhibit A

motion pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250; or (C) The determination by the hearing officer that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155 and no hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Brent J. Fields
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

Criminal Case No. 12-10015-WGY. She was sentenced to seven years in prison and ordered to pay \$1.82 million in restitution.

3. The criminal indictment on which Herman was convicted alleged, inter alia, that Herman fraudulently induced her investment clients to loan money to her and others, diverted clients' funds for her and others' uses, and lulled her clients into allowing her to continue to control the clients' investments by fraudulent means.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II hereof are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 203(f) of the Advisers Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against her upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

~~This Order shall be served forthwith upon Herman as provided for in the Commission's Rules of Practice.~~

IT IS FURTHER ORDERED that, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice, 17 C.F.R. § 201.360(a)(2), the Administrative Law Judge shall issue an initial decision no later than 75 days from the occurrence of one of the following events: (A) The completion of post-hearing briefing in a proceeding where the hearing has been completed; (B) Where the hearing officer has determined that no hearing is necessary, upon completion of briefing on a

motion pursuant to Rule 250 of the Commission's Rules of Practice, 17 C.F.R. § 201.250; or (C) The determination by the hearing officer that a party is deemed to be in default under Rule 155 of the Commission's Rules of Practice, 17 C.F.R. § 201.155 and no hearing is necessary.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Brent J. Fields
Secretary

Jill M. Peterson
By: **Jill M. Peterson**
Assistant Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative Proceedings Pursuant to Section 203(f) of the Investment Advisers Act of 1940, and Notice of Hearing ("Order"), on the Respondent and their legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray
Chief Administrative Law Judge
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-2557

Kathleen Shields, Esq.
Division of Enforcement
Securities and Exchange Commission
33 Arch Street, 24th Floor
Boston, MA 02110

CERTIFIED MAIL

Ms. Rosalind Herman
c/o Paul J. Andrews, Esq.
Boston International Law Group LLC
35 Braintree Hill Office Park, Suite 201
Braintree, MA 02184

CERTIFIED MAIL

Paul J. Andrews, Esq.
Boston International Law Group LLC
35 Braintree Hill Office Park, Suite 201
Braintree, MA 02184
(Counsel for Rosalind Herman)

Exhibit B

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

ADMINISTRATIVE PROCEEDING
File No. 3-17828

In the Matter of

ROSALIND HERMAN,
Respondent.

VIA EMAIL AND US MAIL

ANSWER TO
ORDER INSTITUTING
ADMINISTRATIVE PROCEEDINGS
PURSUANT TO SECTION 203, OF THE
INVESTMENT ADVISER ACT OF 1940,
AND NOTICE OF HEARING

I.

1. Respondent disputes that she was the President, Chief Executive Officer and Chief Investment Officer of the Insight Onsite Strategic Management LLC. Respondent agrees with the identification of her as stated, being a 61 year old, presently incarcerated at FCI Danbury in Danbury CT. Respondent disputes that she is formerly a resident of Woburn, Massachusetts. Respondent, However is president, and chief executive officer of Financial Resources Network DBA/ Insight Onsite Financial Solutions (Insight Onsite) which is not the same as Insight Onsite Strategic Management, LLC.

2. Respondent agrees with the allegations set forth in paragraph # 2.

3. Respondent disputes the criminal indictment as far as respondent had no control over client's funds only the Chief Investment Officer "Caplitz" did, "Herman" never met with client's or asked them for loans or money. Respondent had no control over clients' funds or investments. Respondent for the first time has seen the indictment from you documents.

Respondent also disputes that she had any control over wires as stated in the indictment only Caplitz had the authority to wire from clients accounts he was the only person that could do this as per the client's knowledge he had sole discession on all accounts.

III.

In futherance of Respondent's refutal of the indictment, inter Alia, three witnesses will be called to provide the credulous account if events facts in Respondent's defense.

A. Respondent Janice Goodrich

Janice Goodrich witness will be called in my defense the witness will be able to establish the following: That Herman never was the Chief Investment officer, chief Caplitz was, she will also establish she was the managing member of the LLC which was formed by Sadis and Goldberg Law Firm out of New York. Goodrich will also establish "Herman" never talked or placed any wires from clients accounts nor did give or talk to clients concerning investments, nor did "Herman" ask any clients for loans. Goodrich will also establish no one signed Caplitz's name to any check or contract ever. Goodrich will also confirm that "Herman" was Nevada resident since the year 2000 some 3,000 miles away. Goodrich will also establish that "Herman" was not the only one who controlled the email address rherman14@cox.net Caplitz controlled it from Massachusetts and "Herman" never saw alot of the emails the first time was at trial. Goodrich will establish Caplitz had digression over client's account's Herman had none. Goodrich will also establish that at a bail hearing for "Herman" he told Herman he forged her name on the ADV's and never told "Herman" "Herman also went on the stand and told the judge and DA she never saw the ADV nor filled it out nor signed it and Goodrich will also establish the ADV was never emailed to Herman and Caplitz kept it at his office in MA. That Herman would not have Caplitz sign anything. Goodrich will also establish that Caplitz made deposits in the Insight Onsite Strategic Management LLC Operating Account without "Herman's" knowledge and would travel to Nevada and never go tot the office or did "Herman"

know that Caplitz traveled there. Goodrich will also establish that Caplitz was the sole investment advisor and client's never had talk to "Herman" as an investment advisor. Goodrich will also establish that "Herman" never talked to Lightspeed on client's account's and never knew there performance in those accounts on Caplitz had sole discession not "Herman". Goodrich and others will establish "Herman" hired Sadis and Goldberg a law firm to do all legal work for the "Hedge fund" which was not a template "Herman" even signed and thought the LLC was waiting for the "Blue Sky and Safe Harbor Rule" to be placed which was being done by Atty. Rachael Greer of Sadis and Goldberg and an Atty. Huttler out of New York. Goodrich will establish that Caplitz was the investment officer and the investment advisor. Goodrich will also establish she was asked (3) three questions on the stand and nor were any questions pertaining to the SEC allegations she would of testified as such. Also, Goodrich will establish that Caplitz never told "Herman" anything of the truth as we all have learned. Goodrich will establish "Herman" paid \$83,500 to James Long then learned his name was William James Long, the Caplitz changed his name to James M. Long out of Georgia not RI. the money he wired to him from the knew finance expert. Caplitz and Gattlib never paid anything as stated in the documents for the "fund" the "hedge fund" "Herman" did pay for attorney's, blue sky related to legal starting a "hedge fund". Goodrich will also establish that there "Hemcap" was "Herman Caplitz" the father of Mr. Caplitz it is what "Herman" called his father and was not the name of any "hedge fund" as Caplitz stated. Goodrich will state and establish that Caplitz and the New York law firm worked on the legal work together because "Herman" knew nothing about investment ADV's and the SEC rules and Caplitz was the Compliance and Chief Investment Officer's.

B. Respondent Brian Herman will call

Also, will call Brian Herman as a witness. Mr. Herman will establish he was never called at "Herman's" trial and wanted to testify. Brian Herman will give cumulative testimony as to the SEC case, and will establish "Herman" is not the chief investment officer and never was. He will establish the same but more the Janice Goodrich. He will also establish that the accountant Goodness worked with the client's with Caplitz. He will also establish the Caplitz's fathers name was "Herman Caplitz" and "Respondent" called the father "Hermcap" it was never the name of any hedge fund as Caplitz stated.

C. Respondent Sharon Corser

Will Call Sharon Corser Ms. Corser will also give cumulative testimony as to "Herman" ever filling or signing an ADV she will establish "Herman" never gave permission to sign her name to Caplitz or to sign any documents,. She will establish "Herman" was never the chief investment officer or ever talked to client's about investments, loans or any investment advisor advise at all. She will also establish Caplitz never paid for anything "Herman" paid all Caplitz's bills as he demanded. She will also establish the Caplitz's fathers name was "Herman Caplitz" and "Respondent" called the father "Hermcap" it was never the name of any hedge fund as Caplitz stated.

RESPONDENT does not know or understand what rule 203(f) is.

3 copies sent by US mail

Exhibit C

UNITED STATES DISTRICT COURT

District of Massachusetts

UNITED STATES OF AMERICA

v.

ROSALIND HERMAN

JUDGMENT IN A CRIMINAL CASE

Case Number: 1: 12 CR 10015 - 002 - WGY

USM Number: 94453-038

Raymond A. O'Hara

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) _____

pleaded nolo contendere to count(s) _____
which was accepted by the court.

was found guilty on count(s) 1sss, 2sss, 4sss-7sss, 9sss
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 371	Conspiracy	10/22/13	1sss
15 USC § 80b-6(1)	Willful Violation of Sections 206 and 217 of the Investment Advisors Act	03/31/13	2sss
18 USC § 1343	Wire Fraud	07/24/12	4sss
18 USC § 1343	Wire Fraud	07/24/12	5sss

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) _____ is are dismissed on the motion of the United States.

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

7/27/2016

Date of Imposition of Judgment

/s/ William G. Young

Signature of Judge

The Honorable William G. Young
Judge, U.S. District Court

Name and Title of Judge

7/29/2016

Date

DEFENDANT: ROSALIND HERMAN
CASE NUMBER: 1: 12 CR 10015 - 002 - WGY

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 1343	Wire Fraud	07/24/12	6sss
18 USC § 1343	Wire Fraud	07/24/12	7sss
26 USC § 7212(a)	Corrupt Endeavor to Impede Administration of Internal Revenue Laws	12/31/12	9sss

DEFENDANT: ROSALIND HERMAN
CASE NUMBER: 1: 12 CR 10015 - 002 - WGY

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 84 month(s)

on counts 4ss-7ss to run concurrently with each other; 60 months on counts 1ss and 2ss to run concurrently with each other and with the sentence imposed on all other counts; 36 months on count 9ss to run concurrently with sentence imposed on on all other counts.

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

The Court recommends that the defendant be evaluated at a medical facility to determine the appropriate designation.

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

The defendant shall surrender to the United States Marshal for this district:

- at _____ a.m. p.m. on _____ .
- as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- before 2 p.m. on _____ .
- as notified by the United States Marshal.
- as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: ROSALIND HERMAN
CASE NUMBER: 1: 12 CR 10015 - 002 - WGY
SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : 36 month(s)

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

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

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

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

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

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
 - 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
 - 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
 - 4) the defendant shall support his or her dependents and meet other family responsibilities;
 - 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
 - 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
 - 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
 - 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
 - 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
-
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
 - 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
 - 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
 - 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant’s criminal record 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: ROSALIND HERMAN
CASE NUMBER: 1: 12 CR 10015 - 002 - WGY

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant is prohibited from possessing a firearm, destructive device, or other dangerous weapon.
2. The defendant is prohibited from engaging in an occupation, business, or profession that would require or enable her to sell insurance, make financial investments, and/or handle client funds.
3. The defendant is to pay the balance of the restitution imposed according to a court-ordered repayment schedule.
4. The defendant is prohibited from incurring new credit charges or opening additional lines of credit without the approval of the Probation Office while any financial obligations remain outstanding.
5. The defendant is to provide the Probation Office access to any requested financial information, which may be shared with the Financial Litigation Unit of the U.S. Attorney's Office.

DEFENDANT: ROSALIND HERMAN

CASE NUMBER: 1: 12 CR 10015 - 002 - WGY

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

TOTALS Assessment Fine Restitution
 \$ 700.00 \$ \$ 1,819,391.87

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

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

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
John & Carla Bigelow		\$100,000.00	
Melvin & Irene Burt (Cesidio Salvucci)		\$141,550.00	
James & Lynda Connell		\$286,007.00	
Patricia Wentzel		\$275,000.00	
Carmine Leuci & David Savage		\$97,000.00	
Charles & Virginia Ekman		\$104,850.00	
Bottom Line Specialists		\$4,000.00	
Daniel Larocque		\$4,000.00	
Priscilla Larocque		\$26,000.00	
Bruce Gilmartin		\$141,600.00	
Martin & Susan Paley		\$78,000.00	
TOTALS	\$ 0.00	\$ 1,819,391.87	

Restitution amount ordered pursuant to plea agreement \$ _____

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

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

DEFENDANT: ROSALIND HERMAN
CASE NUMBER: 1: 12 CR 10015 - 002 - WGY

SCHEDULE OF PAYMENTS

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

- A Lump sum payment of \$ 700.00 due immediately, balance due
 - not later than _____, or
 - in accordance C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:
 Payment of the restitution shall be made according to the requirements of the Federal Bureau of Prisons' Inmate Financial Responsibility Program while the defendant is incarcerated and according to a court-ordered repayment schedule during the term of supervised release.

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

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

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

Gregg D. Caplitz 12-cr-10015-001-WGY and Rosalind Herman 12-cr-10015-002-WGY.

Joint and Several Amount \$1,819,391.87

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

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

Exhibit D

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	CRIMINAL NO. 12-10015-WGY
	)	Violations:
v.	)	18 U.S.C. § 371 (Conspiracy)
	)	15 U.S.C. § 80(b)-6, 17 (Investment Adviser Fraud)
(1) GREGG D. CAPLITZ, and	)	15 U.S.C. § 78ff (False Filing With SEC)
(2) ROSALIND HERMAN	)	18 U.S.C. § 1343 (Wire Fraud)
Defendants	)	26 U.S.C. § 7212(a)(Impeding Administration
	)	of Internal Revenue Laws)
	)	26 U.S.C. § 7206(1) (Filing False Tax Return)
	)	18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(C)
	)	Forfeiture Allegations

THIRD SUPERSEDING INDICTMENT

The Grand Jury charges that:

General Allegations

At all times relevant to this Indictment:

1. Defendant GREGG D. CAPLITZ was a licensed Certified Financial Planner who resided at various times at 119 Marion Street Extension, in Wilmington, Massachusetts, and 120 Beacon Street, in Chelsea, Massachusetts.
2. CAPLITZ has long been in the business of selling life insurance and private placement investment products to various customers, for which sales CAPLITZ earns commissions. During tax years 2003 through 2008, the insurance companies and broker/dealers whose products CAPLITZ sold paid CAPLITZ a total of about \$2.7 million in commissions and issued CAPLITZ Forms 1099-MISC for those payments.
3. Defendant ROSALIND HERMAN was an individual who resided at various times in Woburn, Massachusetts, and in Las Vegas, Nevada.
4. CAPLITZ held himself out as an investment adviser and financial planner and

persuaded clients and others to entrust their savings to him and HERMAN and their financial planning businesses to manage and invest for them.

5. The clients of CAPLITZ and HERMAN trusted in CAPLITZ's and HERMAN's good faith and expertise as their financial advisers.

6. CAPLITZ and HERMAN were investment advisers within the meaning of Section 202(a)(11) of the Advisers Act [15 U.S.C. §80b-2(a)(11)].

7. As investment advisers, CAPLITZ and HERMAN owed their clients a fiduciary duty of good faith and loyalty.

The Corporate Entities

8. Financial Resources Network, Inc. ("FRNI") was a financial services company, incorporated in Massachusetts in 1995, which, at different times, had principal places of business in Woburn and at CAPLITZ's Wilmington residence. HERMAN held various officer and director positions at FRNI.

9. Financial Family Holdings, LLC ("FFH") was a limited liability company, which was organized in Nevada in 2002. FRNI was a wholly-owned subsidiary of FFH. HERMAN was the sole managing member of FFH.

10. Financial Designing Consultants, Inc. ("FDCI") was incorporated in 2000 in Nevada. Its principal place of business was HERMAN's single-family residence in Las Vegas, Nevada. HERMAN held various officer and director positions and was sole shareholder of FDCI.

11. The Knew Finance Experts, Inc. ("Knew Finance") was incorporated in 2002 in Nevada. Its principal place of business was HERMAN's single-family residence in Las Vegas, Nevada. HERMAN was at various times both a director and registered agent of Knew Finance.

12. FRNI was a C-Corporation under the Internal Revenue Code and was required to

file a U.S. Corporation Income Tax Return, Form 1120.

13. FDCI and Knew Finance were S-Corporations under the Internal Revenue Code and were required to file U.S. Corporation Income Tax Returns, Form 1120-S. Designation as an S-corporation meant that corporate income, if any, was required to be reflected on HERMAN's individual return, Form 1040, as she was the sole shareholder of FDCI and Knew Finance.

14. FRNI, FDCI and Knew Finance maintained one or more bank accounts, hereafter collectively referred to as "the corporate accounts."

15. Insight Onsite Strategic Management, LLC ("Insight Management") was an investment adviser registered with the United States Securities and Exchange Commission ("SEC").

16. HERMAN was the President, Chief Executive Officer and Chief Investment Officer of Insight Management, as well as the managing member of the sole shareholder of Insight Management, FFH.

17. CAPLITZ was the Chief Compliance Officer of Insight Management.

18. Insight Onsite Strategic Partners, LLC ("Insight Partners") was a limited liability company incorporated in Delaware in 2008. HERMAN was the managing member and tax matters partner for Insight Partners.

19. According to its Limited Liability Company Agreement, which was signed by HERMAN, Insight Partners was formed, among other things, to serve as the general partner of Insight Onsite Strategic Fund, LP (the "Insight Fund"), a hedge fund that HERMAN and CAPLITZ purported to be starting.

COUNT ONE
(Conspiracy – 18 U.S.C. § 371)

20. The Grand Jury re-alleges and incorporates by reference paragraphs 1-19 of this Indictment and further charges that:

21. From a date unknown but no later than in or about January 2003, and continuing until the present, in the District of Massachusetts and elsewhere, the defendants,

(1) GREGG D. CAPLITZ
and
(2) ROSALIND HERMAN

conspired with each other, and with individuals both known and unknown to the grand jury,

- (A) to commit Investment Adviser Fraud (15 U.S.C. § 80b-6(1), 80b-6(2), 80b-6(4) & 80b-17): to wit, being investment advisers, by use of the mails and by use of means and instrumentalities of interstate commerce, directly and indirectly, willfully to employ devices, schemes, and artifices to defraud one or more clients and prospective clients; and willfully to engage in transactions, practices, and courses of business which operated as a fraud and deceit upon clients and prospective clients; and willfully to engage in acts, practices, and courses of business which were fraudulent, deceptive, and manipulative;
- (B) to submit false statements to the SEC (15 U.S.C. 78ff): to wit, willfully and knowingly to make statements in an application, report, and document required to be filed under Title 15, United States Code, Chapter 2B, and a rule and regulation thereunder, which statements were false and misleading with respect to material facts.
- (C) to commit Wire Fraud (18 U.S.C. §1343): to wit, having devised and intending to devise a scheme to defraud, and to obtain money and property by means of false and fraudulent pretenses, representations, and promises, to transmit and cause to be transmitted, in interstate commerce, wire communications, including writings, signs, signals, pictures, and sounds, for the purpose of executing the scheme to defraud; and
- (D) to defraud the United States and an agency thereof, that is, the Internal Revenue Service of the United States Department of Treasury ("IRS"), by impeding, impairing, obstructing, and defeating the lawful government functions of the IRS in the ascertainment, computation, assessment, and collection of revenue.

Objectives of the Conspiracy

22. The objects of the conspiracy were:
- (A) to enable CAPLITZ and HERMAN to take money from their clients and others by making false representations, and by concealing their misapplication of client funds, thereby obtaining funds for CAPLITZ's and HERMAN's own use and for the use of others;
 - (B) to enable CAPLITZ and HERMAN to conceal their fraud, and the income they received from their fraud, from others, including the IRS; and
 - (C) to divert CAPLITZ's commission income to FRNI, FDCI, and Knew Finance, for the benefit of CAPLITZ, HERMAN, and HERMAN's family, in a manner designed to prevent the IRS from assessing and collecting taxes on that income.

Manner and Means of the Conspiracy

Taking Clients' Money

23. In furtherance of the conspiracy, CAPLITZ fraudulently induced clients and others to entrust their savings, investments and other funds to him, to HERMAN and to their businesses, by falsely representing that such funds would be managed and invested for the benefit of the clients and others.

24. Among other things, in meetings and through telephone calls, CAPLITZ persuaded and sought to persuade clients and others to entrust their money to him and to HERMAN and to their businesses by purporting to sell ownership shares in Insight Partners. CAPLITZ and HERMAN represented that Insight Partners was a hedge fund management company.

25. CAPLITZ and HERMAN also borrowed client money based upon the promise that the money would be paid back with high interest within a specified period of time and based upon the false representation that the loan could be converted to an ownership interest in the future hedge fund business.

26. CAPLITZ also persuaded investors in Massachusetts and elsewhere to purchase

expensive life insurance products on which he received commissions. Thereafter, CAPLITZ without his client's authorization diverted some of the payouts from those products to himself and HERMAN.

27. CAPLITZ and HERMAN also diverted clients' funds, over which CAPLITZ and HERMAN had access and control, to their own uses, without the clients' knowledge or authorization.

28. CAPLITZ and HERMAN took funds obtained from their clients and others in the ways described above, among other ways, and deposited those funds into the corporate accounts and into one or more accounts held by Insight Management ("Insight Management accounts").

29. HERMAN and HERMAN's family members then used client funds deposited into the corporate accounts and Insight Management accounts to pay CAPLITZ, and to fund their own personal expenses and other debts.

30. In this way, CAPLITZ, HERMAN and HERMAN's family members used clients' funds to pay for personal expenses such as car payments, vacations, debt payments, legal bills, pet care, Las Vegas hotel rooms, shopping trips and fitness club memberships, among many other things.

31. When clients inquired as to the status of their investments or loan repayments or insurance proceeds, CAPLITZ and HERMAN tried to lull the clients into continuing to allow CAPLITZ and HERMAN to control the clients' money and sought to dissuade the clients from reporting CAPLITZ, HERMAN or their businesses to enforcement authorities.

32. Among other things, to accomplish this lulling, CAPLITZ and HERMAN told clients and others a variety of lies, provided false documents and partial payments to some, and made false promises of payments to others.

False Statements to SEC

33. On or about June 29, 2012, CAPLITZ and HERMAN filed and caused to be filed a false Uniform Application for Investment Advisor Registration ("Form ADV") with the United States Securities and Exchange Commission ("SEC"), which Form ADV falsely represented, among other things, that Insight Management had regulatory assets under management of \$100 million or more; and, specifically that it had \$113,542,000 in regulatory assets under management.

34. CAPLITZ and HERMAN knew that Insight Management did not have anything close to \$100 million or more in regulatory assets under management.

35. From 2008 through 2013, CAPLITZ and HERMAN also submitted and caused to be submitted other false forms and statements to the SEC, including false statements as to the amount of FRNI and Insight Management's regulatory assets under management, the number of accounts managed and the number of clients served. The false Form ADVs stated that that they were signed under the penalty of perjury and certified that the information and statements made in the Form ADV were true and correct.

Hiding of Commission Income

36. From in or about January 2003 through in or about August 2011, CAPLITZ endorsed most of his commission checks over to one or another of the corporate entities and, along with HERMAN, caused the checks to be deposited into corporate accounts. Thereafter, HERMAN funneled some of the commission income back to CAPLITZ directly and made payments from the corporate accounts for CAPLITZ's benefit, while also using the diverted commission income, along with the diverted investors and clients' funds, for personal expenses for herself and her family.

Filing False Tax Returns

37. CAPLITZ and HERMAN each filed, and caused to be filed, false individual tax returns which did not accurately report:

- (a) CAPLITZ's commission income;
- (b) the income CAPLITZ and HERMAN obtained by taking their clients' funds; and
- (c) the taxes due and owing on all of that income.

38. CAPLITZ and HERMAN filed, and caused to be filed, false corporate tax returns which reported a portion of CAPLITZ's commission income as corporate receipts and which claimed false business expenses to offset that income so little or no tax was paid.

39. CAPLITZ and HERMAN did not report to the IRS and did not pay taxes on the proceeds of the fraud on their clients and others, and thereby avoided paying taxes due and owing on such income.

Overt Acts

40. In furtherance of their conspiracy and to accomplish its objectives, CAPLITZ and HERMAN performed numerous overt acts, including, but not limited to, the following:

41. By means of misrepresentations and material omissions in their representations to the clients listed below, on or about the dates listed below, CAPLITZ and HERMAN made and caused to be made by others, including their clients, the following money transfers, among others:

No.	Client	Date	Transaction
1	JB and CB	5/16/2008	\$100,000 wire to Knew Finance
2	MB and IB	7/24/2008	\$200,000 wire to Knew Finance
3	JC	11/17/08	\$100,000 wire to Knew Finance

4	PW	10/19/2009	\$170,000 wire to Knew Finance
5	JC	2/25/2009	\$100,000 wire to Knew Finance
6	JC	5/18/2009	\$33,000 wire to Knew Finance
7	JC	5/20/2009	\$42,000 wire to Knew Finance
8	BG	3/8/2012	\$51,000 wire to Insight Management
9	BG	6/12/2012	\$51,000 wire to Insight Management
10	BG	9/17/2012	\$8,000 wire to Insight Management
11	JC	9/24/2012	\$11,006 wire to Insight Management
12	RH	10/4/2012	\$5,200 wire to Insight Management
13	RS	12/5/2012	\$20,000 wire to Insight Management
14	BG	1/8/2013	\$8,350 wire to Insight Management
15	BG	1/24/2013	\$1,650 wire to Insight Management
16	BG	2/1/2013	\$9,500 wire to Insight Management
17	BG	2/11/2013	\$4,500 wire to Insight Management
18	RH	2/11/2013	\$2,600 wire to Insight Management
19	BG	3/4/2013	\$7,600 wire to Insight Management
20	RH	3/4/2013	\$28,000 wire to Insight Management

42. On various dates between 2003 and 2008, CAPLITZ endorsed about 163 commission checks totaling \$2,065,322, which were made payable to him, for deposit into one or another of the corporate accounts.

43. On various dates between 2003 and 2008, HERMAN also endorsed some of the commission checks referred to in paragraph 42, and caused all such checks to be deposited into one or another of the corporate accounts.

44. On various dates between 2003 and 2008, HERMAN issued about 265 checks to

CAPLITZ from the corporate accounts totaling \$319,484.

45. On various dates between 2003 and 2008, HERMAN issued about 45 checks from the corporate accounts to make a total of \$66,742 in mortgage, credit card, and home equity payments on behalf of, and for the benefit of, CAPLITZ.

46. HERMAN failed to file with the IRS any W-2s or Forms 1099 reporting these payments to CAPLITZ.

47. On various dates during between 2003 and 2012, HERMAN issued checks from the corporate accounts to make mortgage payments on HERMAN's Las Vegas residence and for other personal expenses and to make payments to, or for the benefit of, her two sons, and other family members.

48. On or about the dates listed below, HERMAN and CAPLITZ filed, and caused to be filed, false corporate tax returns for FRNI and FDCI:

<u>Tax Year</u>	<u>Date FRNI Return Filed</u>	<u>Date FDCI Return Filed</u>
2003	2/12/07	10/31/05
2004	2/13/07	not filed
2005	2/20/07	not filed
2006	not filed	10/15/07
2007	8/1/11	8/1/11
2008	8/1/11	8/1/11

49. On or about the dates listed below, CAPLITZ filed false individual tax returns:

<u>Tax Year</u>	<u>Date Return Filed</u>
2003	6/29/05
2004	6/29/05
2005	3/16/09
2006	3/16/09
2007	3/16/09
2008	3/19/09

50. On or about the dates listed below, HERMAN filed, and caused to be filed, false

individual tax returns:

<u>Tax Year</u>	<u>Date Return Filed</u>
2003	11/1/05
2004	2/6/07
2005	2/6/07
2006	10/15/07
2007	8/10/11
2008	8/10/11

51. In addition to the checks described above, on various dates, HERMAN issued additional checks to CAPLITZ, including from the corporate accounts and Insight Management accounts.

All in violation of Title 18, United States Code, Section 371.

COUNT TWO
(15 U.S.C. §§ 80b-6(1), 80b-6(2), 80b-6(4) & 80b-17:
Willful Violation of Sections 206 and 217
of the Investment Advisers Act)

52. The Grand Jury re-alleges and incorporates by reference paragraphs 1-19 and 22-51 of this Indictment, and further charges that:

53. At various times between in or about 2008 through in or about March 2013, in the District of Massachusetts and elsewhere, the defendants,

(1) GREGG D. CAPLITZ and
(2) ROSALIND HERMAN,

being investment advisers, by use of the mails and by use of means and instrumentalities of interstate commerce, directly and indirectly, did willfully employ devices, schemes, and artifices to defraud one or more clients and prospective clients; did willfully engage in transactions, practices, and courses of business which operated as a fraud and deceit upon clients and prospective clients; and did willfully engage in acts, practices, and courses of business which were fraudulent, deceptive, and manipulative.

All in violation of Sections 206 and 217 of the Investment Advisers Act [15 U.S.C. §§ 80b-6(1), 80b-6(2), 80b-6(4) & 80b-17] and Title 18, United States Code, Section 2.

COUNT THREE
(15 U.S.C. § 78ff: False Filing With SEC)

54. The Grand Jury re-alleges and incorporates by reference paragraphs 1-19 and 22-51 of this Indictment, and further charges that:

55. In or about June, 2012, in the District of Massachusetts and elsewhere, defendants,

(1) GREGG D. CAPLITZ and

(2) ROSALIND HERMAN,

willfully and knowingly made statements in an application, report, and document required to be filed under Title 15, United States Code, Chapter 2B, and a rule and regulation thereunder, which statements were false and misleading with respect to material facts.

All in violation of Title 18, United States Code, Section 2 and Title 15, United States Code, Section 78ff.

**COUNT FOUR-SEVEN
(18 U.S.C. § 1343: Wire Fraud)**

56. The Grand Jury re-alleges and incorporates by reference paragraphs 1-19 and 22-51 of this Indictment, and further charges that:

57. On or about the following dates, in the District of Massachusetts and elsewhere, defendants,

- (1) GREGG D. CAPLITZ and
(2) ROSALIND HERMAN,

having devised and intending to devise and execute, a scheme and artifice to defraud and to obtain money and property by means of false and fraudulent pretenses, representations and promises concerning material facts and matters, transmitted and caused to be transmitted in interstate commerce by means of wire and radio communication, writings, signs, signals, pictures, and sounds, for the purpose of executing that scheme, as follows:

Count	Date	From	To	Item
4	11/17/08	JC, Dracut, MA	The Knew Finance Experts, Wash. Mutual Bank	\$100,000 wire from JC/LC, Dracut, MA, Eastern Bank, Acc. # XXXXXX1798
5	2/25/09	JC, Dracut, MA	The Knew Finance Experts, Town & Country Bank	\$100,000 wire from JC/LC of Dracut, MA, Eastern Bank, Acc. # XXXXXX1798
6	5/18/09	JC, Dracut, MA	The Knew Finance Experts, Town & Country Bank	\$33,000 wire from JC/LC Dracut, MA, Eastern Bank, Acc. # XXXXXX1798
7	7/24/12	CAPLITZ, insightonsite@comcast.net	DS and CL; cc: HERMAN, et al	email re hedge fund

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

COUNT EIGHT
(Corrupt Endeavor to Impede Administration
of Internal Revenue Laws-26 U.S.C. § 7212(a))

58. The Grand Jury re-alleges and incorporates by reference paragraphs 1-19 and 22-51 of this Indictment and further charges that:

59. Beginning in or before January 2003, and continuing through in or about 2012, in the District of Massachusetts, and elsewhere, the defendant

(1) GREGG D. CAPLITZ

corruptly obstructed and impeded the due administration of the internal revenue laws, and endeavored to do so, by: among other things, diverting commission income to the corporate accounts; filing false individual tax returns for tax years 2003 through 2008 that failed to report his actual gross receipts for each tax year and failed to identify the corporations to which his commission income had been diverted; concealing the frauds set forth in Counts 1-7 above and income received from those frauds from the IRS among others, failing to report or pay taxes on income received from these fraudulent activities; and causing false corporate tax returns to be filed on behalf of FRNI and FDCI.

All in violation of Title 26, United States Code, Section 7212(a).

COUNT NINE
(Corrupt Endeavor to Impede Administration
of Internal Revenue Laws-26 U.S.C. § 7212(a))

60. The Grand Jury re-alleges and incorporates by reference paragraphs 1-19 and 22-51 of this Indictment and further charges that:

61. Beginning in or before January 2003, and continuing through in or about 2012, in the District of Massachusetts, and elsewhere, the defendant

(2) ROSALIND HERMAN

corruptly obstructed and impeded the due administration of the internal revenue laws, and endeavored to do so, by: depositing CAPLITZ's commission checks into the corporate accounts; issuing checks on the corporate accounts payable to CAPLITZ and for CAPLITZ's benefit; failing to file Forms W-2 or Forms 1099 reporting payments to CAPLITZ; failing to file corporate tax returns and filing corporate and individual tax returns late; concealing the frauds set forth in Counts 1-7 above and income received from those frauds from the IRS among others, failing to report or pay taxes on income received from these fraudulent activities; and causing false corporate tax returns to be filed on behalf of FRNI and FDCI.

All in violation of Title 26, United States Code, Section 7212(a).

COUNTS TEN TO FOURTEEN
(False Tax Return -- 26 U.S.C. § 7206(1))

62. The Grand Jury re-alleges and incorporates by reference paragraphs 1-3, 8-14, 42-50 of this Indictment as if set forth herein.

63. The Grand Jury further charges that:

64. On occasion, CAPLITZ deposited commission payments directly into his bank accounts, and cashed some commission checks, without endorsing any of those payments over to the corporate accounts.

65. Even though CAPLITZ received commission gross receipts totaling approximately \$2.7 million for tax years 2003 through 2007, he filed false individual federal tax returns reporting total gross receipts of about \$189,000 for those years.

66. On or about the dates alleged below, in the District of Massachusetts,

(1) GREGG D. CAPLITZ,

the defendant herein, did willfully make and subscribe U.S. Individual Income Tax Returns, Forms 1040, Schedule C, for the tax years identified below, which were verified by a written declaration that each return was made under the penalties of perjury and which were filed with the Director, Internal Revenue Service, which Returns defendant did not believe to be true and correct as to every material matter in that said Returns reflected his Schedule C gross receipts for each tax year as identified below, whereas, as defendant well knew, his actual gross receipts for each tax year substantially exceeded those amounts.

10	6/29/2005	2003	\$41,400
11	6/29/2005	2004	\$41,400
12	3/16/2009	2005	\$41,400
13	3/16/2009	2006	\$41,400
14	3/16/2009	2007	\$23,400

All in violation of Title 26, United States Code, Section 7206(1) and Title 18, United States Code, Section 2(b).

FORFEITURE ALLEGATIONS
18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c)

67. Upon conviction of one or more of the offenses charged in Counts One and Three through Seven of this Indictment, the defendants,

(1) GREGG D. CAPLITZ
and
(2) ROSALIND HERMAN

shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c) (jointly and severally as to Counts One and Three through Seven), any property, real or personal, that constitutes, or is derived from, proceeds traceable to the commission of the offenses, including but not limited to the sum of at least \$1,450,000, which represents the proceeds of the offenses.

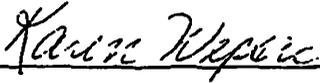
68. If any of the property described in paragraph 67 hereof as being forfeitable pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), as a result of any act or omission of the defendants --

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

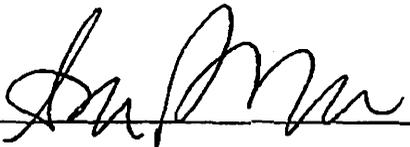
it is the intention of the United States, pursuant to Title 28, United States Code Section 2461(c), incorporating Title 21, United States Code Section 853(p), to seek forfeiture of all other property of the defendants up to the value of the property described in paragraph 67 above.

All pursuant to Title 18, United States Code, Section 981 and Title 28, United States Code, Section 2461(c).

A TRUE BILL



FOREPERSON OF THE GRAND JURY



SARA MIRON BLOOM
ASSISTANT U.S. ATTORNEY

SEAN DELANEY
DEPARTMENT OF JUSTICE TRIAL ATTORNEY

DISTRICT OF MASSACHUSETTS

October 27, 2013

Returned into the District Court by the Grand Jurors and filed.

DEPUTY CLERK

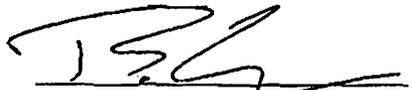

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Exhibit E

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
) Criminal No. 12-10015-WGY
)
)
2. ROSALIND HERMAN,)
) Defendant.)

ORDER OF FORFEITURE (MONEY JUDGMENT)

YOUNG, D.J.

WHEREAS, on October 22, 2013, a federal grand jury sitting in the District of Massachusetts returned a fourteen-count Third Superseding Indictment charging defendant Rosalind Herman (the "Defendant"), with Conspiracy, in violation of 18 U.S.C. §371 (Count One), Willful Violation of Sections 206, and 217 of the Investment Advisers Act, in violation of 15 U.S.C. §§80b-6(1), 80b-6(2), 80b-6(4), and 80b-17 (Count Two), Wire Fraud, in violation of 18 U.S.C. § 1343 (Counts Four through Seven), and Corrupt Endeavor to Impede Administration of Internal Revenue Laws, in violation of 26 U.S.C. § 7212(a) (Count Nine);¹

WHEREAS, the Third Superseding Indictment also contained a forfeiture allegation, pursuant to 18 U.S.C. § 981(a)(1)(C), and 28 U.S.C. § 2461(c), which provided notice that the United States sought the forfeiture, upon conviction of the Defendant of one or more of the offenses alleged in Counts One and Three through Seven of the Third Superseding Indictment, of any property, real or personal, that constitutes, or is derived from, proceeds traceable to the commission of the offenses, including but not limited to, the sum of at least \$1,450,000, which represents the proceeds of the offenses;

¹ Count Three was dismissed by the United States, and the Defendant was not charged in the remaining Counts of the Third Superseding Indictment.

WHEREAS, the Third Superseding Indictment further provided that, if any of the above-described forfeitable property, as a result of any act or omission by the Defendant, (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the Court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be divided without difficulty, the United States is entitled to seek forfeiture of any other property of the Defendant, up to the value of such assets, pursuant to 21 U.S.C. § 853(p), incorporated by 28 U.S.C. § 2461(c);

WHEREAS, on April 5, 2016, after a seven-day jury trial, a jury found the Defendant guilty on Counts One, Two, Four through Seven and Nine of the Third Superseding Indictment;

WHEREAS, the evidence at trial established that the Defendant and co-defendant, Gregg Caplitz ("Co-Defendant") defrauded investors of \$1,385,257 from May, 2008 through March, 2013, telling them that their funds would be invested in a hedge fund company, when instead the money was used to fund the personal spending account of the Defendant, and the figures in Trial Exhibit 103 were supported by the trial testimony of Carla Bigelow, Carmine Leuci, Melvin Burt, Bruce Gilmartin, Susan Paley, James Connell, and Patricia Wentzell;

WHEREAS, the figures were supported by the bank records from the Knew Finance Experts account held at Washington Mutual Bank, the Financial Resources Network, Inc. account at Bank of America, and the Insight Onsite and Knew Finance Experts accounts held at Town and Country Bank;

WHEREAS, the figures were supported by the testimony of summary witness Thomas Zappala;

WHEREAS, the total loss figure is reduced to \$1,323,807 to reflect payments by the Defendant and Co-Defendant back to certain victims who complained and threatened to report them to the authorities, and specifically, the Co-Defendant, and the Defendant paid \$3,000 to Carmine Leuci and David Savage, and \$58,450 to Melvin and Irene Burt;

WHEREAS, based on the evidence and testimony presented at trial and the jury's verdict as to the Defendant on April 5, 2016, the United States has established the requisite nexus between the Defendant's proceeds, and Counts One, and Three through Seven of the Third Superseding Indictment;

WHEREAS, the United States is entitled to an Order of Forfeiture consisting of a personal money judgment against the Defendant, jointly and severally with co-defendant Gregg D. Caplitz, in the amount of \$1,323,807, in United States currency, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c);

WHEREAS, the amount of \$1,323,807 in United States currency constitutes proceeds that the Defendant and the Co-Defendant obtained as a result of violations of 18 U.S.C. § 371, and 18 U.S.C. § 1343; and

WHEREAS, Rule 32.2(c)(1) of the Federal Rules of Criminal Procedure provides that "no ancillary proceeding is required to the extent that the forfeiture consists of a money judgment."

ACCORDINGLY, it is hereby ORDERED, ADJUDGED, and DECREED:

1. The Defendant, jointly and severally, with the Co-Defendant, Gregg D. Caplitz, shall forfeit to the United States the sum of \$1,323,807 in United States currency, pursuant to 18 U.S.C. § 981(a)(1)(C), and 28 U.S.C. § 2461(c).

2. This Court shall retain jurisdiction in the case for the purpose of enforcing this

Order.

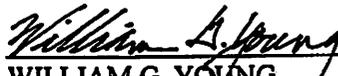
3. The United States may, at any time, move pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure to amend this Order to substitute property having a value not to exceed the amount set forth in Paragraph 1 to satisfy the money judgment in whole or in part.

4. The United States may, at any time, conduct pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure and 21 U.S.C. § 853(m), as incorporated by 28 U.S.C. § 2461(c), any discovery to identify, locate or dispose of forfeitable property or substitute assets, including, but not limited to, depositions and requests for documents, electronically stored information, and tangible things.

5. Pursuant to Rule 32.2(b)(4), this Order shall be included in the sentence pronounced and imposed by the Court at the sentencing hearing, and in the criminal judgment entered by this Court against the Defendant.

Dated: _____

July 21, 2016



WILLIAM G. YOUNG
United States District Judge

Exhibit F

UNITED STATES DISTRICT COURT

District of Massachusetts

UNITED STATES OF AMERICA

v.

GREGG D. CAPLITZ

AMENDED JUDGMENT IN A CRIMINAL CASE

Case Number: 1: 12 CR 10015 - 001 - WGY

USM Number: 94259-038

Jane F. Peachy

Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) 1sss, 2sss, 4sss-7sss, 8sss, 10-14sss

pleaded nolo contendere to count(s) _____
which was accepted by the court.

was found guilty on count(s) _____
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
18 USC § 371	Conspiracy	10/22/13	1sss
15 USC § 80b-6(1)	Willful Violation of Sections 206 and 217 of the Investment Advisers	03/31/13	2sss
18 USC § 1343	Mail Fraud	07/24/13	4sss
18 USC § 1343	Mail Fraud	07/24/13	5sss
18 USC § 1343	Mail Fraud	07/24/13	6sss

The defendant is sentenced as provided in pages 2 through 8 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) 3sss is are dismissed on the motion of the United States.

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

5/17/2016

Date of Imposition of Judgment

/s/ William G. Young

Signature of Judge

The Honorable William G. Young
Judge, U.S. District Court

Name and Title of Judge

7/6/2016

Date

DEFENDANT: GREGG D. CAPLITZ
CASE NUMBER: 1: 12 CR 10015 - 001 - WGY

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC § 1343	Mail Fraud	07/24/12	7sss
26 USC § 7212(a)	Corrupt Endeavor to Impede Administration of Internal Revenue Laws	12/31/12	8sss
26 USC § 7206(1)	False Tax Return	03/16/09	10sss
26 USC § 7206(1)	False Tax Return	03/16/09	11sss
26 USC § 7206(1)	False Tax Return	03/16/09	12sss
26 USC § 7206(1)	False Tax Return	03/16/09	13sss
26 USC § 7206(1)	False Tax Return	03/16/09	14sss

DEFENDANT: GREGG D. CAPLITZ
CASE NUMBER: 1: 12 CR 10015 - 001 - WGY

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 42 month(s)

on counts 1sss, 2sss and 4sss-7sss, each count to run concurrently with each other.
36 months on counts 8sss, 10sss-14sss, each count to run concurrently with each other and with term imposed on counts 1sss, 2sss, 4sss-7sss.
Defendant shall receive credit for time served from 3/28/2013 through 7/12/2013.

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

The defendant be designated to Ft. Deven's Medical Facility due to its close proximity to family and due to the defendant's medical condition.

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

The defendant shall surrender to the United States Marshal for this district:

at _____ a.m. p.m. on _____ .

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on 6/28/2016 .

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____ , with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: GREGG D. CAPLITZ

CASE NUMBER: 1: 12 CR 10015 - 001 - WGY

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : 36 month(s)

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

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

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

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

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

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record 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: GREGG D. CAPLITZ
CASE NUMBER: 1: 12 CR 10015 - 001 - WGY

SPECIAL CONDITIONS OF SUPERVISION

1. The defendant is prohibited from possessing a firearm, destructive device, or other dangerous weapon.
2. The defendant is prohibited from engaging in an occupation, business, or profession that would require or enable him to sell insurance, make financial investments, and/or handle client funds.
3. The defendant is to pay the balance of the restitution imposed according to a court-ordered repayment schedule.
4. The defendant is prohibited from incurring new credit charges or opening additional lines of credit without the approval of the Probation Office while any financial obligations remain outstanding.
5. The defendant is to provide the Probation Office access to any requested financial information, which may be shared with the Financial Litigation Unit of the U.S. Attorney's Office.
6. The defendant is to participate in a mental health treatment program as directed by the Probation Office. The defendant shall be required to contribute to the costs of services for such treatment based on the ability to pay or availability of third-party payment.

DEFENDANT: GREGG D. CAPLITZ
 CASE NUMBER: 1: 12 CR 10015 - 001 - WGY

CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 1,200.00	\$	\$ 1,899,203.00

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

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

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
John & Carla Bigelow		\$100,000.00	
Melvin & Irene Burt (Cesidio Salvucci)		\$141,550.00	
James & Lynda Connell		\$286,007.00	
Patricia Wentzel		\$275,000.00	
Carmine Leuci & David Savage		\$97,000.00	
Charles & Virginia Ekman		\$104,850.00	
Bottom Line Specialists		\$4,000.00	
Daniel Larocque		\$4,000.00	
Priscilla Larocque		\$26,000.00	
Bruce Gilmartin		\$141,600.00	
Martin & Susan Paley		\$78,000.00	
TOTALS	\$ 0.00	\$ 1,899,203.00	

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

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

DEFENDANT: GREGG D. CAPLITZ
CASE NUMBER: 1: 12 CR 10015 - 001 - WGY

SCHEDULE OF PAYMENTS

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

- A Lump sum payment of \$ 1,200.00 due immediately, balance due
 - not later than _____, or
 - in accordance C, D, E, or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Payment of the restitution shall begin immediately and shall be made according to the requirements of the Federal Bureau of Prisons' Inmate Financial Responsibility Program while the defendant is incarcerated and according to a court-ordered repayment schedule during the term of supervised release.

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

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

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court cost(s):
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Forfeiture as prayed for by the government. See docket entry #268.

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.

Exhibit G

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

No. 1:12-cr-10015-WGY

UNITED STATES OF AMERICA

vs.

ROSALIND HERMAN

For Jury Trial Before:
Judge William G. Young

United States District Court
District of Massachusetts (Boston)
One Courthouse Way
Boston, Massachusetts 02210
Tuesday, April 5, 2016

REPORTER: RICHARD H. ROMANOW, RPR
Official Court Reporter
United States District Court
One Courthouse Way, Room 5510, Boston, MA 02210
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25

1 as you go in and out, out of respect for the jury's role
2 in our process, you and I stand now, together, out of an
3 acknowledgement that we live under a Constitution that
4 by its guarantee ensures that both the government and
5 Ms. Herman will have in this case a fair and an
6 impartial trial and that the jurors and the judge in
7 such a trial will be as fair and impartial as the lot of
8 humanity will admit. And it is that shared
9 responsibility that we all acknowledge now. Please be
10 seated.

11 (Jury is seated.)
12

13 JUDGE'S CHARGE TO THE JURY:

14 This is the part of the case where I will explain
15 to you, it's like a law school class, I will teach you
16 the law that you must follow in analyzing the evidence
17 in this case. If I don't make anything plain, by all
18 means you can write out a question, we'll have you back
19 in here -- you can do it at any time during your
20 deliberations. If you have -- if you have any question

21 about the law in this case -- I have nothing to say
22 about the evidence, but if you have any question about
23 the law, write your question out, we'll have you back in
24 here, I will further explain the law, and send you back.

25 We ask you to do justice, which of course we mean

1 fairly and impartially apply the law to the evidence as
2 you find it to be. You can't do that unless you
3 understand what the law is, so don't hesitate to ask me
4 questions. This will also prove to you that I work in
5 the afternoons, I'll be here while you're deliberating.
6 Let's start where I started when first we met.

7 There are two great principles that govern this
8 case. First, Ms. Herman started this trial innocent,
9 truly innocent. You don't hold it against her that we
10 had a trial, that she's here, that's completely unfair,
11 she started the trial innocent. If she were to be found
12 guilty on one or more of these charges, it could only be
13 because you, the jury, come unanimously to believe that
14 the government has proved the essential elements of that
15 charge beyond a reasonable doubt. And of course I've
16 now invoked the second great principle.

17 The burden of proving here rests on the government
18 and it never ever shifts to Ms. Herman. She has nothing
19 to explain to you. She is not required to. You do not
20 hold it against her if something is left unexplained

21 because that would shift to her some duty of explaining.
22 That can't be right. That's not our way. The
23 government can't make a charge, bring someone into
24 court, and say "Explain yourself."

25 And of course have in mind everything that was

1 done here. Mr. O'Hara, Mr. Benzaken, they have examined
2 these witnesses, they have asked the witnesses
3 questions, they have called a witness, they have
4 introduced documents, stipulations, all of those things,
5 and to the extent they have asked questions, you can
6 make the information that's been elicited what you will,
7 it could tend against her as well as for her. It makes
8 no difference where evidence comes from, you make of it
9 what you will. The important thing is the burden of
10 proof rests on the government and it never moves and the
11 burden of proof is proof beyond a reasonable doubt.

12 A moment about your function. There are two
13 alternates in this jury. Two of you, when I'm done
14 teaching you, we're going to pick the two alternates,
15 we'll ask you to come down and sit in these chairs here,
16 and when we send the 12 deliberating jurors out, the two
17 alternates take a left and go in my little office there.
18 They call it the "robing room," but I consider that
19 incredibly pompous, but I didn't make up the signs. And
20 you'll just relax there and we can bring in magazines

21 and books, you have access to a phone, and you don't get
22 to deliberate.

23 And so you say, "Well, I've wasted all my time,
24 why are you doing that?" Please don't think that. We
25 have two alternates -- and I'm talking to all of you.

1 We have two alternates and that ensures just how serious
2 this matter is. And the alternates will stay through
3 the entire deliberation of the jury, if it takes longer
4 than today, however many days it takes, and when the
5 verdict is returned, the two alternates will be sitting
6 right there, they are members of the jury, they just
7 don't deliberate because the rule says that 12 members
8 of the jury deliberate.

9 Now, I don't expect this, but I've been at this
10 for a while and it has happened. What if, among the
11 deliberating jurors, it turns out there's a real
12 emergency at home or one of the deliberating jurors gets
13 sick, that's happened, and we have to excuse a
14 deliberating juror? In that case I have the alternates
15 and I send an alternate in. If that were to happen, and
16 I'm emphasizing how important alternates are, I will
17 instruct the jury that the deliberations start all over
18 again right from the beginning. It isn't eleven of you
19 who have been talking for two or three hours and then we
20 send an alternate in and you tell the alternate, "Now,

21 here's what we think, this or that," it's a different
22 jury then because it has eleven who have been
23 deliberating and it has one additional alternate. It's
24 not additional because we've lost one.

25 So all of you, you are going to determine the

1 facts in this case from the evidence as you've seen it
2 and heard it, nothing else whatsoever, no bias, no
3 prejudice, no sympathy for anyone, no desire that anyone
4 have revenge, just that cool, careful sifting of this
5 evidence so that here, in this courtroom, justice truly
6 may be done.

7 I'm the judge of the law. You truly must take the
8 law from me. Don't think that because I explain all
9 aspects of the law that I think anything's been proved
10 here or nothing's been proved. That's not my business.
11 I have nothing to say about that. What I'm doing for
12 you is building for you a mental framework within which
13 you, and you alone, will decide what the evidence shows
14 or fails to show. Don't grab on to something that I say
15 and say, "Ah-ha, the case turns on this or that." Not
16 so. Listen to the entire charge, all of it should fit
17 together.

18 When I say you must take the law from me in its
19 most practical way I mean the following. I'm going to
20 tell you as to each of the charges here the essential
21 elements, those particular things that the government
22 has to prove. As to those things you've got to decide
23 whether unanimously you believe the government has
24 proved those things beyond a reasonable doubt. If any
25 one of those things is -- on that particular charge, is

1 not proved beyond a reasonable doubt, Ms. Herman must be
2 acquitted, she must be found not guilty of that charge.
3 If those things the government has proved to you are
4 satisfied to you beyond a reasonable doubt, then you may
5 find her guilty of that charge. But you can't add
6 anything to those essential elements and equally you
7 can't subtract anything. You can't say to yourself,
8 "I'm not particularly concerned with that, whether they
9 proved that." If I tell you the government has to prove
10 it, that's one of those things they have to prove beyond
11 a reasonable doubt and you have to unanimously come to
12 believe it.

13 I keep talking about proof. What do I mean?
14 There are two types of proof that we accept in court,
15 direct evidence and circumstantial evidence. Direct
16 evidence is evidence directly of a specific point. An
17 example would be a witness who was there and you believe
18 the witness, it's entirely up to you what you believe,
19 but the witness says, "I saw this," "She said that," and
20 also direct evidence is the actual, for example, bank
21 records, the evidence of payments in, payments out, the
22 documents that are used in business to evidence those
23 commercial transactions, perhaps the actual tax returns,
24 that type of evidence.

25 Circumstantial evidence is evidence of a

1 circumstance which, when coupled with other
2 circumstances, leads to a conclusion. A case may be
3 proved on direct evidence entirely, on circumstantial
4 evidence entirely, or on any combination of direct and
5 circumstantial evidence. If those are the types of
6 proof that you may rely on, what tools have you in this
7 case upon which to make up your minds? Actually there's
8 a variety of them in this case. Let me touch on each
9 one. There is the -- and I'm not picking -- I'll start
10 with the testimony of the witnesses but only because it
11 comes into my mind first, not that it's the most
12 important, it's up to you what's important, but the
13 testimony of the witnesses.

14 If I let a witness testify to something, you can
15 believe it, but equally you can disbelieve it. You can
16 disbelieve it, you can disbelieve everything a witness
17 said as though that witness never took the stand. And
18 you can believe some things a witness said and
19 disbelieve other things that the witness said.

20 Now, how do you do it? You're entitled to use
21 everything you know, as you are reasonable men and
22 women, about these witnesses, everything that you know
23 about them from their testimony and the testimony of
24 others, and you're entitled to use all your abilities to
25 size the witness up from watching the witness on the

1 witness stand. How did the witness respond to questions
2 both on direct and on cross-examination? What was the
3 witness's ability accurately to recall events in the
4 past, to relate those events, to understand, to
5 comprehend the matters about which the witness
6 testified? Does the witness stand to gain or lose
7 anything depending upon how this case comes out? Does
8 the witness bring any feelings or interests into the
9 case?

10 Certain people have testified that they are out
11 money in this case. Does that engender emotions, did
12 the emotions affect their testimony, cause them to
13 embellish or say things that are exaggerated in any way,
14 do they have any interests? Other witnesses are -- a
15 couple of them are employed by the government. Does the
16 fact of that employment, does that cause them to
17 embellish or see things in the way that the government
18 seeks to have them presented or are they accurate?

19 One witness, Mr. Caplitz, he has pleaded guilty
20 and he has testified to you that he's a conspirator and
21 that he has done various things himself relative to
22 these specific events. The law says that you must take
23 the testimony of such a witness as Mr. Caplitz and view
24 it with special scrutiny because the law recognizes that
25 a person in that position may seek to inculcate, to

1 involve other people, exaggerating their role and
2 minimizing his role, in order to seek a better outcome
3 from the criminal justice system.

4 At the same time a witness such as Mr. Caplitz may
5 be telling the entire truth. Witnesses employed by the
6 government may be telling the entire truth. People who
7 have lost money may be telling the entire truth.

8 Ms. Herman's sister testified, so there's that
9 relationship, and she testified about her close
10 relationship to her sister. Did that affect her
11 testimony? But she may be telling the entire truth.

12 In short, the law imposes this duty of special
13 scrutiny on Mr. Caplitz, but it's entirely up to you
14 people, as you are reasonable men and women, you use
15 everything you know about these witnesses. How does the
16 testimony -- does it hang together? Is the testimony --
17 it isn't just testimony in this case, is the testimony
18 backed up by other evidence in the case, the exhibits in
19 the case, or does that testimony take away from it, make
20 it less believable, less credible? You're the judges of

21 credibility, the only judges of credibility, and your
22 powers are extremely broad. If a witness has testified,
23 you may believe everything the witness said, you may
24 disbelieve everything the witness said, you may believe
25 some things a witness said and disbelieve other things.

1 You may sum up a witness's testimony as you are
2 reasonable men and women.

3 So I mention exhibits. Now, the exhibits, you're
4 going to have all these exhibits and there's over 400 of
5 these exhibits, not all of them have been mentioned in
6 the case nor need they be mentioned. Certain of them
7 are mentioned, but these are the exhibits that I have
8 determined that at least you ought to look at and
9 whether they mention them or not, this is what the
10 lawyers put together to have in this case. Your power
11 with respect to exhibits is as broad as your power with
12 respect to witnesses.

13 With respect to an exhibit, you want to analyze it
14 really on two points, take a look at the exhibit and
15 then see is it genuine? Now in this day of digital
16 reproductions, don't worry about whether something's a
17 copy, I haven't heard any evidence that something was
18 fake here, but it's entirely up to you, so check it out,
19 is this real, is it accurate? And if it is accurate and
20 you believe the document is what it purports to be, what

21 does it tell you about this case? How does it fit?

22 What do you know about the case because of the exhibit?

23 Your powers are just as broad. If you have an exhibit,
24 you may believe what it says, equally you may disbelieve
25 it and disregard it, you may believe parts of it and

1 disbelieve other parts.

2 Now, we've got some summary exhibits that the
3 government made out or at least they put together and
4 those are summarizing of other documents and to the
5 extent you have those documents maybe you want to make a
6 comparison to see if they are in fact an accurate
7 summary, but if they're in evidence before you, you may
8 believe them, but you need not.

9 A couple of the exhibits, because they marked them
10 as exhibits even though they were read, there's been
11 stipulations here. Now, stipulations should really save
12 you time because not everything is disputed. So where a
13 stipulation was read to you, that's agreed, there's no
14 dispute about it, it's agreed, so you don't have to do
15 any analysis about it, you can just take it as given.
16 Still so powerful is your role as jurors, you can
17 disregard it. I'm telling you they agree to it, but you
18 could disregard it.

19 And then I think the last thing is, because
20 reference is made or because apparently there was this
21 other unrelated civil case, that civil case involved
22 what we called depositions, and I've explained what they
23 are, and some answers given on deposition were read to
24 you, and that's like the witness testifying, that's like
25 that person testified, and if the person said those

1 things, you may believe what was said, but you need not,
2 you can disbelieve it.

3 So those are the sources of evidence that you have
4 in this case. Now, what do you do with that evidence?
5 Look, you don't check your common sense at the door to
6 the jury room, just the reverse, I charge you to apply
7 your common sense to the evidence in this case to the
8 end that justice may be done. But the burden of proof
9 here is not common sense, of course you can use your
10 common sense, the burden of proof here is proof beyond a
11 reasonable doubt, and there must be no guesswork, no
12 speculation, no "maybe this happened," "perhaps,"
13 "possibly," "it could have," not even that it's likely
14 that this or that happened, it has to be proved beyond a
15 reasonable doubt.

16 You are entitled to draw what are known as
17 reasonable inferences, logical deductions. Let me give
18 you an example both to tell you what a logical deduction
19 is, a reasonable inference, but also to warn you away
20 from what you cannot do, and it has nothing to do with
21 the case.

22 Suppose we have a witness and the witness says
23 she's walking along a road and off to one side there's a
24 field of barley. You all know barley, they make scotch
25 from barley, beautiful long green stalks, gray tassels.

1 And she's passing the field and she notices that in an
2 irregular course through the field the barley has all
3 flattened out. Now that's my supposition here. And
4 suppose you believe that witness, you believe that
5 witness is telling the truth.

6 Now, from that testimony alone you see that
7 circumstance which you believe, you can reasonably infer
8 something went through the field. The witness didn't
9 see it, but something went through there. If for
10 instance it was a wind storm, it would have knocked all
11 the barley down. Something went through that field.
12 But if that's all the testimony you have, you don't know
13 what it was, an animal, a person, big, small, a dog, a
14 wild animal, an adult, a child, someone on a dirt bike,
15 you don't know any of that, you just know something went
16 through the field. So, yes, you may draw reasonable
17 inferences, but no, you may not guess nor speculate.

18 Now, I'm going to have the Clerk pass out the
19 verdict slips here. We only need one verdict slip back
20 and that's the one from the foreman and he signs it on

21 your behalf. But now that I'm going to go through the
22 different charges, it makes sense if you each get a look
23 at the verdict slips so you see how it -- the questions
24 that it asks you. And while it's being passed out, I
25 want to mention two things that are not evidence, but

1 I -- well, actually three things that are not evidence.
2 The first is this.

3 Don't you draw any conclusions against
4 Ms. Herman -- and I've already said this, but my verdict
5 slip makes reference to certain counts. Counts are the
6 paragraphs in the charging document and I just wanted to
7 tie the verdict slip into particular counts, and you'll
8 see really that the counts are not numerically in
9 sequence and some counts are omitted and that's because
10 some things we're not asking you about, they either
11 involve other people or they involve different things,
12 and we're not asking you about them, so don't speculate
13 about them.

14 But the first thing that's not evidence is the
15 fact that charges have been made. It doesn't amount to
16 anything. Nothing. Zero. She started the trial
17 innocent.

18 Second, and I'm privileged to say this, the
19 lawyers here for the government, for Ms. Herman, you
20 have done a fine job as officers of the court, you have
21 marshaled the evidence, its strengths, its weaknesses,
22 you have advocated on behalf of your clients, it's a
23 privilege to preside over a case that has been well and
24 truly tried. I don't say that in every case. I think
25 you know that.

1 Now that's the truth. Disregard it. And the
2 reason I point that out is I don't want you deciding
3 this case in any way, shape, manner or form, based upon
4 how you react to these attorneys as people. I mean if
5 you think the presentation has been understandable, has
6 helped you grasp the evidence and understand it, its
7 strengths or its weaknesses, that's fine, that's what
8 attorneys are supposed to do. They've done a fine job.
9 But you decide the case on the evidence.

10 Now, that's equally important the other way. If
11 any attorney has done anything to offend you here,
12 somehow just the presentation, the questioning has
13 grated on you, don't hold that against the client, the
14 government or Ms. Herman, that's not fair. Stick to the
15 evidence.

16 And lastly, if you think that I think anything at
17 all about this case, I most earnestly instruct you to
18 disregard it. And I tell you as surely as I know my own
19 heart, I have no views about how this case will come
20 out. I do not talk about this case with the judge or

21 the dean or any of my law clerks, or at least the
22 substance of the case, I talk about the law with the law
23 clerks, but like I've just said to you, I'm -- I've got
24 more than enough to do out here, but I'm not the judge
25 of the facts in this case, you are. So if you think

1 that I have some view about this case from the manner in
2 which I presided over it, disregard it, I don't, I have
3 no clue to give. But I do have this bias and it is a
4 strong and intense bias, I believe that you people will
5 do justice in this case. I believe in the jury system.

6 Now, let's come to this verdict slip and I have
7 arranged it more or less in the way it was argued to you
8 though that isn't numerically how these so-called counts
9 set out, and I want to look first, the first question
10 charges Ms. Herman with this corrupt endeavor to impede
11 the IRS and I've given you the years over which the
12 government has charged that she did it. So what does
13 that mean? And let's go over the essential elements of
14 that first one.

15 First of all, for the corrupt endeavor to impede
16 the due operations of our Internal Revenue Service,
17 first, she, Ms. Herman -- not Mr. Caplitz, though you
18 could, and I'm not suggesting you would, but you could
19 find they were operating together, that's what the
20 government has argued to you, but you've got to find

21 that Ms. Herman was acting corruptly. What does that
22 mean? It means she was acting with an evil motive.

23 People make mistakes on their taxes all the time,
24 that's not a crime, it just isn't. She has to act
25 intentionally to either underreport what monies she was

1 supposed to report, on her own behalf or on behalf of
2 some sort of entity that would pass through to her, or
3 overclaim deductions that she knew or reasonably
4 understood she had no right to claim with the idea that
5 the government would not get its due, and she's got to
6 do that knowing what she's doing, intentionally, or the
7 government can, and it's appropriate, they can prove --
8 they can succeed if you come to believe unanimously that
9 she was acting with willful blindness.

10 Now, what does "willful blindness" mean? "Willful
11 blindness" is -- well, first, it's willful. "Willful"
12 means reckless, heedless of the consequences, not caring
13 what taxes were due, not caring what the proper
14 deductions were or the proper accounting of income, just
15 not caring about anything such as that and turning a
16 blind eye toward it, letting other people do it
17 without -- without, one, caring, and willfully blinding
18 oneself to what was being reported in circumstances
19 where it's reasonably understood that the tax return, if
20 tax return was filed, is inaccurate. So it's got to be
21 done corruptly or through willful blindness.

22 And then it's a corrupt endeavor, it doesn't have
23 to succeed, but you've got to try, that's what
24 "endeavor" means, that's the second thing.

25 And then third, obstruct or impede the due

1 administration of the Internal Revenue Laws. That
2 simply means to foul up the government agents who have
3 to carry out those laws, make their jobs more complex,
4 more difficult, more costly.

5 Now, in one respect I must correct something that
6 the government said. The government charges that she
7 was doing it throughout the tax years 2003 through 2012
8 and the government has put on whatever evidence it has,
9 but it was argued twice to you that any one thing during
10 all that time makes her guilty. No, it doesn't. And
11 that's because they charged her from 2003 to 2012. And
12 when you make a charge, the charge has to be
13 sufficiently detailed that a person who is being charged
14 knows what the government says you did wrong.

15 Now, here, in terms of charging, she knows that
16 they say she was corruptly endeavoring to impede the IRS
17 throughout the years 2003 to 2012. The government does
18 not have to prove beyond a reasonable doubt every single
19 one of those years, it's on or about, but they do have
20 to prove that the bulk of that time, because that's what
21 they charged, the bulk of that time, beginning at least
22 as early as 2003 and running as late as 2012, she was
23 corruptly, or with willful blindness, endeavoring to
24 impede or obstruct the IRS in collecting the taxes.
25 That's what they have to prove, that's that first

1 question.

2 Now, the second question, the second question
3 charges her with an alleged violation of the Investment
4 Advisors Act and the alleged violation is fraud. So
5 let's talk about what it is that the government has to
6 prove with respect to a violation of the Investment
7 Advisors Act.

8 Well, they have to prove that she did -- she, she
9 herself, or acting in concert with Mr. Caplitz -- if she
10 and Caplitz were in doing it together, that's sufficient
11 under this charge, that she, or she and Caplitz
12 together, employed a device, scheme, to defraud a client
13 or a prospective client, she engaged in a transaction,
14 practice or course of business which operated as a fraud
15 or a deceit upon a client or a prospective client or she
16 engaged in an act, practice, or a course of business
17 which was fraudulent, deceptive, or manipulative.

18 Now, any one of those three, if the government
19 proves any one of those three, that's sufficient. What
20 the government has argued to you is the fraud is the
21 setting up, the alleged setting up of this hedge fund
22 and the selling of shares in the management of the hedge
23 fund, it won't matter the way they've argued it, without
24 any intention that anyone actually get any recovery and
25 in fact spending the money. That's what they've argued

1 to you. And so you ask yourself, is that a device --
2 have they proved it, and is that a device, scheme,
3 artifice to defraud.

4 "Fraud" means saying something that makes a
5 difference, is material, makes a difference to an
6 investor which you know is not true or failing to say
7 something which under the circumstances you'd have to
8 say in order to make something you have said true with
9 the idea that the person will part with money and you
10 will get the benefit -- and it's not just money, it's
11 money or property, and that you will get the benefit of
12 that money or property on account of the
13 misrepresentation of material fact. That's fraud. And
14 I've explained the three different ways that the
15 government could prove that.

16 The second thing that the government has to prove
17 as to investment advisory fraud is that Ms. Herman did
18 so, did the acts knowingly, knowing that's what she was
19 doing, willfully, heedless of the consequences, with the
20 idea, the intent to deceive, manipulate, or defraud.

21 Third, that she was an investment advisor or she
22 was a person associated with an investment advisor. Now
23 what does that mean? Be specific here. That means that
24 they must prove the following. The term "person
25 associated with an investment advisor" means any

1 partner, officer, director of such investment advisor,
2 or any person performing similar functions, or any
3 person directly or indirectly controlling or controlled
4 by such investment advisor, including any employee of
5 such investment advisor.

6 Now the government argues it both ways, they say
7 they've got evidence that she was a registered
8 investment advisor herself and, if you don't believe
9 that, they say well she was a person associated with an
10 investment advisor, the investment advisor being
11 Mr. Caplitz. That's what they argue to you. But
12 they've got to prove one of those, either she was an
13 investment advisor or a person associated with an
14 investment advisor.

15 And lastly they have to prove that the fraudulent
16 scheme or transaction involved direct or indirect use of
17 the mail or some other means or instrumentality of
18 interstate commerce. That's as important as the other
19 essential elements. That's what brings us into the
20 courts of the United States. Congress can regulate

21 commerce. There has to be some relationship to
22 commerce. Now, it can be direct or indirect, but there
23 has to be some effect on the commerce of the United
24 States, however slight, from this fraudulent scheme, if
25 you believe it was, setting up this hedge fund. So

1 that's count -- that's the second question, Count Number
2 2. And then we jump to really Questions 3, 4, 5 and 6,
3 they charge wire fraud.

4 Now, wire fraud is similar in many respects
5 because what is required to be proved is the same scheme
6 or artifice to defraud, just like I've explained it,
7 they have to prove that she engaged in it herself
8 knowingly or willfully, either she or she in concert
9 with Mr. Caplitz, but what makes it different is that
10 the wire communications of the United States have to be
11 used by somebody in order to make that fraud come about.
12 Again that's the commerce piece.

13 Now she doesn't have to know it, but it's got to
14 be reasonably foreseeable that in order to make this
15 scheme work, the wire communications of the United
16 States are going to be used. And what's different about
17 wire fraud is, in investment advisor fraud they've
18 charged what they allege is the scheme, one charge, but
19 wire fraud, every time the wire communications of the
20 United States are used, that theoretically constitutes
21 another crime and they charged four such communications.

22 Now, I put the dates down there. They don't have
23 to prove that the communication was actually on that
24 specific date. But again in order to give her fair
25 notice of what the government's charging, they have to

1 prove that there was a wire communication on or about
2 that date.

3 Just so you're clear, the one thing the government
4 says as to Count 4, this one allegedly on November 17,
5 2008, they've introduced Exhibit 10. On the one they
6 say was Count 5, my Question 4, on February 25th, 2009,
7 they've introduced Exhibit 11. On Count 6, my question
8 5, the one they say on May 18, 2009, that's Exhibit 12.
9 And when you go over to the second page, as to Count 7,
10 my Question 6, the one they say on July 24, 2012, that's
11 what they say, or what they've introduced anyway, and
12 argued from Exhibit 424. That's how those exhibits
13 supposedly tie in with those specific questions. So
14 that's wire fraud.

15 And then lastly conspiracy. Now, conspiracy is
16 different again, there has to be something different in
17 each one of these charges or else it would just be the
18 same alleged crime and I wouldn't ask a separate
19 question.

20 Conspiracy requires that they prove three things.

21 First, that Mrs. Herman entered into a conspiracy with
22 Gregg Caplitz, that she and Gregg Caplitz entered into a
23 conspiracy, knowing -- knowing what they were doing.
24 You're not a member of a conspiracy because you hung
25 around with the wrong person. You're not a member of a

1 conspiracy because someone that you were associated
2 with, that person was breaking the law, you're not
3 guilty of conspiracy. You're not guilty of conspiracy
4 if someone you're associating with is breaking the law
5 and you know about it. Conspiracy requires that
6 Ms. Herman and Mr. Caplitz had an agreement, had a deal,
7 had a genuine understanding that they were going to go
8 about breaking the law.

9 Now, they don't have to say to themselves "We're
10 going to break the law," but it has to be they have to
11 agree to do acts which constitute violations of the law.
12 You don't have to know specifically about the Investment
13 Advisors Act, you don't have to know about wire fraud,
14 but you have to knowingly enter into a deal to do those
15 acts which violate the law.

16 So the deal doesn't have to be in writing, it
17 doesn't have to be a handshake, it doesn't have to be a
18 wink or a nod, but it's got to be an actual deal between
19 both of them. That's the first thing. That Ms. Herman
20 knowingly entered into a conspiracy with Mr. Caplitz to
21 do various activities that violated the law.

22 Second, they both have to agree on the specific
23 intent, there has to be a specific intent as to what
24 activities they're going to do. For example -- and
25 here's what the government has charged. The government

1 has framed it. They say the government charges these
2 two people were in a conspiracy which, perhaps among
3 other things, but we're only dealing with what's
4 charged, which involved corruptly endeavoring to impede
5 the IRS over the bulk of those years that I mentioned,
6 engaging in investment advisor fraud, violating that
7 act, and engaged in wire fraud in a variety of ways,
8 trying to set up this, the government says, fraudulent
9 alleged hedge fund and sell shares in its management.
10 So that's got to be the specific intent.

11 Now follow this. The government charged that all
12 three of these different types of crime have to be
13 encompassed in the deal between the two, corruptly
14 endeavoring to impede the collection of taxes, engaging
15 in investment advisor fraud, engaging in wire fraud.
16 That's the second thing the government has to prove.
17 Now, if that wasn't their intent, if the conspiracy
18 wasn't that broad, if it was more narrow, and, yeah,
19 there was a conspiracy to do one of those three
20 different types of criminal activity or even to do two
21 of those types of criminal activity, then she's not
22 guilty of conspiracy the way the government charged it
23 here, she and Caplitz have to knowingly agree together
24 to do all three of those things. That's the second
25 thing.

1 But with conspiracy, they don't have to do it,
2 they don't have to succeed at any of these crimes. In
3 other words, your verdict could be not guilty all the
4 way up to conspiracy. But then they have to prove -- if
5 they prove those first two points on conspiracy, the
6 government has to prove that somebody -- and logically
7 it would either be Ms. Herman or Mr. Caplitz, one of the
8 co-conspirators, if you think there's a conspiracy, did
9 something to make the conspiracy come about, whether it
10 was successful or not they did something.

11 So for conspiracy the government has three things
12 to prove, that she knowingly entered into a conspiracy,
13 that the specific intent of their conspiracy encompasses
14 the different charges here, the impeding the IRS
15 corruptly, the investment advisor fraud, and wire fraud,
16 and then one of them did something to make that come
17 about.

18 Now a few words about your deliberations.
19 Mr. Foreman, as foreman it doesn't mean you do all the
20 talking, nor does it mean you keep your mouth shut, and

21 really I'm talking to all of you. Set things up there
22 now so that all of you can discuss the case together.

23 Now, when I send you out now, I'm not going to say
24 keep your minds suspended, now is the time to start
25 discussing the case, and mechanically it's going to work

1 like this. We'll send you out, take your notebooks, and
2 a word about notebooks. Your notebooks are just for
3 you, you may have them, you may of course refresh your
4 recollection with your notes, that's why we let you take
5 notes, but don't pass your notes around, your notes are
6 not evidence of anything, it doesn't make you a better
7 juror as opposed to a juror who didn't take notes, it's
8 to help you, just use your notes yourself.

9 So you go out and you start your deliberations.
10 Ms. Gaudet's going to come back and sit down with the
11 lawyers and go over all of the exhibits that you should
12 have. She'll come in -- you can start, but she'll come
13 in then with all the exhibits, so physically you have
14 the exhibits, then she'll leave you and then you have --
15 you can go on with your deliberations.

16 It's -- deliberations are deliberations of all 12
17 of you in the jury room, not 10 of you talking about the
18 case and two of you wondering what they're doing over at
19 Vertex and who is the owner of the big frog in the
20 window up there.

21 (Laughter.)

22 You focus on this case. Now is the time to
23 deliberate together.

24 It is probably not a good idea to take a straw
25 vote. I know we've asked you seven different questions,

1 but it's probably not a good idea, right at the outset,
2 to say, "Well, how many people think this? How many
3 people think that?" and the reason for that is this. If
4 you do that right at the outset of your deliberations,
5 you may think that under your oath as jurors you're
6 required to stick to that view.

7 Now, if you have any strong view about any aspect
8 of this case, I most earnestly instruct you to adhere to
9 it. Adhere to it. We ask you for your verdict, we do
10 not demand your verdict. At the same time listen to the
11 views of your fellow jurors, they are under the same
12 oath to do justice as are you, they have heard the same
13 evidence that you have. Jury deliberations are just
14 that, deliberations to see whether twelve people can
15 come to a conclusion, a unanimous conclusion, and it has
16 to be unanimous, unanimous as to not guilty, unanimous
17 as to guilty, as to each of the seven questions, and you
18 treat each one separately, each one charges a separate
19 crime. So you deliberate about that.

20 Now, if your view changes, there's nothing the
21 matter with that if that's sincere, but a verdict is not
22 a true verdict if it's ten of you think something and
23 the other two go along so you can go home. You have
24 failed in your duty if you do that. It's unfair. It's
25 not why -- it's not how this process is intended to

1 work. The law requires a unanimous verdict, unanimous
2 as to not guilty, unanimous as to guilty.

3 We've ordered lunch for?

4 THE CLERK: 12:30.

5 THE COURT: 12:30, it's cafeteria food, we'll
6 bring it to you, we'll bring it to the alternates. We
7 won't bother you. If you are still deliberating at
8 about 10 minutes of 5:00, I have some instructions, I'm
9 going to bring you in, I'm going to let you go. In fact
10 we knew going in that I was going to be out of state
11 tomorrow. I'm not having you come in tomorrow, you can
12 continue your deliberations on Thursday, which is the
13 day we planned to be sitting in this case. Another
14 judge could take your verdict, but I'm the only one who
15 could answer your questions, so I have to be here, and
16 tomorrow I'll be in Washington. So you're going to go
17 till 5:00 today, but as I said, no further.

18 If you decide -- and once we send you out, you're
19 in charge, but if sometime this afternoon you decide
20 you've talked about it enough and you'd all simply like
21 to go home and sleep on it -- but not to talk to anyone
22 else because no one else can influence you at all, but
23 if you want to stop, you just send out a message that
24 you'd like to stop for the day and I'll give you your
25 instructions and send you home and you'll start in again

1 on Thursday morning.

2 When you have reached a verdict, whatever that is,
3 you tell the Court Security Officer you have reached a
4 verdict, don't give it to him, just tell him you've
5 reached a verdict. He'll set things up in here.

6 Whatever we're doing in here, whatever other case I'm
7 working on, that will be off to one side, you come
8 first.

9 So we all come in and the alternates come in too,
10 and, um, this is how we take a verdict. Ms. Gaudet will
11 say, "Ladies and gentlemen, have you agreed upon a
12 unanimous verdict?" And if you're back with a verdict,
13 I imagine you'll say "Yes." And she will say, "Will you
14 please pass the paper." And the paper gets passed and
15 everyone's looking at it. I look at it. Now I look at
16 it for only one reason, I look at it just to see that
17 the verdict is logical, and in this case any combination
18 of possibilities is logical. You could return a verdict
19 of not guilty on all seven questions. You could return
20 a verdict of guilty on all seven questions. You could

21 return a verdict of not guilty on some and guilty on
22 others. Any one of those combinations is logical. You
23 could return a verdict of guilty on certain of the
24 doing-it charges, but a not guilty on conspiracy,
25 because each one requires slightly different elements.

1 So I look at it to see if it's logical.

2 If it's logical -- now it's not logical if you
3 leave one of the questions blank, I don't know what to
4 do then, it's not logical if you check both not guilty
5 and guilty, I don't know what to do then, but so long as
6 it's logical, I say "The verdict is in order, it may be
7 recorded," and I give it to Ms. Gaudet. She'll ask you
8 all to stand up. It's the only time in the whole
9 proceeding where you all stand and we sit here and we
10 all look at you. And then she will read out your
11 verdict in open court and read it out grammatically.
12 And if at that time, as you stand there and the Clerk
13 reads your verdict, you are, each one of you, satisfied
14 with the consciousness of your duty faithfully
15 performed, you will have done what's required of you.
16 The word "verdict" comes from two Latin words, it means
17 "to speak the truth" and that is what is asked of you at
18 this time, to speak the truth about these matters.

19 I may have left something out. I may have
20 misstated the law. Before we send you out the lawyers
21 get a chance to bring that to my attention.

22 Counsel?

23

24 AT THE SIDEBAR

25 THE COURT: The government?

1 MS. BLOOM: Yes, your Honor, a couple of things.
2 When you mentioned -- the tax count, when you mentioned
3 that it could be overreporting or underreporting, you
4 didn't mention that it could be not filing at all.

5 THE COURT: I will.

6 MS. BLOOM: That's one of the points I made.

7 THE COURT: All right.

8 MS. BLOOM: Um, when you went through the elements
9 for the investment advisor, you mentioned that there --
10 we could meet the element of interstate commerce. I
11 believe there's an alternate element of being a
12 registered investment advisor, which is also applicable
13 here.

14 THE COURT: I will say that.

15 MS. BLOOM: Um, you gave the willful blindness
16 instruction at the beginning with respect to the tax
17 count, but I don't believe that you mentioned that that
18 instruction would be applicable to the other.

19 THE COURT: I'll say that.

20 MS. BLOOM: That's it.

21 THE COURT: The defense satisfied?

22 MR. O'HARA: I just object to having a willful
23 blindness instruction given to the conspiracy count.

24 THE COURT: Oh, that's a good point.

25 MS. BLOOM: Yeah, okay.

1 THE COURT: And she accepts that.

2 MR. O'HARA: Thank you.

3 MS. BLOOM: Okay.

4 THE COURT: Okay. Thank you.

5

6 (In open court.)

7 THE COURT: There are some corrections, um, and I
8 won't call them "minor," they are as important as
9 anything else.

10 First, and go to Question 1 which has to do with
11 corruptly impeding the IRS. I mentioned various
12 possibilities like over, um, or underreporting income,
13 overclaiming deductions, but I didn't mention not filing
14 at all and I should have mentioned that, if you
15 intentionally, or through willful blindness don't file.

16 Also on that count I said, "Now, look, it can't
17 just be any one thing, it has to be the bulk of the
18 charges over those years, though it doesn't have to be
19 every single year." You've all got to agree as to what
20 it is, you can't agree to a bunch of things, some of you

21 thinking it's that and some of you thinking it's another
22 bunch of things under this corrupt endeavor, you all
23 have to agree as to what it is. So that's on that one.

24 On violation of the Investment Advisors Act, I did
25 tell you, and I'm accurate, that there has to be an

1 interstate involvement in the investment advisor fraud,
2 but another way the government could prove that is if
3 you are satisfied that she did register as an investment
4 advisor. If there's evidence here and you believe it
5 that she registered as an investment advisor, that is
6 evidence that she was acting in interstate commerce.

7 And lastly, I made mention of willful blindness
8 and I defined it when I was talking about corruptly
9 endeavoring to impede the IRS. Well, with willful
10 blindness, the same exact definition, the government can
11 take advantage of that, if they've proved it, with
12 respect to a violation of the Investment Advisor Act and
13 any one of the four wire fraud counts, but not
14 conspiracy. Conspiracy is eyes open knowingly agreeing.

15 Is the supplemental charge satisfactory,
16 Ms. Bloom?

17 MS. BLOOM: Yes, your Honor.

18 THE COURT: Mr. O'Hara.

19 MR. O'HARA: Yes, your Honor.

20 THE COURT: The jury my retire and commence its

21 deliberations. Oh, I should announce the alternates.

22 I'm sorry.

23 The alternates are Suzanne Piscitelle and Connie
24 McKelvey. Would you two step down. And when we go out,
25 turn right and go into my little office.

1 (Alternates step down.)

2 THE COURT: All right, the jury may retire and
3 commence its deliberations.

4 (Jury leaves, starts deliberating, 12:35 p.m.)

5 THE COURT: Please be seated.

6 First of all, the compliment was genuine, it was a
7 fine job on everyone's part and I do appreciate it. I
8 have to go into -- I put them in the robing room and I
9 have to go into the robing room to take the robe off, so
10 I will be in the presence of the alternates. We will
11 not discuss the substance of the case. And I take it
12 you have no objection to that.

13 Stay here with Ms. Gaudet and make sure you know
14 what's going back to the jury room. This afternoon is
15 the court meeting, Ms. Gaudet will bring me out of it
16 whenever there's a question or as soon as we have a
17 verdict. You will be consulted as to the answer of any
18 question if we can reach you within 5 minutes. Now, the
19 assistants, you have an office here, but the defense,
20 with the court meeting, I have no hearings this
21 afternoon and you're welcome to make use of the
22 courtroom. But we need to be able to go to lunch. We
23 need to be able to find you if you want to be consulted
24 as to the answer to a question.

25 About 10 minutes of 5:00, if they haven't reached

1 a verdict, I of course have a charge to give them.
2 We'll bring them in, usually people like to be here, so
3 I'm putting you on notice.

4 All right. We'll recess.

5 (Recess, 12:40 p.m.)

6 (Verdict, 2:15 p.m.)

7 THE CLERK: Mr. Foreman, members of the jury, has
8 the jury reached a unanimous verdict?

9 THE FOREPERSON: Yes, we have.

10 THE CLERK: please pass it forward.

11 (Passes verdict slip forward.)

12 THE COURT: (Reads.) The verdict is in order. It
13 may be recorded.

14 THE CLERK: Mr. Foreman, members of the jury,
15 please stand and listen to the verdict as the Court
16 records it.

17 In the matter of the United States of America
18 versus Rosalind Herman, Criminal Action Number 12-10015,

19 "We find Rosalind Herman, as to Count 9, alleging
20 a corrupt endeavor to impede the IRS during the years

21 2003 through 2012:

22 Guilty.

23 As to Count 2, alleging violation of the
24 Investment Advisors Act:

25 Guilty.

1 As to Count 4, alleging wire fraud on or about
2 November 17, 2008:

3 Guilty.

4 As to Count 5, alleging wire fraud on or about
5 February 25, 2009:

6 Guilty.

7 As to Count 6, alleging wire fraud on or about May
8 18, 2009:

9 Guilty.

10 As to Count 7, alleging wire fraud on or about
11 July 24, 2012:

12 Guilty.

13 As to Count 1, alleging conspiracy:

14 Guilty.

15 So say you, Mr. Foreman, is that your verdict?

16 THE FOREPERSON: Yes, it is.

17 THE CLERK: So say you, members of the jury?

18 THE JURY: (In unison.) Yes.

19 THE COURT: Please be seated.

20 Ladies and gentlemen, I want to thank you -- I

21 thank you not for your verdict, I thank you whatever
22 your verdict was, but I do most sincerely thank you for
23 the obvious case, the consideration you've given to
24 every aspect of this case, the courtesy that you have
25 shown to everyone, and your diligence as jurors.

1 The case is over. You have every right to say
2 anything to anyone about anything having to do with this
3 case.

4 In one respect I ask you -- I can't charge you,
5 because the case is over, but I ask you, it's best that
6 you not talk to anyone about what went on in the jury
7 room. By your verdict you have spoken the truth about
8 these matters. Your verdict is that speech. It's best
9 that you not talk to anyone about what went on in the
10 jury room.

11 Now, no one involved in the case, literally no one
12 has any right to approach you and no one will. I can't
13 say the press wouldn't, though there's been no press
14 about the case, and if they came you can say what you
15 want, but I do caution you, please, don't talk about
16 what went on in the jury room.

17 I'll ask you to wait for just a moment because I'd
18 like to come back and thank you personally for your
19 service.

20 The jury may stand in recess. I'll remain on the
21 bench.

22 THE CLERK: All rise for the jury.

23 (Jury leaves, 2:30 p.m.)

24 THE COURT: I propose sentencing for Wednesday the
25 29th of June at 2:00 p.m.

1 Is that satisfactory for the government?

2 MR. O'HARA: I didn't hear you, your Honor?

3 THE COURT: Wednesday the 29th of June at
4 2:00 p.m.

5 MS. BLOOM: Your Honor, I will be in trial from
6 May 23rd until July 23rd, 10:00 till 4:00.

7 THE COURT: Well, that's fine, but Ms. Murrane is
8 here.

9 MS. BLOOM: Okay.

10 THE COURT: is that satisfactory?

11 MS. MURRANE: That's fine for the government.

12 MR. O'HARA: Yes.

13 THE COURT: Very well.

14 Status of bail?

15 MS. MURRANE: So the government would ask that the
16 defendant still be released but to be released on
17 conditions and we would ask that she be on home
18 confinement until her sentencing.

19 THE COURT: And by "home confinement" you mean
20 that she be at home save for necessaries, is that right?

21 MS. MURRANE: That's right, to the extent she
22 needs to seek medical treatment or --

23 THE COURT: And buy food and necessities and that
24 includes her husband as well.

25 You're okay with that?

1 MS. MURRANE: Um, yes.

2 THE COURT: That seems not unreasonable,
3 Mr. O'Hara, let me mention what I think are the
4 appropriate exceptions, leaving home to meet with you,
5 attend religious services, medical appointments of
6 herself or her husband, um, by necessity such as food,
7 clothing and the like, but otherwise at home?

8 MR. O'HARA: I would ask that -- can I be heard
9 now?

10 THE COURT: I'm making that proposal and I'd like
11 to hear you.

12 MR. O'HARA: I would suggest that the conditions
13 that she's currently under, of which quite frankly I'm
14 not aware, remain in effect. Those conditions were set
15 long before I was appointed on this case.

16 THE COURT: They were and I have a report, so far
17 as I can tell, she's in compliance with those
18 conditions, but the situation has changed. I hear you
19 but I do impose those conditions.

20 She is confined to her home. She is to leave home
21 or may leave home -- I'm not imposing electronic
22 monitoring, but she's either to be in that home -- to
23 leave for medical care, for religious observances, to
24 attend to the medical care of her husband or herself,
25 she may leave to buy food, clothing, other necessities

1 for the home. But other than that, she's to be in that
2 home.

3 That's the order of the Court. We'll recess.

4 THE CLERK: All rise.

5 (Ends, 2:30 p.m.)

6
7 C E R T I F I C A T E

8
9 I, RICHARD H. ROMANOW, OFFICIAL COURT REPORTER,
10 do hereby certify that the foregoing record is a true
11 and accurate transcription of my stenographic notes,
12 before Judge William G. Young, on Tuesday, April 5,
13 2016, to the best of my skill and ability.

14
15
16
17 /s/ Richard H. Romanow 09-16-16

18 RICHARD H. ROMANOW Date
19
20
21
22
23
24
25

Exhibit H

STAYED

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:13-cv-10612-MLW**

Securities and Exchange Commission v. Caplitz et al
Assigned to: Judge Mark L. Wolf
Cause: 15:77 Securities Fraud

Date Filed: 03/15/2013
Jury Demand: Plaintiff
Nature of Suit: 850
Securities/Commodities
Jurisdiction: U.S. Government Plaintiff

Plaintiff

Securities and Exchange Commission

represented by **Kathleen Burdette Shields**
U.S. Securities and Exchange
Commission
33 Arch Street, 24th Floor
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617-573-8904
Email: shieldska@sec.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

V.

Defendant

Gregg D. Caplitz

represented by **Paul J. Andrews , Jr.**
Paul J. Andrews, Esq.
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Braintree, MA 02184
781-367-3046
Email: attypja@gmail.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**Insight Onsite Strategic
Management, LLC**

represented by **Paul J. Andrews , Jr.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Rosalind Herman

represented by **Paul J. Andrews , Jr.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Brian Herman

represented by **Paul J. Andrews , Jr.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Brad Herman

represented by **Paul J. Andrews , Jr.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Charlene Herman

represented by **Paul J. Andrews, Jr.**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**The Knew Finance Experts, Inc.**

represented by **Paul J. Andrews, Jr.**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/15/2013	<u>1</u>	COMPLAINT against Insight Onsite Strategic Management, LLC, The Knew Finance Experts, Inc., Rosalind Herman, Brad Hreman, Brian Herman, Charlene Herman, Gregg D. Caplitz, filed by Securities and Exchange Commission. (Attachments: # <u>1</u> Civil Cover and Category Sheet)(Johnson, Jay) (Entered: 03/15/2013)
03/15/2013	<u>2</u>	(EX-PARTE) MOTION for Temporary Restraining Order by Securities and Exchange Commission.(Johnson, Jay) (Entered: 03/15/2013)
03/15/2013	<u>3</u>	MEMORANDUM in Support re <u>2</u> MOTION for Temporary Restraining Order filed by Securities and Exchange Commission. (Johnson, Jay) (Additional attachment(s) added on 3/26/2013: # <u>1</u> Declaration of Michael Rispin, # <u>2</u> Exhibits A through I, # <u>3</u> Exhibits J through R; original Declaration could not be attached as it exceeded 7.0 MB limit.) (MacDonald, Gail). (Entered: 03/15/2013)
03/15/2013	<u>4</u>	DECLARATION of John Doherty by Securities and Exchange Commission. (Johnson, Jay) (Entered: 03/15/2013)
03/15/2013	<u>5</u>	MOTION to Seal Case by Securities and Exchange Commission.(Johnson, Jay) (Entered: 03/15/2013)
03/15/2013	<u>6</u>	Proposed Document(s) submitted by Securities and Exchange Commission. Document received: PROPOSED TRO. (Johnson, Jay) (Entered: 03/15/2013)
03/15/2013	<u>7</u>	NOTICE of Case Assignment. Magistrate Judge Marianne B. Bowler assigned to case. Plaintiff's counsel, or defendant's counsel if this case was initiated by the filing of a Notice of Removal, are directed to the Notice and Procedures regarding Consent to Proceed before the Magistrate Judge which can be downloaded here . These documents will be mailed to counsel not receiving notice electronically. (Abaid, Kimberly) (Entered: 03/15/2013)
03/15/2013	<u>8</u>	ELECTRONIC NOTICE of Random Reassignment. Judge Mark L. Wolf added. Motion for Temporary Restraining Order filed. (Abaid, Kimberly) (Entered: 03/15/2013)
03/15/2013	<u>9</u>	VERIFIED COMPLAINT against Securities and Exchange Commission, filed by Securities and Exchange Commission. (Attachments: # <u>1</u> Text of Proposed

		Temporary Restraining Order, # <u>2</u> Declaration of Kathleen Burdette Sheilds) (MacDonald, Gail) (Entered: 03/15/2013)
03/15/2013	<u>26</u>	ELECTRONIC Clerk's Notes for proceedings held before Judge Mark L. Wolf: Motion Hearing held on 3/15/2013 re <u>2</u> EX Parte MOTION for Temporary Restraining Order filed by Securities and Exchange Commission. (Court Reporter: Richard Romanow at bulldog@richromanow.com.)(Attorneys present: Shields, Gamtchu) (Hohler, Daniel) (Entered: 03/21/2013)
03/17/2013	<u>10</u>	Judge Mark L. Wolf: ORDER entered. (Hohler, Daniel) (Entered: 03/17/2013)
03/18/2013	<u>11</u>	Judge Mark L. Wolf: ELECTRONIC ORDER entered. The Deputy Clerk has been informed that the March 17, 2013 Temporary Restraining Order has been served on the defendants. Therefore, pursuant to paragraph 10 of that Order, the documents under seal in this case are hereby UNSEALED.(Hohler, Daniel) (Entered: 03/18/2013)
03/18/2013	<u>12</u>	Summons Issued as to All Defendants. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (MacDonald, Gail) (Entered: 03/18/2013)
03/19/2013	<u>13</u>	MOTION to Seal Document by Gregg D. Caplitz, Brian Herman, Charlene Herman, Rosalind Herman, Brad Hreman, Insight Onsite Strategic Management, LLC, The Knew Finance Experts, Inc..(Hohler, Daniel) Modified on 3/20/2013 (Hohler, Daniel). (Entered: 03/20/2013)
03/19/2013	<u>14</u>	SEALED DOCUMENT. (Hohler, Daniel) (Entered: 03/20/2013)
03/20/2013	<u>15</u>	SUMMONS Returned Executed Gregg D. Caplitz served on 3/19/2013, answer due 4/9/2013. (Gametchu, Mayeti) (Entered: 03/20/2013)
03/20/2013	<u>16</u>	SUMMONS Returned Executed Insight Onsite Strategic Management, LLC served on 3/19/2013, answer due 4/9/2013. (Gametchu, Mayeti) (Entered: 03/20/2013)
03/20/2013	<u>17</u>	SUMMONS Returned Executed Rosalind Herman served on 3/19/2013, answer due 4/9/2013. (Gametchu, Mayeti) (Entered: 03/20/2013)
03/20/2013	<u>18</u>	SUMMONS Returned Executed Brian Herman served on 3/19/2013, answer due 4/9/2013. (Gametchu, Mayeti) (Entered: 03/20/2013)
03/20/2013	<u>19</u>	SUMMONS Returned Executed Charlene Herman served on 3/19/2013, answer due 4/9/2013. (Gametchu, Mayeti) (Entered: 03/20/2013)
03/20/2013	<u>20</u>	SUMMONS Returned Executed The Knew Finance Experts, Inc. served on 3/19/2013, answer due 4/9/2013. (Gametchu, Mayeti) (Entered: 03/20/2013)
03/20/2013	<u>21</u>	SUMMONS Returned Executed Brad Hreman served on 3/19/2013, answer due 4/9/2013. (Gametchu, Mayeti) (Entered: 03/20/2013)
03/20/2013	<u>22</u>	MOTION for Preliminary Injunction by Securities and Exchange Commission. (Attachments: # <u>1</u> Text of Proposed Order Proposed Preliminary Injunction, # <u>2</u> Affidavit Declaration of Michael Schwartz, # <u>3</u> Exhibit Exhibit A to Schwartz

		Dec., # <u>4</u> Exhibit Exhibit B to Schwartz Dec., # <u>5</u> Exhibit Exhibit C to Schwartz Dec., # <u>6</u> Exhibit Exhibit D to Schwartz Dec., # <u>7</u> Exhibit Exhibit E to Schwartz Dec., # <u>8</u> Affidavit Declaration of Kathleen Shields, # <u>9</u> Exhibit Exhibit A to Shields Dec.)(Shields, Kathleen) (Entered: 03/20/2013)
03/20/2013	<u>23</u>	MEMORANDUM in Support re <u>22</u> MOTION for Preliminary Injunction filed by Securities and Exchange Commission. (Shields, Kathleen) (Entered: 03/20/2013)
03/21/2013	<u>24</u>	Judge Mark L. Wolf: ORDER entered. Therefore, it is hereby ORDERED that: 1. Counsel for the parties shall confer forthwith and, by March 22, 2013, at 12:00 noon, inform the court of whether defendants agree to an extension of the TRO. If so, the parties shall propose a schedule to complete the briefing concerning the Motion and state their respective positions as to whether it will be necessary or appropriate for the court to hear testimony from any particular witness(es). 2. If the defendants do not consent to an extension of the TRO: a) The defendants shall, by March 26, 2013, respond to the Motion and identify any potential witness(es) that they propose testify at the hearing on it. b) The SEC shall, by March 28, 2013, file any reply, and identify any potential witness(es) that it proposes testify at the hearing on the Motion. c) A hearing on the Motion shall be held on April 1, 2013, at 11:00 a.m. Unless otherwise ordered, each potential witness identified by a party shall be present to testify, if necessary, at the hearing. 3. By March 26, 2013, Julie M. Riewe, Deputy Chief of the SEC's Enforcement Division's Asset Management Unit, shall file an affidavit and supporting memorandum seeking to demonstrate why the court should not find that the statement attributed to her in the attached March 18, 2013 press release and March 19, 2012 Boston Globe article violates Rule 83.2A of the Local Rules of the United States District Court for the District of Massachusetts, which prohibits certain extrajudicial statements. C.f. United States v. Flemmi, 223 F. Supp. 2d 113 (D. Mass. 2000). Her affidavit should, among other things, address whether she was aware when she made her statement that Gregg D. Caplitz is also a defendant in a pending criminal case in the District of Massachusetts, United States v. Caplitz, Cr. No. 12-10015-WGY, and whether she or the SEC have communicated or cooperated with government agents and/or attorneys with regard to the investigation and/or prosecution of that criminal case.(Hohler, Daniel) (Entered: 03/21/2013)
03/21/2013	<u>25</u>	ELECTRONIC NOTICE Setting Hearing on Motion <u>22</u> MOTION for Preliminary Injunction : Motion Hearing set for 4/1/2013 11:00 AM in Courtroom 10 before Judge Mark L. Wolf. (Hohler, Daniel) (Entered: 03/21/2013)
03/21/2013	<u>27</u>	SEALED MOTION by Gregg D. Caplitz, Brad Herman, Brian Herman, Charlene Herman, Rosalind Herman, Insight Onsite Strategic Management, LLC, The Knew Finance Experts, Inc..(Hohler, Daniel) (Entered: 03/21/2013)
03/21/2013	<u>28</u>	SEALED DOCUMENT. (Hohler, Daniel) (Entered: 03/21/2013)
03/22/2013	<u>29</u>	RESPONSE TO COURT ORDER by Securities and Exchange Commission re <u>24</u> Order,,,,,, Joint Scheduling Memorandum. (Gametchu, Mayeti) (Entered: 03/22/2013)

03/22/2013	<u>30</u>	NOTICE by Gregg D. Caplitz, Brad Herman, Brian Herman, Charlene Herman, Rosalind Herman, Insight Onsite Strategic Management, LLC, The Knew Finance Experts, Inc. re <u>29</u> Response to Court Order (Andrews, Paul) (Entered: 03/22/2013)
03/26/2013	<u>31</u>	NOTICE of Appearance by David P Bergers on behalf of Securities and Exchange Commission (Bergers, David) (Entered: 03/26/2013)
03/26/2013	<u>32</u>	MEMORANDUM OF LAW by Securities and Exchange Commission to <u>24</u> Order,,,,,,,,, (Attachments: # <u>1</u> Affidavit Affidavit of Julie Riewe)(Shields, Kathleen) (Entered: 03/26/2013)
03/28/2013	<u>33</u>	Judge Mark L. Wolf: ORDER entered. 1. Pursuant to Federal Rule of Civil Procedure 65 (b) (2), the TRO is EXTENDED until further order of the court. 2. As agreed by the parties, the TRO is MODIFIED as follows. The Bank of America checking account in the name of Brian J. Herman (the "Account") shall not be subject to the TRO provided that: (1) no funds, other than Keith Herman's monthly Social Security Disability Insurance payments deposited directly into the Account by the Social Security Administration, shall be deposited in, transferred to, or credited to the Account, including from any linked account; and (2) defendants and relief defendants shall every month submit to plaintiff Securities and Exchange Commission (the "SEC") the monthly account statement for the Account within five business days of its issuance. 3. Within 24 hours of being served with this Order, defendants Gregg D. Caplitz ("Caplitz") and Insight Onsite Strategic Management ("IOSM"), and relief defendants Rosalind Herman, Brian Herman, Brad Herman, Charlene Herman (collectively, the "Hermans"), and The Knew Finance Experts, Inc. ("Knew Finance") shall notify the institutions previously notified pursuant to paragraph 5 of the TRO, of the extension and modification of the TRO, in the manner required by paragraph 5 of the TRO. 4. Within 24 hours of making the notifications required by paragraph 3 hereinabove, Caplitz, IOSM, the Hermans, and Knew Finance shall, in the manner required by paragraph 6 of the TRO, inform the court. S. The Defendants shall, by April 16, 2013, respond to the Motion and identify any potential witness (es) that they propose testify at the hearing on it. 6. The SEC shall, by April 26, 2013, file any reply, and identify any potential witness(es) that it proposes testify at the hearing on the Motion. 7. A hearing on the Motion shall be held on May 2, 2013, at 2:30 p.m., and continue on May 3, 2013, if necessary. Unless otherwise ordered, each potential witness identified by a party shall be present to testify, if necessary, at the hearing.(Hohler, Daniel) (Entered: 03/28/2013)
03/28/2013	<u>34</u>	ELECTRONIC NOTICE Setting Hearing on Motion <u>22</u> MOTION for Preliminary Injunction : Motion Hearing set for 5/2/2013 02:30 PM in Courtroom 10 before Judge Mark L. Wolf. Motion Hearing set for 5/3/2013 02:30 PM in Courtroom 10 before Judge Mark L. Wolf. (Hohler, Daniel) (Entered: 03/28/2013)
03/30/2013	<u>35</u>	NOTICE by Gregg D. Caplitz, Brad Herman, Brian Herman, Charlene Herman, Rosalind Herman, Insight Onsite Strategic Management, LLC, The Knew Finance Experts, Inc. re <u>33</u> Order,,,,,,,,, (Andrews, Paul) (Entered: 03/30/2013)
04/05/2013	<u>37</u>	

		Assented to MOTION for Extension of Time to File Response/Reply as to <u>22</u> MOTION for Preliminary Injunction , <u>23</u> Memorandum in Support of Motion by Gregg D. Caplitz, Brad Herman, Brian Herman, Charlene Herman, Rosalind Herman, Insight Onsite Strategic Management, LLC, The Knew Finance Experts, Inc..(Andrews, Paul) (Entered: 04/05/2013)
04/05/2013	<u>38</u>	Judge Mark L. Wolf: ORDER entered granting <u>37</u> Motion for Extension of Time to File Response/Reply re <u>37</u> Assented to MOTION for Extension of Time to File Response/Reply as to <u>22</u> MOTION for Preliminary Injunction , <u>23</u> Memorandum in Support of Motion Responses due by 4/26/2013 Replies due by 5/6/2013. "ALLOWED. The renewed schedule for the parties' submissions is hereby ADOPTED. As a result, the hearing on the Motion for Preliminary Injunction will commence on June 6, at 10:00 a.m.. The March 28, 2013, Order otherwise remains in effect." (MacDonald, Gail) (Entered: 04/05/2013)
04/05/2013	44	Set/Reset Deadlines as to <u>22</u> MOTION for Preliminary Injunction . Responses due by 4/26/2013 Replies due by 5/6/2013. (MacDonald, Gail) (Entered: 04/30/2013)
04/08/2013	39	ELECTRONIC NOTICE Canceling Hearing. Motion Hearing set for 05/02/2013 (Hohler, Daniel) (Entered: 04/08/2013)
04/08/2013	40	ELECTRONIC NOTICE Resetting Hearing on Motion <u>22</u> MOTION for Preliminary Injunction : Motion Hearing set for 6/6/2013 10:00 AM in Courtroom 10 before Judge Mark L. Wolf. (Hohler, Daniel) (Entered: 04/08/2013)
04/26/2013	<u>41</u>	Assented to MOTION for Extension of Time to File Response/Reply as to <u>22</u> MOTION for Preliminary Injunction by Gregg D. Caplitz, Brad Herman, Brian Herman, Charlene Herman, Rosalind Herman, Insight Onsite Strategic Management, LLC, The Knew Finance Experts, Inc..(Andrews, Paul) (Entered: 04/26/2013)
04/29/2013	<u>42</u>	Judge Mark L. Wolf: ELECTRONIC ORDER entered granting <u>41</u> Motion for Extension of Time. ALLOWED. The revised schedule proposed for the parties' submissions is hereby ADOPTED. The parties shall also, by May 7, 2013, report whether they have agreed to a stay of this case with an agreed Preliminary Injunction. If necessary, a hearing on the motion for preliminary injunction will be held as previously scheduled on June 6, 2013, but at 2:30 p.m." (Hohler, Daniel) (Hohler, Daniel). (Entered: 04/29/2013)
04/29/2013	43	ELECTRONIC NOTICE Resetting Hearing on Motion <u>22</u> MOTION for Preliminary Injunction : Motion Hearing set for 6/6/2013 02:30 PM in Courtroom 10 before Judge Mark L. Wolf. (Hohler, Daniel) (Entered: 04/29/2013)
05/07/2013	<u>45</u>	MOTION to Stay <i>and for Entry of Stipulated Preliminary Injunction</i> by Gregg D. Caplitz, Brad Herman, Brian Herman, Charlene Herman, Rosalind Herman, Insight Onsite Strategic Management, LLC, The Knew Finance Experts, Inc.. (Attachments: # <u>1</u> Proposed Preliminary Injunction)(Andrews, Paul) (Entered: 05/07/2013)
05/09/2013	<u>46</u>	

		Judge Mark L. Wolf: ENDORSED ORDER entered granting <u>45</u> Motion to Stay The Stipulated Preliminary Injunction is appropriate and acceptable to the court. Having balanced the competing considerations, the court finds that defendants' request for a stay of the case pending resolution of the referenced criminal case is also justified. See SEC v. Dresser Industries, 628 F.2d 1368 (D.C. Cir. 1980); Microfinancial, Inc. Premier Holidays International, 385 F. 3d 72 (1st Cir. 2004). Therefore, it is hereby Ordered that: (1) this Motion is ALLOWED; (2) the Stipulated Preliminary Injunction is ENTERED; (3) the June 6, 2013 hearing is CANCELLED; and (4) defendants shall confer with the SEC and inform the court when the related criminal case is resolved. (Hohler, Daniel) (Entered: 05/09/2013)
05/09/2013	<u>47</u>	Judge Mark L. Wolf: ORDER entered. PRELIMINARY INJUNCTION(Hohler, Daniel) (Entered: 05/09/2013)
08/06/2013	<u>48</u>	MOTION to freeze funds on deposit with the court by Securities and Exchange Commission. (Attachments: # <u>1</u> Exhibit A)(Shields, Kathleen) (Entered: 08/06/2013)
08/13/2013	<u>49</u>	Assented to MOTION for Extension of Time to File Response/Reply as to <u>48</u> MOTION to freeze funds on deposit with the court by Rosalind Herman. (Andrews, Paul) (Entered: 08/13/2013)
08/21/2013	<u>50</u>	Judge Mark L. Wolf: ELECTRONIC ORDER entered granting <u>49</u> Motion for Extension of Time to File Response/Reply re <u>48</u> MOTION to freeze funds on deposit with the court Responses due by 9/6/2013 (Hohler, Daniel) (Entered: 08/21/2013)
09/06/2013	<u>51</u>	Opposition re <u>48</u> MOTION to freeze funds on deposit with the court filed by Rosalind Herman. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit 1 to Gorsun Declaration, # <u>3</u> Exhibit 2 to Gorsun Declaration, # <u>4</u> Affidavit)(Andrews, Paul) (Entered: 09/06/2013)
09/13/2013	<u>52</u>	Assented to MOTION for Leave to File <i>Reply Brief in Support of Motion to Freeze Funds</i> by Securities and Exchange Commission. (Attachments: # <u>1</u> Exhibit Proposed Reply Brief)(Shields, Kathleen) (Entered: 09/13/2013)
10/28/2013	<u>53</u>	Judge Mark L. Wolf: ENDORSED ORDER entered "ALLOWED."granting <u>52</u> Motion for Leave to File Document ; Counsel using the Electronic Case Filing System should now file the document for which leave to file has been granted in accordance with the CM/ECF Administrative Procedures. Counsel must include - Leave to file granted on (date of order)- in the caption of the document. (Hohler, Daniel) (Entered: 10/28/2013)
10/28/2013	<u>54</u>	Judge Mark L. Wolf: ENDORSED ORDER entered denying <u>48</u> Motion "In reliance upon the representations and evidence provided by defendant in and with her opposition (Document No. <u>51</u>), this motion is hereby DENIED. If it is demonstrated that the representation that the \$50,000 was borrowed from defendant's brother and must be returned to him are false, the court may initiate criminal contempt proceedings and a prosecution for perjury as well." (Hohler, Daniel) (Entered: 10/28/2013)
10/28/2013	<u>55</u>	

		REPLY to Response to <u>48</u> MOTION to freeze funds on deposit with the court , <u>52</u> Assented to MOTION for Leave to File <i>Reply Brief in Support of Motion to Freeze Funds</i> filed by Securities and Exchange Commission. (Shields, Kathleen) (Entered: 10/28/2013)
03/11/2015	<u>58</u>	STATUS REPORT <i>by all parties</i> by Securities and Exchange Commission. (Shields, Kathleen) (Entered: 03/11/2015)
07/28/2016	<u>59</u>	MOTION to Stay <i>to Lift Stay</i> by Securities and Exchange Commission.(Shields, Kathleen) (Entered: 07/28/2016)
02/14/2017	<u>60</u>	MOTION to Stay <i>to Lift Stay</i> by Securities and Exchange Commission. (Attachments: # <u>1</u> Exhibit A - Proposed Final Judgment as to Gregg Caplitz, # <u>2</u> Exhibit B - Consent by Gregg Caplitz, # <u>3</u> Exhibit C - Proposed Notice of Dismissal as to Insight Onsite Strategic Management, # <u>4</u> Exhibit D - Proposed Amended Complaint)(Shields, Kathleen) (Entered: 02/14/2017)

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07/18/2017 12:53:12			
PACER Login:	se0131:2632367:4043519	Client Code:	herman
Description:	Docket Report	Search Criteria:	1:13-cv-10612-MLW
Billable Pages:	7	Cost:	0.70

Exhibit I

CASREF,CLOSED

**United States District Court
District of Massachusetts (Boston)
CRIMINAL DOCKET FOR CASE #: 1:12-cr-10015-WGY-2**

Case title: USA v. Caplitz et al

Date Filed: 01/18/2012

Date Terminated: 07/29/2016

Assigned to: Judge William G. Young
Referred to: Magistrate Judge Marianne
B. Bowler

Appeals court case number: 16-2001
USCA - First Circuit

Defendant (2)

Rosalind Herman
TERMINATED: 07/29/2016

represented by **Jason G. Benzaken**
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TERMINATED: 10/30/2015
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Designation: Retained

Paul J. Andrews , Jr.
Paul J. Andrews, Esq.
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Braintree, MA 02184
781-367-3046
Email: atypja@gmail.com
ATTORNEY TO BE NOTICED
Designation: Retained

Pending Counts

18:371...CONSPIRACY
(1ss)

Disposition

The defendant is committed to the custody of the bureau of prisons for 5 years to run concurrently with the sentence imposed on all other counts to be followed by 36 months of supervised release with standard and special conditions. No fine. Total of \$700

15:80b-6(1), 80b-6(2), 80b-6(4) & 80b-17...WILLFUL VIOLATION OF SECTION 206 AND 217 OF THE INVESTMENT ADVISERS ACT (2ss)

special assessment. Restitution in the amount of \$1,819,391.87.

The defendant is committed to the custody of the bureau of prisons for 5 years to run concurrently with the sentence imposed on all other counts to be followed by 36 months of supervised release with standard and special conditions. No fine. Total of \$700 special assessment. Restitution in the amount of \$1,819,391.87.

18:1343...WIRE FRAUD (4ss-7ss)

The defendant is committed to the custody of the Bureau of Prisons for seven (7) years to run concurrently with sentence imposed on all other counts to be followed by 36 months of supervised release with standard and special conditions. No fine. A total of \$700 special assessment. Restitution in the amount of \$1,819,391.87.

26:7212(a)...CORRUPT ENDEAVOR TO IMPEDE ADMINISTRATION OF INTERNAL REVENUE LAWS (9ss)

The defendant is committed to the custody of the Bureau of Prisons for three (3) years to run concurrently with the sentence imposed on all other counts to be followed by 36 months of supervised release. No fine. A total of \$700 special assessment. Restitution in the amount of \$1,819,391.87

Highest Offense Level (Opening)

Felony

Terminated Counts

Disposition

18:371 - CONSPIRACY (1)

Dismissed.

18:371...CONSPIRACY (1s)

Dismissed.

15:80b-6(1), 80b-6(2), 80b-6(4) & 80b-17...WILLFUL VIOLATION OF SECTIONS 206 AND 217 OF THE INVESTMENT ADVISERS ACT (2s)

Dismissed.

26:7212(a) - CORRUPT ENDEAVOR TO IMPEDE ADMINISTRATION OF

Dismissed on government motion.

INTERNAL REVENUE LAWS

(3)

15:78ff...FALSE FILING WITH SEC

(3s)

Dismissed on government motion.

15:78ff...FALSE FILING WITH SEC

(3ss)

Count Dismissed Upon Government Motion

18:1343...WIRE FRAUD

(4s-7s)

Dismissed.

26:7212(a)...CORRUPT ENDEAVOR

TO IMPEDE ADMINISTRATION OF

INTERNAL REVENUE LAWS

(9s)

Dismissed

Highest Offense Level (Terminated)

Felony

Complaints

None

Disposition

Interested Party

Bruce Gilmartin

represented by **Geoffrey G. Nathan**

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Date Filed	#	Docket Text
03/21/2012	<u>15</u>	SUPERSEDING INDICTMENT as to Gregg D. Caplitz (1) count(s) 1s, 2s, 4s-8s, Rosalind Herman (2) count(s) 1, 3. (Attachments: # <u>1</u> JS45'S)(Catino3, Theresa) (Entered: 03/21/2012)

03/21/2012		Judge William G. Young: ELECTRONIC ORDER entered. Order Referring Case to Magistrate Judge Marianne B. Bowler Reason for referral: For BAIL And ARRAIGNMENT ONLY as to Gregg D. Caplitz, Rosalind Herman (Catino3, Theresa) (Entered: 03/21/2012)
03/21/2012	<u>16</u>	Summons Issued as to Rosalind Herman Arraignment set for 3/30/2012 02:00 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. Initial Appearance set for 3/30/2012 02:00 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. (Garvin, Brendan) (Entered: 03/21/2012)
03/22/2012	<u>18</u>	Summons Issued as to Rosalind Herman for alternate address. (Garvin, Brendan) (Entered: 03/22/2012)
03/30/2012		ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Initial Appearance as to Rosalind Herman held on 3/30/2012, Arraignment as to Gregg D. Caplitz and Rosalind Herman held on 3/30/2012. Court advises the defendants of their rights and the charges. Government states the maximum penalties and does not move for detention. Defendant Herman sworn and bail questions are inquired. Plea entered by Gregg D. Caplitz, Rosalind Herman Not Guilty on all counts. Defendant Herman released on conditions. (Attorneys present: Sandra Bower for the Government. Jane Peachy and Jeffrey Denner for the defendants.)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts or CDs contact Deborah Scalfani by email at deborah_scalfani@mad.uscourts.gov. (Garvin, Brendan) (Entered: 03/30/2012)
03/30/2012	<u>19</u>	NOTICE OF ATTORNEY APPEARANCE: Jeffrey A. Denner appearing for Rosalind Herman. Type of Appearance: Retained. (Garvin, Brendan) (Entered: 03/30/2012)
03/30/2012	<u>20</u>	Appearance Bond Entered as to Rosalind Herman in amount of \$ 100,000 unsecured. (Garvin, Brendan) (Entered: 03/30/2012)
03/30/2012	<u>21</u>	Magistrate Judge Marianne B. Bowler: ORDER entered. ORDER Setting Conditions of Release as to Rosalind Herman (2) 100,000 unsecured as to Rosalind Herman. (Garvin, Brendan) (Entered: 03/30/2012)
04/12/2012		Case as to Gregg D. Caplitz, Rosalind Herman no longer referred to Magistrate Judge Marianne B. Bowler. (Gaudet, Jennifer) (Entered: 04/12/2012)
04/12/2012	<u>22</u>	NOTICE OF HEARING as to Rosalind Herman. Scheduling Conference set for 5/9/2012 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 04/12/2012)
05/09/2012	<u>23</u>	NOTICE OF ATTORNEY APPEARANCE: Paul J. Andrews, Jr appearing for Rosalind Herman. Type of Appearance: Retained. (Andrews, Paul) (Entered: 05/09/2012)
05/09/2012		ELECTRONIC Clerk's Notes for proceedings held before Judge William G. Young:Scheduling Conference as to Rosalind Herman held on 5/9/2012. The Court adopts the same Scheduling Order entered on 3/8/2012, docket entry #14 as to co-defendant. The time between arraignment 3/30/2012 and trial 12/10/2012 shall be excluded. Scheduling Order to issue. (Attorneys present:

		Ausa Bower, Defense counsel Andrews for defendant Herman and Peachy for defendant Caplitz.)Court Reporter Name and Contact or digital recording information: Donald Womack (womack@megatran.com). (Gaudet, Jennifer) (Entered: 05/10/2012)
05/10/2012	<u>24</u>	Judge William G. Young: ORDER entered. SCHEDULING ORDER as to Rosalind Herman. Jury Trial set for 12/10/2012 09:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 05/10/2012)
05/10/2012		Set/Reset Hearings as to Rosalind Herman. Final Pretrial Conference set for 11/5/2012 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 05/10/2012)
08/10/2012	<u>25</u>	NOTICE OF ATTORNEY APPEARANCE Sara M. Bloom appearing for USA. (Bloom, Sara) (Main Document 25 replaced on 9/4/2012) (Paine, Matthew). (Entered: 08/10/2012)
08/10/2012	<u>26</u>	NOTICE of Withdrawal of Appearance by Government Attorney Sandra S. Bower as to Gregg D. Caplitz, Rosalind Herman (Bower, Sandra) (Entered: 08/10/2012)
09/04/2012		Attorney update in case as to Gregg D. Caplitz, Rosalind Herman. Attorney Sandra S. Bower terminated. (Paine, Matthew) (Entered: 09/04/2012)
09/04/2012	<u>27</u>	NOTICE OF ATTORNEY APPEARANCE Sean R. Delaney appearing for USA. (Delaney, Sean) (Entered: 09/04/2012)
10/24/2012	<u>29</u>	ELECTRONIC NOTICE OF RESCHEDULING as to Gregg D. Caplitz, Rosalind Herman. Final Pretrial Conference reset for 11/7/2012 02:30 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 10/24/2012)
10/25/2012	<u>30</u>	Joint MOTION to Continue <i>Trial Date</i> as to Gregg D. Caplitz, Rosalind Herman by Gregg D. Caplitz. (Peachy, Jane) (Entered: 10/25/2012)
10/26/2012	<u>31</u>	Judge William G. Young: ELECTRONIC ORDER entered granting <u>30</u> Defendants' Joint Motion to Continue as to Gregg D. Caplitz (1), Rosalind Herman (2). Jury Trial reset for 4/29/2013 09:00 AM in Courtroom 18 before Judge William G. Young. Final Pretrial Conference set for 3/28/2013 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 10/26/2012)
10/26/2012	<u>32</u>	Judge William G. Young: ELECTRONIC ORDER entered. ORDER ON EXCLUDABLE DELAY as to Gregg D. Caplitz, Rosalind Herman. Time excluded from 10/26/2012 until 4/29/2013. Reason for entry of order on excludable delay: 18 USC 3161(h)(7)(A) Interests of justice. (Gaudet, Jennifer) (Entered: 10/26/2012)
01/25/2013	<u>35</u>	Emergency MOTION to Modify Conditions of Release as to Rosalind Herman. (Denner, Jeffrey) (Entered: 01/25/2013)
01/28/2013	<u>36</u>	Judge William G. Young: ELECTRONIC ORDER entered. Order Referring Case to Magistrate Judge Marianne B. Bowler as to Rosalind Herman <u>35</u>

		Emergency MOTION to Modify Conditions of Release (Paine, Matthew) Motions referred to Marianne B. Bowler. (Entered: 01/28/2013)
01/28/2013		Magistrate Judge Marianne B. Bowler: ELECTRONIC ORDER entered granting <u>35</u> Motion to Modify Conditions of Release as to Rosalind Herman (2.) (Bowler, Marianne) (Entered: 01/28/2013)
03/19/2013	<u>37</u>	Assented to MOTION to Continue <i>Trial Date</i> to mid to late September 2013 as to Gregg D. Caplitz, Rosalind Herman. (Denner, Jeffrey) (Entered: 03/19/2013)
03/21/2013	38	Judge William G. Young: ELECTRONIC ORDER entered granting <u>37</u> Assented to Motion to Continue as to Gregg D. Caplitz (1), Rosalind Herman (2). Case continued to Monday, September 23, 2013. Time excluded from the Speedy Trial Act upon motion of the defendants and in the interests of justice. Jury Trial reset for 9/23/2013 09:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 03/21/2013)
03/21/2013	39	Judge William G. Young: ELECTRONIC ORDER entered. ORDER ON EXCLUDABLE DELAY as to Gregg D. Caplitz, Rosalind Herman. Time excluded from 4/29/2013 until 9/23/2013. Reason for entry of order on excludable delay: 18 USC 3161(h)(7)(A) Interests of justice. (Gaudet, Jennifer) (Entered: 03/21/2013)
03/21/2013	40	Set/Reset Hearings as to Gregg D. Caplitz, Rosalind Herman. Final Pretrial Conference reset for 9/5/2013 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 03/21/2013)
03/22/2013	41	Case as to Gregg D. Caplitz, Rosalind Herman no longer referred to Magistrate Judge Marianne B. Bowler. (Gaudet, Jennifer) (Entered: 03/22/2013)
03/28/2013	<u>42</u>	MOTION to Seal Case as to Gregg D. Caplitz, Rosalind Herman by USA. (Smith3, Dianne) (Entered: 03/28/2013)
03/28/2013	43	Ch. Magistrate Judge Leo T. Sorokin: ELECTRONIC ORDER entered granting <u>42</u> Motion to Seal Case as to Gregg D. Caplitz (1), Rosalind Herman (2) (Smith3, Dianne) (Entered: 03/28/2013)
03/28/2013	<u>44</u>	SECOND SUPERSEDING SEALED INDICTMENT as to Gregg D. Caplitz (1) count(s) 1ss, 2ss, 3ss, 4ss-7ss, 8ss, 10ss-14ss, Rosalind Herman (2) count(s) 1s, 2s, 3s, 4s-7s, 9s. (Attachments: # <u>1</u> JS45)(Smith3, Dianne) (Entered: 03/28/2013)
03/28/2013	<u>45</u>	Arrest Warrant Issued by Ch. Magistrate Judge Leo T. Sorokin as to Rosalind Herman. (Smith3, Dianne) (Entered: 03/28/2013)
03/28/2013	52	ELECTRONIC Clerk's Notes for proceedings held before Ch. Magistrate Judge Leo T. Sorokin: Initial Appearance re Revocation of Pretrial release as to Gregg D. Caplitz, Rosalind Herman held on 3/28/2013; Court hears the status of the case and goes over the charges in the SS Indictment; court hears argument of counsel re release; The court detains the defts pending a hearing before MJ Bowler on 4/1/13. Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts or CDs

		contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Simeone, Maria) (Entered: 04/01/2013)
03/29/2013	<u>47</u>	MOTION to Unseal Case as to Gregg D. Caplitz, Rosalind Herman by USA. (Smith3, Dianne) (Smith3, Dianne). (Entered: 03/29/2013)
03/29/2013	48	Ch. Magistrate Judge Leo T. Sorokin: ELECTRONIC ORDER entered granting <u>47</u> Motion to Unseal Case as to Gregg D. Caplitz (1), Rosalind Herman (2) (Smith3, Dianne) (Entered: 03/29/2013)
03/29/2013	<u>49</u>	MOTION to Revoke Release as to Gregg D. Caplitz, Rosalind Herman by USA. (Smith3, Dianne) (Smith3, Dianne). (Entered: 03/29/2013)
03/29/2013	50	Ch. Magistrate Judge Leo T. Sorokin: ELECTRONIC ORDER entered. A second superceding Indictment alleges the two defendants have engaged in sustained ongoing fraud since their release in the pending case in January and March respectively of 2012. In light of these serious allegations and the provisions of the 18 U.S.C. section 3148, the Court hereby ORDERS defendants Herman and Caplitz DETAINED until Monday April 1, 2013, to be brought before the Court for a further hearing before Magistrate Judge Bowler at 2:30 p.m. or such other time as Magistrate Judge Bowler establishes. The Court has considered carefully the arguments of counsel and the conditions proposed, however, given the nature of the charges in the Indictment, the provisions of statute and the preliminary record before the Court at this time, the Government has established that detention, at least pending fuller consideration by Magistrate Judge Bowler on April 1, 2013 is warranted. This Order is WITHOUT PREJUDICE to the renewal of requests for release before Magistrate Judge Bowler or reconsideration by Magistrate Judge Bowler of detention pending a final hearing. as to Gregg D. Caplitz, Rosalind Herman (Simeone, Maria) (Entered: 03/29/2013)
03/29/2013	51	ELECTRONIC NOTICE OF HEARING ON MOTION A Motion Hearing has been set for 4/1/2013 02:30 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler as to Gregg D. Caplitz, Rosalind Herman <u>49</u> MOTION to Revoke :(Simeone, Maria) (Entered: 03/29/2013)
04/01/2013	53	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Detention Hearing and Arraignment as to Gregg D. Caplitz and Rosalind Herman held on 4/1/2013. Government calls Carmine Leuci, cross, re-direct. Evidence entered. Matter is continued until 4/11/13. Government states the maximum penalties, anticipates a trial lasting two weeks and estimates calling 10-15 witnesses. Plea entered by Gregg D. Caplitz, Rosalind Herman Not Guilty on all counts. Defendants remanded to the USMS.(Attorneys present: Bloom and Delaney for the Government. Kelley and Denner for the defendant..)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts or CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 04/02/2013)
04/02/2013	54	ELECTRONIC NOTICE OF HEARING as to Gregg D. Caplitz, Rosalind Herman Detention Hearing set for 4/11/2013 02:00 PM in Courtroom 25

		before Magistrate Judge Marianne B. Bowler. (Garvin, Brendan) (Entered: 04/02/2013)
04/10/2013	<u>55</u>	Transcript of Detention Hearing as to Gregg D. Caplitz, Rosalind Herman held on April 1, 2013, before Magistrate Judge Marianne B. Bowler. Court Reporter Name: No Reporter Used. Digital recording transcribed by Maryann Young. The Transcript may be purchased through Maryann Young at 508-384-2003, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 5/1/2013. Redacted Transcript Deadline set for 5/13/2013. Release of Transcript Restriction set for 7/9/2013. (Scalfani, Deborah) (Entered: 04/10/2013)
04/10/2013	56	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/attorneys/general-info.htm (Scalfani, Deborah) (Entered: 04/10/2013)
04/11/2013	57	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Detention Hearing as to Gregg D. Caplitz, Rosalind Herman held on 4/11/2013. Counsel confer briefly and agree to continue the matter. (Detention Hearing set for 4/16/2013 10:00 AM in Courtroom 25 before Magistrate Judge Marianne B. Bowler.) (Attorneys present: Bloom, Delaney for the Government. Kelley for the defendants..)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts or CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 04/12/2013)
04/16/2013	58	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Detention Hearing as to Gregg D. Caplitz, Rosalind Herman held on 4/16/2013. Government calls Patricia Wentzell, cross-examination. Government calls Michael Rispin, cross-examination. Defense calls Rosalind Herman, cross-examination. Evidence entered. Court hears argument on detention and takes the matter under advisement. (Attorneys present: Bloom, Delaney for the Government. Kelley, Denner for the defendants.)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts or CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 04/16/2013)
04/16/2013	<u>59</u>	EXHIBIT/WITNESS LIST re: detention hearing on 4/16/13 for Gregg D. Caplitz, Rosalind Herman. (Garvin, Brendan) (Entered: 04/16/2013)
05/21/2013	<u>62</u>	Opposition by USA as to Gregg D. Caplitz, Rosalind Herman re 60 MOTION for Release from Custody <i>ON PROPOSED CONDITIONS</i> (Bloom, Sara) (Entered: 05/21/2013)
05/28/2013	<u>64</u>	MOTION to File Under Seal as to Rosalind Herman. (Paine, Matthew) (Entered: 05/28/2013)
05/28/2013	<u>65</u>	MOTION for Clarification of Prior Release Request (EXHIBITS FILED UNDER SEAL) as to Rosalind Herman. (Paine, Matthew) (Additional

		attachment(s) added on 5/28/2013: # <u>1</u> Exhibit) (Paine, Matthew). (Entered: 05/28/2013)
05/31/2013	67	ELECTRONIC NOTICE OF HEARING as to Rosalind Herman Bail Review Hearing set for 6/3/2013 02:00 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. (Garvin, Brendan) (Entered: 05/31/2013)
06/03/2013	68	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Bail Review Hearing as to Gregg D. Caplitz, Rosalind Herman held on 6/3/2013. Court hears further argument on release as to both defendants, denies bail as to both defendants without prejudice. Defendant remanded to the USMS. (Attorneys present: Bloom, Delaney, Peachy, Kelley, Denner.)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts or CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 06/03/2013)
06/12/2013	<u>69</u>	Transcript of Detention Hearing as to Gregg D. Caplitz, Rosalind Herman held on April 16, 2013, before Magistrate Judge Marianne B. Bowler. Court Reporter Name: No Reporter Used. Digital Recording transcribed by Maryann Young. The Transcript may be purchased through Maryann Young at 508-384-2003, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 7/3/2013. Redacted Transcript Deadline set for 7/15/2013. Release of Transcript Restriction set for 9/10/2013. (Scalfani, Deborah) (Entered: 06/12/2013)
06/12/2013	<u>71</u>	Transcript of Bail Hearing as to Gregg D. Caplitz, Rosalind Herman held on June 3, 2013, before Magistrate Judge Marianne B. Bowler. Court Reporter Name: No Reporter Used. Digital Recording transcribed by Maryann Young. The Transcript may be purchased through Maryann Young at 508-384-2003, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 7/3/2013. Redacted Transcript Deadline set for 7/15/2013. Release of Transcript Restriction set for 9/10/2013. (Scalfani, Deborah) (Entered: 06/12/2013)
06/12/2013	72	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/attorneys/general-info.htm (Scalfani, Deborah) (Entered: 06/12/2013)
07/03/2013	<u>73</u>	MOTION for Reconsideration re 68 Bail Review Hearing,, <i>Decision</i> as to Rosalind Herman. (Denner, Jeffrey) (Entered: 07/03/2013)
07/09/2013	<u>75</u>	Opposition by USA as to Gregg D. Caplitz, Rosalind Herman re <u>73</u> MOTION for Reconsideration re 68 Bail Review Hearing,, <i>Decision</i> , 74 MOTION for Release from Custody <i>RENEWED MOTION FOR RELEASE ON PROPOSED CONDITIONS</i> (Bloom, Sara) (Entered: 07/09/2013)
07/12/2013	77	ELECTRONIC NOTICE OF HEARING as to Rosalind Herman Bail Review Hearing set for 7/15/2013 02:30 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. (Garvin, Brendan) (Entered: 07/12/2013)

07/15/2013	80	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler: Bail Review Hearing as to Rosalind Herman held on 7/15/2013. Court hears argument re: release, releases the defendant on cash bond and amended conditions. Defendant remanded to the USMS to be released after processing. (Attorneys present: Bloom, Denner.) Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts/CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 07/16/2013)
07/15/2013	<u>81</u>	Secured Bond Entered as to Rosalind Herman in amount of \$ 50,000. (Garvin, Brendan) (Entered: 07/16/2013)
07/15/2013	<u>82</u>	Magistrate Judge Marianne B. Bowler: ORDER entered. ORDER Setting Conditions of Release as to Rosalind Herman (2) 100,000 unsecured as to Rosalind Herman. (Garvin, Brendan) (Entered: 07/16/2013)
07/15/2013	89	RECEIPT: as to Rosalind Herman. Receipt # 1BST038604 for monies received on 7/15/13 in amount of \$50,000.00 re: <u>81</u> Bond. (MacDonald, Gail) (Entered: 08/28/2013)
07/23/2013	<u>83</u>	Assented to MOTION to Continue <i>JOINT MOTION TO CONTINUE TRIAL DATE</i> as to Gregg D. Caplitz, Rosalind Herman by Gregg D. Caplitz. (Kelley, Page) (Entered: 07/23/2013)
07/25/2013	84	Judge William G. Young: ELECTRONIC ORDER entered granting <u>83</u> Assented to Motion to Continue as to Gregg D. Caplitz (1), Rosalind Herman (2). Jury Trial reset for 12/2/2013 09:00 AM in Courtroom 18 before Judge William G. Young. Final Pretrial Conference reset for 11/6/2013 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 07/25/2013)
07/25/2013	85	Judge William G. Young: ELECTRONIC ORDER entered. ORDER ON EXCLUDABLE DELAY as to Gregg D. Caplitz, Rosalind Herman. Time excluded from 9/23/2013 until 12/2/2013. Reason for entry of order on excludable delay: 18 USC 3161(h)(7)(A) Interests of justice. (Gaudet, Jennifer) (Entered: 07/25/2013)
07/29/2013	86	ELECTRONIC NOTICE OF RESCHEDULING as to Gregg D. Caplitz, Rosalind Herman. Jury Trial reset for 9/30/2013 09:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 07/29/2013)
07/29/2013	87	ELECTRONIC NOTICE OF RESCHEDULING as to Gregg D. Caplitz, Rosalind Herman. Jury Trial reset for 12/2/2013 09:00 AM in Courtroom 18 before Judge William G. Young. Last entry made in error. Jury trial remains set for 12/2/2013 at 9:00 AM. Final Pretrial conference set for 11/6/2013 at 2:00 PM. (Gaudet, Jennifer) (Entered: 07/29/2013)
08/28/2013	<u>88</u>	Joint MOTION to Continue <i>DATE FOR FILING MOTIONS (ASSENTED TO)</i> as to Gregg D. Caplitz, Rosalind Herman by Gregg D. Caplitz. (Kelley, Page) (Entered: 08/28/2013)
08/28/2013		

		Magistrate Judge Marianne B. Bowler: ELECTRONIC ORDER entered granting <u>88</u> Motion to Continue as to Gregg D. Caplitz (1) and Rosalind Herman (2). (Bowler, Marianne) (Entered: 08/28/2013)
09/09/2013	<u>91</u>	ELECTRONIC NOTICE OF RESCHEDULING as to Gregg D. Caplitz, Rosalind Herman Final Pretrial Conference reset for 11/6/2013 02:30 PM in Courtroom 18 before Judge William G. Young. PLEASE NOTE: Time change only. (Gaudet, Jennifer) (Entered: 09/09/2013)
09/16/2013	<u>95</u>	MOTION to Sever <i>Charges</i> as to Rosalind Herman. (Denner, Jeffrey) (Entered: 09/16/2013)
09/16/2013	<u>96</u>	MEMORANDUM in Support by Rosalind Herman re <u>95</u> MOTION to Sever <i>Charges</i> (Denner, Jeffrey) (Entered: 09/16/2013)
09/16/2013	<u>97</u>	MOTION to Sever <i>Defendants (Preliminary)</i> as to Rosalind Herman. (Denner, Jeffrey) (Entered: 09/16/2013)
09/16/2013	<u>98</u>	MEMORANDUM in Support by Rosalind Herman re <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> (Denner, Jeffrey) (Entered: 09/16/2013)
09/27/2013	<u>99</u>	MEMORANDUM in Opposition by USA as to Gregg D. Caplitz, Rosalind Herman re <u>95</u> MOTION to Sever <i>Charges</i> , <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> , 93 MOTION to Sever <i>CHARGES AND DEFENDANTS</i> (Bloom, Sara) (Entered: 09/27/2013)
10/01/2013	100	ELECTRONIC NOTICE OF HEARING ON MOTION as to Gregg D. Caplitz, Rosalind Herman 93 MOTION to Sever <i>CHARGES AND DEFENDANTS</i> , <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> , <u>95</u> MOTION to Sever <i>Charges</i> : Motion Hearing set for 10/23/2013 02:30 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 10/01/2013)
10/01/2013	101	ELECTRONIC NOTICE as to Gregg D. Caplitz, Rosalind Herman, Resetting Hearing on Motion 93 MOTION to Sever <i>CHARGES AND DEFENDANTS</i> , <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> , <u>95</u> MOTION to Sever <i>Charges</i> : Motion Hearing reset for 10/29/2013 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 10/01/2013)
10/22/2013	<u>104</u>	THIRD SUPERSEDING INDICTMENT as to Gregg D. Caplitz (1) count(s) 1sss, 2sss, 3sss, 4sss-7sss, 8sss, 10sss-14sss, Rosalind Herman (2) count(s) 1ss, 2ss, 3ss, 4ss-7ss, 9ss. (Alves-Baptista, Antonia) (Additional attachment(s) added on 10/23/2013: # <u>1</u> JS45) (Alves-Baptista, Antonia). (Entered: 10/22/2013)
10/22/2013	105	Judge William G. Young: ELECTRONIC ORDER entered. Order Referring Case to Magistrate Judge Marianne B. Bowler Reason for referral: For Bail and Arraignment as to Gregg D. Caplitz, Rosalind Herman. (Alves-Baptista, Antonia) (Entered: 10/22/2013)
10/27/2013	<u>106</u>	MOTION to Continue <i>hearing on motion to sever</i> as to Gregg D. Caplitz, Rosalind Herman by Gregg D. Caplitz. (Kelley, Page) (Entered: 10/27/2013)
10/28/2013	107	

		Judge William G. Young: ELECTRONIC ORDER entered granting <u>106</u> Defendants' Joint Motion to Continue motion hearing as to Gregg D. Caplitz (1), Rosalind Herman (2). (Gaudet, Jennifer) (Entered: 10/28/2013)
10/28/2013	108	ELECTRONIC NOTICE as to Gregg D. Caplitz, Rosalind Herman, Resetting Hearing on Motion 93 MOTION to Sever <i>CHARGES AND DEFENDANTS</i> , <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> , <u>95</u> MOTION to Sever <i>Charges</i> : Motion Hearing reset for 11/6/2013 02:30 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 10/28/2013)
10/28/2013	110	ELECTRONIC NOTICE OF HEARING as to Gregg D. Caplitz, Rosalind Herman Arraignment set for 10/30/2013 02:15 PM in Courtroom 25 before Magistrate Judge Marianne B. Bowler. (Garvin, Brendan) (Entered: 10/28/2013)
10/29/2013	<u>111</u>	Opposition by USA as to Gregg D. Caplitz, Rosalind Herman re 109 Joint MOTION to Continue <i>Trial Date</i> to April 2014 (Attachments: # <u>1</u> redlined copy of Third Superseding Indictment)(Bloom, Sara) (Entered: 10/29/2013)
10/30/2013	113	ELECTRONIC Clerk's Notes for proceedings held before Magistrate Judge Marianne B. Bowler:Arraignment as to Gregg D. Caplitz Count 1sss,2sss,3sss,4sss-7sss,8sss,10sss-14sss and Rosalind Herman Count 1ss,2ss,3ss,4ss-7ss,9ss held on 10/30/2013. Government states the maximum penalties, anticipate a trial lasting two weeks and estimate calling 15 to 20 witnesses. Plea entered by Gregg D. Caplitz, Rosalind Herman Not Guilty on all counts. (Attorneys present: Bloom, Peachy, Denner.)Court Reporter Name and Contact or digital recording information: Digital Recording - for transcripts/CDs contact Deborah Scalfani (deborah_scalfani@mad.uscourts.gov). (Garvin, Brendan) (Entered: 11/04/2013)
11/01/2013	<u>112</u>	REPLY TO RESPONSE to Motion by Gregg D. Caplitz as to Gregg D. Caplitz, Rosalind Herman re 109 Joint MOTION to Continue <i>Trial Date</i> to April 2014 (Kelley, Page) (Entered: 11/01/2013)
11/06/2013	116	ELECTRONIC Clerk's Notes for proceedings held before Judge William G. Young:Motion Hearing as to Gregg D. Caplitz, Rosalind Herman held on 11/6/2013 re <u>95</u> MOTION to Sever <i>Charges</i> filed by Rosalind Herman, <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> filed by Rosalind Herman, 93 MOTION to Sever <i>CHARGES AND DEFENDANTS</i> filed by Gregg D. Caplitz. The Court does not hear arguments on pending motions to sever. If the motions to sever are pressed by counsel, the Court should be notified on December 4, 2013. The trial is expected to last two weeks. The Court sets a tentative jury trial date of 2/3/2014 at 9:00 AM in Courtroom 18 before Judge William G. Young. An alternative trial date is set for June 9, 2014 at 9:00 AM. A Final Pretrial Conference is set for 1/8/2014 02:00 PM in Courtroom 18 before Judge William G. Young. The time between arraignment and trial is excluded for the reasons stated on the record. Any dispositive motions shall be filed on or before 12/13/2013. Responses by the government are due 12/27/2013. (Attorneys present: AUSA Bloom and Delaney, Defense counsel Peachy and Kelley for Caplitz and Denner for Herman.)Court Reporter Name and Contact

		or digital recording information: Donald Womack (womack@megatran.com). (Gaudet, Jennifer) (Entered: 11/13/2013)
11/13/2013	117	Judge William G. Young: ELECTRONIC ORDER entered. ORDER ON EXCLUDABLE DELAY as to Gregg D. Caplitz, Rosalind Herman. Time excluded from 12/2/2013 until 2/3/2014. Reason for entry of order on excludable delay: 18 USC 3161(h)(7)(A) Interests of justice. (Gaudet, Jennifer) (Entered: 11/13/2013)
11/13/2013	118	Judge William G. Young: ELECTRONIC ORDER entered terminating 109 Joint Motion to Continue. Jury trial continued to 2/3/2014 at 9:00 AM. (Gaudet, Jennifer) (Entered: 11/13/2013)
12/04/2013	<u>121</u>	Declaration Regarding Motions to Sever by Rosalind Herman re 116 Motion Hearing, Set Hearings <u>95</u> MOTION to Sever <i>Charges</i> , <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> (Denner, Jeffrey) (Modified on 12/4/2013 to Correct Docket Text) (Paine, Matthew). (Entered: 12/04/2013)
12/05/2013	122	ELECTRONIC NOTICE OF HEARING ON MOTION as to Rosalind Herman <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> , <u>95</u> MOTION to Sever <i>Charges</i> : Motion Hearing set for 12/19/2013 10:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 12/05/2013)
12/12/2013	123	ELECTRONIC NOTICE as to Rosalind Herman, Resetting Hearing on Motion <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> , <u>95</u> MOTION to Sever <i>Charges</i> : Motion Hearing set for 12/19/2013 11:00 AM in Courtroom 18 before Judge William G. Young. PLEASE NOTE: Time change only. (Gaudet, Jennifer) (Entered: 12/12/2013)
12/17/2013	126	ELECTRONIC NOTICE as to Gregg D. Caplitz, Rosalind Herman, Resetting Hearing on Motion <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> , <u>95</u> MOTION to Sever <i>Charges</i> : Motion Hearing reset for 1/8/2014 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 12/17/2013)
01/07/2014	128	ELECTRONIC NOTICE OF RESCHEDULING as to Gregg D. Caplitz, Rosalind Herman Jury Trial reset for 6/9/2014 09:00 AM in Courtroom 18 before Judge William G. Young. Final Pretrial Conference reset for 5/5/2014 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 01/07/2014)
01/07/2014	129	ELECTRONIC NOTICE as to Gregg D. Caplitz, Rosalind Herman, Resetting Hearing on Motion <u>97</u> MOTION to Sever <i>Defendants (Preliminary)</i> , <u>95</u> MOTION to Sever <i>Charges</i> : Motion Hearing reset for 5/5/2014 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 01/07/2014)
01/07/2014	130	Judge William G. Young: ELECTRONIC ORDER entered granting 127 Assented to Motion to Continue as to Gregg D. Caplitz (1). (Gaudet, Jennifer) (Entered: 01/07/2014)
04/23/2014	<u>135</u>	

		Assented to MOTION to Continue <i>the final pretrial conference and trial</i> to dates convenient to the Court and Counsel in September or October 2014 as to Rosalind Herman. (Denner, Jeffrey) (Entered: 04/23/2014)
04/24/2014	136	Judge William G. Young: ELECTRONIC ORDER entered granting <u>135</u> Assented to Motion to Continue as to Rosalind Herman (2). Jury Trial reset for 10/20/2014 09:00 AM in Courtroom 18 before Judge William G. Young. Final Pretrial Conference reset for 9/22/2014 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 04/24/2014)
04/24/2014	137	Set/Reset Deadlines re Motion or Report and Recommendation in case as to Rosalind Herman <u>95</u> MOTION to Sever <i>Charges</i> . Motion Hearing reset for 9/22/2014 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 04/24/2014)
08/28/2014	<u>145</u>	MOTION for Clarification of <i>Counsel</i> as to Rosalind Herman. (Attachments: # <u>1</u> Exhibit Exhibit A - Waiver of Conflict of Interest Agreement)(Denner, Jeffrey) (Entered: 08/28/2014)
09/08/2014	<u>146</u>	MOTION to Continue <i>Pre-Trial Conference and Motion Hearing</i> as to Rosalind Herman by USA. (Bloom, Sara) (Entered: 09/08/2014)
09/08/2014	147	Judge William G. Young: ELECTRONIC ORDER entered: The Court takes no action on this motion as there is no present case or controversy before it. Counsel must decide his professional obligations for himself <u>145</u> Motion for Clarification as to Rosalind Herman (2) (Paine, Matthew) (Entered: 09/08/2014)
09/10/2014	148	Judge William G. Young: ELECTRONIC ORDER entered granting <u>146</u> Motion to Continue as to Rosalind Herman (2). Final Pretrial Conference set for 10/1/2014 02:30 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 09/10/2014)
09/10/2014	149	ELECTRONIC NOTICE as to Rosalind Herman, Resetting Hearing on Motion <u>95</u> MOTION to Sever <i>Charges</i> : Motion Hearing set for 10/1/2014 02:30 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 09/10/2014)
09/19/2014	151	Case as to Gregg D. Caplitz, Rosalind Herman no longer referred to Magistrate Judge Marianne B. Bowler. (Garvin, Brendan) (Entered: 09/19/2014)
09/19/2014	<u>152</u>	MOTION to Withdraw as Attorney by Jeffrey A. Denner as to Rosalind Herman. (Attachments: # <u>1</u> Exhibit A(1), # <u>2</u> Exhibit A(2), # <u>3</u> Exhibit B) (Denner, Jeffrey) (Entered: 09/19/2014)
09/23/2014	154	ELECTRONIC NOTICE OF HEARING ON MOTION as to Rosalind Herman <u>152</u> MOTION to Withdraw as Attorney by Jeffrey A. Denner : Motion Hearing set for 9/29/2014 11:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 09/23/2014)
09/29/2014	155	ELECTRONIC Clerk's Notes for proceedings held before Judge William G. Young: Motion Hearing as to Rosalind Herman held on 9/29/2014 re <u>152</u> MOTION to Withdraw as Attorney by Jeffrey A. Denner filed by Rosalind Herman. The Court enters an Order granting <u>152</u> Motion to Withdraw as

		Attorney. Attorney Jeffrey A. Denner terminated as to Rosalind Herman. The defendant informs the Court that she may retain counsel with the help of a family member. The Court sets a status conference. If defendant has not retained counsel by the date of the status conference, the Court will appoint counsel. Jury Trial and pretrial deadlines are terminated. A new trial date will be set and time will be excluded from indictment to the new trial date due to counsel issue. (Status Conference set for 10/23/2014 02:00 PM in Courtroom 18 before Judge William G. Young.) (Attorneys present: AUSA Bloom, Defense counsel Denner.)Court Reporter Name and Contact or digital recording information: Richard Romanow (bulldog@richromanow.com). (Gaudet, Jennifer) (Entered: 10/03/2014)
09/30/2014		Terminate Deadlines and Hearings as to Rosalind Herman: Motion Hearing/Pretrial conference terminated. (Gaudet, Jennifer) (Entered: 09/30/2014)
10/03/2014		Terminate Deadlines and Hearings as to Rosalind Herman: Jury Trial is canceled until new counsel is appointed. (Gaudet, Jennifer) (Entered: 10/03/2014)
10/03/2014	156	ELECTRONIC NOTICE OF RESCHEDULING as to Rosalind Herman. Status Conference reset for 10/22/2014 02:30 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 10/03/2014)
11/10/2014	157	ELECTRONIC NOTICE OF HEARING as to Rosalind Herman. Status Conference set for 11/25/2014 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 11/10/2014)
11/25/2014	<u>161</u>	NOTICE OF ATTORNEY APPEARANCE Andrew E. Lelling appearing for USA. (Lelling, Andrew) (Main Document 161 replaced on 11/26/2014) (Paine, Matthew). (Entered: 11/25/2014)
11/25/2014	162	ELECTRONIC Clerk's Notes for proceedings held before Judge William G. Young: Status Conference as to Rosalind Herman held on 11/25/2014. The defendant is represented by retained counsel Attorney Dhar, who has not yet filed an appearance. The Court holds a scheduling conference and sets Jury Trial for 4/27/2015 09:00 AM in Courtroom 18 before Judge William G. Young. A Final Pretrial Conference is set for 3/30/2015 02:00 PM in Courtroom 18 before Judge William G. Young. A further status conference is set for 12/17/2014 02:00 PM in Courtroom 18 before Judge William G. Young. Any dispositive motions shall be filed on or before 3/9/2015. Responses are due on 3/23/2015. The time shall be excluded from indictment to trial. (Attorneys present: AUSA Bloom, Defense counsel Dhar.)Court Reporter Name and Contact or digital recording information: Richard Romanow (bulldog@richromanow.com). (Gaudet, Jennifer) (Entered: 12/01/2014)
11/25/2014	163	Judge William G. Young: ELECTRONIC ORDER entered. ORDER ON EXCLUDABLE DELAY as to Rosalind Herman. Time excluded from 10/22/2013 until 4/27/2015. Reason for entry of order on excludable delay: 18 USC 3161(h)(7)(A) Interests of justice. (Gaudet, Jennifer) (Entered: 12/01/2014)

12/17/2014	<u>166</u>	ELECTRONIC Clerk's Notes for proceedings held before Judge William G. Young: Status Conference as to Rosalind Herman held on 12/17/2014. Counsel for defendant does not appear. The Court continues the matter to 12/18/2014 at 2 PM. Defendant is told to notify her attorney and inform him that he must appear at this hearing. (Status Conference set for 12/18/2014 02:00 PM in Courtroom 18 before Judge William G. Young.) (Attorneys present: AUSA Bloom, defendant Herman, counsel does not appear.)Court Reporter Name and Contact or digital recording information: Richard Romanow (bulldog@richromanow.com). (Gaudet, Jennifer) (Entered: 12/17/2014)
12/18/2014	<u>167</u>	NOTICE OF ATTORNEY APPEARANCE: Vikas S. Dhar appearing for Rosalind Herman. Type of Appearance: Retained. (Dhar, Vikas) (Entered: 12/18/2014)
12/18/2014	<u>168</u>	NOTICE OF ATTORNEY APPEARANCE: Robert M. Griffin appearing for Rosalind Herman. Type of Appearance: Retained. (Griffin, Robert) (Entered: 12/18/2014)
12/18/2014	<u>169</u>	ELECTRONIC NOTICE CANCELING HEARING as to Rosalind Herman. Hearing or Deadline canceled: Status Conference set for 12/18/2014 at 2 PM before Judge Young is canceled. Attorney Dhar has filed a notice of appearing on behalf of defendant Herman. (Gaudet, Jennifer) (Entered: 12/18/2014)
01/15/2015	<u>170</u>	MOTION to Continue <i>Jury Trial</i> to September 15, 2015 to Trial Date as to Rosalind Herman. (Dhar, Vikas) Modified on 3/18/2015 to Correct Docket Text (Paine, Matthew). (Entered: 01/15/2015)
01/23/2015	<u>171</u>	Opposition by USA as to Rosalind Herman re <u>170</u> MOTION to Continue <i>Jury Trial</i> to September 15, 2015 to Trial Date (Bloom, Sara) Modified on 3/18/2015 to Correct Docket Text (Paine, Matthew). (Entered: 01/23/2015)
01/26/2015	<u>172</u>	Judge William G. Young: ELECTRONIC ORDER entered denying <u>170</u> MOTION to Continue Jury Trial to September 15, 2015 to Trial Date as to Rosalind Herman (2) (Paine, Matthew) Modified on 3/18/2015 to Correct Docket Text (Paine, Matthew). (Entered: 01/26/2015)
03/24/2015	<u>173</u>	NOTICE OF ATTORNEY APPEARANCE Mary B. Murrane appearing for USA. (Murrane, Mary) (Entered: 03/24/2015)
03/27/2015	<u>174</u>	MOTION to Continue <i>Jury Trial</i> to June 15, 2015 as to Gregg D. Caplitz, Rosalind Herman by Rosalind Herman. (Dhar, Vikas) (Entered: 03/27/2015)
03/31/2015	<u>175</u>	Judge William G. Young: ELECTRONIC ORDER entered granting <u>174</u> Assented to Motion to Continue as to Rosalind Herman (2). Jury Trial reset for 6/15/2015 09:00 AM in Courtroom 18 before Judge William G. Young. Final Pretrial Conference set for 5/13/2015 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 03/31/2015)
03/31/2015	<u>176</u>	Judge William G. Young: ELECTRONIC ORDER entered. ORDER ON EXCLUDABLE DELAY as to Rosalind Herman. Time excluded from 4/27/2015 until 6/15/2015. Reason for entry of order on excludable delay: 18 USC 3161(h)(7)(A) Interests of justice. (Gaudet, Jennifer) (Entered: 03/31/2015)

05/08/2015	179	ELECTRONIC NOTICE OF RESCHEDULING as to Rosalind Herman. Final Pretrial Conference reset for 5/15/2015 10:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 05/08/2015)
05/11/2015	180	ELECTRONIC NOTICE OF RESCHEDULING as to Rosalind Herman. Final Pretrial Conference reset for 5/28/2015 11:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 05/11/2015)
05/27/2015	182	ELECTRONIC NOTICE OF RESCHEDULING as to Rosalind Herman. Final Pretrial Conference set for 5/28/2015 10:00 AM in Courtroom 18 before Judge William G. Young. PLEASE NOTE: TIME CHANGE ONLY. (Gaudet, Jennifer) (Entered: 05/27/2015)
05/27/2015	183	DISMISSAL as to Gregg D. Caplitz, Rosalind Herman <i>of Count Three of the Indictment</i> (Bloom, Sara) (Entered: 05/27/2015)
05/28/2015	185	Judge William G. Young: ORDER entered. DISMISSAL OF COUNTS on Government Motion as to Gregg D. Caplitz, Rosalind Herman. Count(s) Dismissed: Count Three of the Third Superseding Indictment. (Paine, Matthew) (Entered: 05/28/2015)
05/28/2015	187	ELECTRONIC Clerk's Notes for proceedings held before Judge William G. Young:Final Pretrial Conference as to Rosalind Herman held on 5/28/2015. The Court sets trial for Monday, July 6, 2015 at 9:00 AM. The government shall provide documents required by L.R. 116 on or before 6/15/2015; the government shall provide statements re witnesses in case in chief on or before 6/29/2015; reciprocal discovery by the defendant on or before 7/1/2015. The Court answers questions regarding trial re number of jurors empaneled, challenges, time deadlines for opening statements. Counsel are instructed to file any proposed voir dire questions on or before Thursday, July 2, 2015. Pretrial Order to issue.(Attorneys present: AUSA Bloom and Murrane, Defense counsel Dhar and Griffin.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 06/04/2015)
06/04/2015	188	Set/Reset Hearings as to Rosalind Herman. Jury Trial Day One reset for 7/20/2015 09:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 06/04/2015)
06/26/2015	189	Judge William G. Young: ORDER entered. PRETRIAL ORDER as to Rosalind Herman. Time excluded from 3/28/2013 until 7/20/2015. (Gaudet, Jennifer) (Entered: 06/26/2015)
07/04/2015	190	MOTION to Withdraw as Attorney by Robert M. Griffin, Vikas Dhar as to Rosalind Herman. (Griffin, Robert) (Entered: 07/04/2015)
07/06/2015	191	ELECTRONIC NOTICE OF HEARING ON MOTION as to Rosalind Herman <u>190</u> MOTION to Withdraw as Attorney by Robert M. Griffin, Vikas Dhar : Motion Hearing set for 7/7/2015 10:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 07/06/2015)
07/07/2015	194	ELECTRONIC Clerk's Notes for proceedings held before Judge William G. Young:Motion Hearing as to Rosalind Herman held on 7/7/2015 re <u>190</u>

		MOTION to Withdraw as Attorney . The Court confers with the defendant regarding counsel. After hearing from the defendant and counsel, the Court continues the trial to give the defendant one opportunity to retain new counsel per this Court's normal practice. The jury trial is rescheduled to Monday, November 2, 2015 at 9:00 AM. This trial date <u>will not</u> be continued again. The defendant is instructed to notify any new attorney that the trial date is set and will not be continued under any circumstances. Order for excludable delay to enter. (Jury Trial Day One reset for 11/2/2015 09:00 AM in Courtroom 18 before Judge William G. Young., Final Pretrial Conference set for 9/28/2015 02:00 PM in Courtroom 18 before Judge William G. Young.) (Attorneys present: Bloom and Murrane for the government, Dhar and Griffin for the defendant.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 07/09/2015)
07/09/2015	195	Judge William G. Young: ELECTRONIC ORDER entered. ORDER ON EXCLUDABLE DELAY as to Rosalind Herman. Time excluded from 7/20/2015 until 11/2/2015. Reason for entry of order on excludable delay: 18 USC 3161(h)(7)(A) Interests of justice. (Gaudet, Jennifer) (Entered: 07/09/2015)
09/28/2015	198	Electronic Clerk's Notes for proceedings held before Judge William G. Young:Final Pretrial Conference as to Rosalind Herman held on 9/28/2015. Stand-by counsel for the defendant does not appear. Both the defendant and the clerk are instructed to contact stand-by counsel. The Court sets the following schedule for the jury trial scheduled to begin on Monday, November 2, 2015 at 9:00 AM. The government shall disclose those document in accordance with L.R. 116.1 on or before 10/13/2015; government to provide statements, data, etc on or before 10/26/2015; defendant shall provide statements, date, etc. on or before 10/28/2015; motions in limine are due on or before 10/30/2015. (Jury Trial Day One set for 11/2/2015 09:00 AM in Courtroom 18 before Judge William G. Young.) (Attorneys present: AUSA Bloom and Murrane, No counsel appear on behalf of the defendant.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 10/20/2015)
10/21/2015	<u>199</u>	EXHIBIT/WITNESS LIST by USA as to Rosalind Herman (Murrane, Mary) (Entered: 10/21/2015)
10/27/2015	<u>203</u>	Emergency NOTICE OF APPEAL by Rosalind Herman re 197 Order on Motion for Clarification, 194 Motion Hearing, ORDER on Motion to Withdraw.. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov MUST be completed and submitted to the Court of Appeals. Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf . Counsel shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf . US District Court Clerk to deliver official record to Court of Appeals by 11/16/2015. (Attachments: # <u>1</u> Exhibits)(Paine, Matthew) (Entered: 10/28/2015)

10/27/2015	<u>204</u>	MOTION (affidavit) for Leave to Appeal In Forma Pauperis as to Rosalind Herman. (Paine, Matthew) (Entered: 10/28/2015)
10/29/2015	206	ELECTRONIC NOTICE OF HEARING as to Rosalind Herman. Hearing set for 10/29/2015 02:30 PM in Courtroom 18 before Judge William G. Young. Stand-by counsel shall appear for this hearing. (Gaudet, Jennifer) (Entered: 10/29/2015)
10/29/2015	207	Electronic Clerk's Notes for proceedings held before Judge William G. Young:Hearing as to Rosalind Herman held on 10/29/2015. The Court inquires of the defendant as to request for appointment of counsel. The defendant confirms she wishes to have counsel appointed and will withdraw her notice of appeal. The Dhar firm is released from their duties as stand by counsel to Ms. Herman. The Court appoint CJA duty attorney Raymond O'Hara. The Court continues the trial for six months to allow new counsel time to review the case and prepare for trial. If the case were to resolve short of trial, counsel are instructed to contact the clerk. Ms. Herman is informed this will be the last attorney appointed for her, to which she confirms she understands. (Jury Trial reset for 4/25/2016 09:00 AM in Courtroom 18 before Judge William G. Young., Final Pretrial Conference set for 3/28/2016 02:00 PM in Courtroom 18 before Judge William G. Young.) (Attorneys present: AUSA Bloom and Murrane, Defendant Herman, stand by counsel Dhar and CJA duty attorney O'Hara.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 10/30/2015)
10/30/2015	208	Judge William G. Young: ELECTRONIC ORDER entered. ORDER ON EXCLUDABLE DELAY as to Rosalind Herman. Time excluded from 3/21/2012 until 4/28/2016. Reason for entry of order on excludable delay: 18 USC 3161(h)(7)(A) Interests of justice. (Gaudet, Jennifer) (Entered: 10/30/2015)
10/30/2015		Attorney update in case as to Rosalind Herman. Attorney Raymond O'Hara added. Attorney Vikas S. Dhar and Robert M. Griffin terminated. (Gaudet, Jennifer) (Entered: 10/30/2015)
11/05/2015	<u>211</u>	WITHDRAWAL of Motion by Rosalind Herman re <u>204</u> MOTION for Leave to Appeal In Forma Pauperis filed by Rosalind Herman (O'Hara, Raymond) (Entered: 11/05/2015)
11/09/2015	<u>212</u>	Assented to MOTION to Continue <i>Trial One Week Earlier</i> to April 18, 2016 to Trial as to Rosalind Herman by USA. (Bloom, Sara) (Entered: 11/09/2015)
11/10/2015	213	Judge William G. Young: ELECTRONIC ORDER entered granting <u>212</u> Assented to Motion to Continue as to Rosalind Herman (2). Jury Trial Day One set for 4/19/2016 09:00 AM in Courtroom 18 before Judge William G. Young. Final Pretrial Conference reset for 3/21/2016 02:00 PM in Courtroom 18 before Judge William G. Young. Counsel requested Monday, April 18, 2016 as the new trial date, please note this is a holiday and the court is closed. (Gaudet, Jennifer) (Entered: 11/10/2015)
11/24/2015	214	

		ELECTRONIC NOTICE OF RESCHEDULING as to Rosalind Herman. Jury Trial reset for 4/4/2016 09:00 AM in Courtroom 18 before Judge William G. Young. Final Pretrial Conference reset for 3/7/2016 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 11/24/2015)
01/20/2016	217	ELECTRONIC NOTICE OF HEARING as to Rosalind Herman. Status Conference set for 1/25/2016 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 01/20/2016)
01/25/2016	218	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Interim Status Conference as to Rosalind Herman held on 1/25/2016. The Court announces a conflict with current trial date and reschedules the trial to Monday, March 28, 2016 at 9:00 AM. (Jury Trial Day 1 set for 3/28/2016 09:00 AM, Jury Trial Day 2 set for 3/29/2016 09:00 AM, Jury Trial Day 3 set for 3/30/2016 09:00 AM, Jury Trial Day 4 set for 3/31/2016 09:00 AM, Jury Trial Day 5 set for 4/4/2016 09:00 AM, Jury Trial Day 6 set for 4/5/2016 09:00 AM in Courtroom 18 before Judge William G. Young.) (Attorneys present: AUSA Bloom and Murrane, Defense counsel O'Hara and Benzaken.) Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 01/26/2016)
03/07/2016	221	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Final Pretrial Conference as to Rosalind Herman held on 3/7/2016. The government notifies the Court they have already disclosed those documents required by local rule 116.1. The government shall disclose list of witnesses in chief, etc. on or before 3/21/2016; defendant shall file same on or before 3/23/2016. Any motions in limine, etc. shall be filed on or before 3/25/2016. The Court goes over the matter of enhancements with counsel and the defendant. All parties agree, upon a guilty verdict by the jury, the Court will hold a jury waived hearing on the issue of enhancements. (Attorneys present: AUSA Bloom and Murrane, Defense counsel O'Hara.) Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 03/08/2016)
03/21/2016	<u>222</u>	EXHIBIT/WITNESS LIST by USA as to Rosalind Herman (Murrane, Mary) (Entered: 03/21/2016)
03/21/2016	<u>223</u>	EXHIBIT/WITNESS LIST by USA as to Rosalind Herman (Attachments: # <u>1</u> Exhibit List)(Murrane, Mary) (Entered: 03/21/2016)
03/21/2016	<u>224</u>	Proposed Jury Instructions by USA as to Rosalind Herman (Murrane, Mary) (Entered: 03/21/2016)
03/21/2016	<u>225</u>	Proposed Jury Verdict Form by USA as to Rosalind Herman (Attachments: # <u>1</u> Verdict)(Murrane, Mary) (Entered: 03/21/2016)
03/21/2016	<u>226</u>	Proposed Voir Dire by USA as to Rosalind Herman (Murrane, Mary) (Entered: 03/21/2016)
03/25/2016	<u>227</u>	STIPULATION re Trial Exhibits by USA as to Rosalind Herman (Bloom, Sara) (Entered: 03/25/2016)

03/25/2016	<u>228</u>	EXHIBIT/WITNESS LIST by USA as to Rosalind Herman (Attachments: # 1 First Amended Exhibit List)(Murrane, Mary) (Entered: 03/25/2016)
03/25/2016	<u>229</u>	NOTICE of Deposition Designations by USA as to Rosalind Herman (Murrane, Mary) (Entered: 03/25/2016)
03/28/2016	<u>231</u>	US Marshal Process Receipt and Return at to John Green served, delivered on March 25, 2016. (Paine, Matthew) (Entered: 03/29/2016)
03/28/2016	233	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Voir Dire begun/Jury Trial Held on 3/28/2016 as to Rosalind Herman (2) on Count 1s,2ss,3ss,4ss-7ss,9ss. The Court addresses counsel regarding objections to the government's opening statements power point. The Court inquires as to plea offered. Proposed jury is sworn. The Court inquires of voir dire. Jury of 14 selected and sworn. Opening statements made. The government's evidence commences with G-1, Carla Bigalow (sworn). Jury trial continued to 3/29/2016 at 9:00 AM. (Attorneys present: Bloom and Murrane for the government, O'Hara and Benzaken for the defendant.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 03/31/2016)
03/29/2016	234	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Jury Trial Day Two as to Rosalind Herman held on 3/29/2016. Jury of 14 present. Witness taken out of order. G-2, Carmen Leuci (sworn); cross examination of G-1, Carla Bigalow; G-3, Melvin Burt (sworn); G-4, Bruce Gilmartin (sworn); G-5, Susa Paley (sworn); G-6, James Connell (sworn). Jury trial continued to Wednesday, March 30, 2016 at 9:00 AM. (Attorneys present: AUSA Bloom and Murrane, Defense counsel O'Hara and Benzaken.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 03/31/2016)
03/30/2016	232	Judge William G. Young: ELECTRONIC ORDER entered: Motion denied as untimely and also on the merits since the alleged obstruction appears to grow out of the alleged conspiracy re 230 Motion to Sever as to Gregg D. Caplitz (1) (Paine, Matthew) (Entered: 03/30/2016)
03/30/2016	235	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Jury Trial Day Three as to Rosalind Herman held on 3/30/2016. Jury of 14 present. G-6, James Connell resumes the stand. G-7, Patricia Wentzell (sworn); G-8, Charlene Herman (sworn); G-9, Brad Herman (sworn); Stipulations read into evidence. G-10, Greg Caplitz (sworn). Jury trial continued to Thursday, March 31, 2016 at 9:00 AM. (Attorneys present: Bloom and Murrane for the government, O'Hara and Benzaken for the defendant.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) Modified on 3/31/2016 to complete clerk note (Gaudet, Jennifer). (Entered: 03/31/2016)
03/31/2016	236	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Jury Trial Day Four as to Rosalind Herman held on 3/31/2016. G-10, Greg Caplitz resumes the stand. Court adjourned at 12:30 to accommodate a juror and continued to Friday, April 1, 2016 at 9:00 AM. (Attorneys present:

		Murrane and Bloom for the government, O'Hara and Benzaken for the defendant.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 03/31/2016)
04/01/2016	237	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Jury Trial Day Five as to Rosalind Herman held on 4/1/2016. Charge conference held out of presence of jury. Jury of 14 brought into the courtroom and excused for the day at 10:20. Jury trial continued to Monday, April 4, 2016 at 9:00 AM due to defendant's health. (Attorneys present: Murrane and Bloom for the government, O'Hara and Benzaken for the defendant.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 04/06/2016)
04/04/2016	238	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Jury Trial Day Six as to Rosalind Herman held on 4/4/2016. Hearing held out of presence of the jury regarding defendant's health. The defendant submits documentation of release from hospital. Jury of 14 present. The cross examination of G-10, Greg Caplitz. G-11, Paul White (sworn); G-12, Thomas Zappala (sworn). (Attorneys present: Murrane and Bloom for the government, O'Hara and Benzaken for the defendant.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 04/06/2016)
04/05/2016	239	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Jury Trial Day Seven as to Rosalind Herman held on 4/5/2016. Jury of 14 present. G-12, Thomas Zappala resumes the stand. Deposition testimony of Rosalind Herman read into evidence. The government rests. Defendant moves for directed verdict at the close of the government's evidence - motion is denied. Defendant's evidence commences with D-1, Janice Goodrich (sworn). Defendant rests and renews motion for directed verdict. Motion denied. Alternates are announces. Jury of 12 retire to commence deliberations. Jury verdict returned at 2:25 PM - guilty on all counts. Sentencing is set for June 29, 2016 at 2:00 PM. The defendant is released on conditions previously set with the additional condition that the defendant shall be on home confinement. Defendant may only leave the house for medical appointment (for her or her husband), meet with counsel, religious services and home necessities. Procedural Order Re: Sentencing to issue. (Attorneys present: Murrane and Bloom for the government, O'Hara and Benzaken for the defendant.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 04/06/2016)
04/05/2016	<u>240</u>	JURY VERDICT as to Rosalind Herman (2) Guilty on Count 1ss,2ss,4ss-7ss,9ss. (Gaudet, Jennifer) (Entered: 04/06/2016)
04/05/2016	<u>271</u>	EXHIBIT/WITNESS LIST as to Rosalind Herman. (Attachments: # <u>1</u> exhibit list)(Gaudet, Jennifer) (Entered: 06/06/2016)
04/13/2016	<u>241</u>	First MOTION for Extension of Time to May 10, 2016 to File File motions for post conviction relief as to Rosalind Herman. (O'Hara, Raymond) (Entered: 04/13/2016)

04/19/2016	243	Judge William G. Young: ELECTRONIC ORDER entered granting <u>241</u> Motion for Extension of Time as to Rosalind Herman (2) Motions for Post-Conviction Relief due by 5/10/2016 (Paine, Matthew) (Entered: 04/19/2016)
04/28/2016	<u>246</u>	MOTION to Withdraw Document 245 Ex Parte MOTION for Authorization of Services or Funds as to Rosalind Herman. (O'Hara, Raymond) (Entered: 04/28/2016)
04/28/2016	<u>248</u>	MOTION to Withdraw Document 247, MOTION to Travel (Responses due by 5/12/2016) as to Rosalind Herman. (O'Hara, Raymond) (Entered: 04/28/2016)
05/02/2016	250	Judge William G. Young: ELECTRONIC ORDER entered granting <u>246</u> Motion to Withdraw Document as to Rosalind Herman (2); granting <u>248</u> Motion to Withdraw Document as to Rosalind Herman (2). (Paine, Matthew) (Entered: 05/02/2016)
05/06/2016	<u>253</u>	EXCERPT Transcript of Jury Trial (Testimony of Gregg D. Caplitz) as to Rosalind Herman held on March 30, 2016, before Judge William G. Young. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 5/27/2016. Redacted Transcript Deadline set for 6/6/2016. Release of Transcript Restriction set for 8/4/2016. (Scalfani, Deborah) (Entered: 05/06/2016)
05/06/2016	<u>254</u>	EXCERPT Transcript of Jury Trial (Testimony of Gregg Caplitz) as to Rosalind Herman held on March 31, 2016, before Judge William G. Young. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 5/27/2016. Redacted Transcript Deadline set for 6/6/2016. Release of Transcript Restriction set for 8/4/2016. (Scalfani, Deborah) (Entered: 05/06/2016)
05/06/2016	<u>255</u>	EXCERPT Transcript of Jury Trial (Testimony of Gregg D. Caplitz) as to Rosalind Herman held on April 4, 2016, before Judge William G. Young. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 5/27/2016. Redacted Transcript Deadline set for 6/6/2016. Release of Transcript Restriction set for 8/4/2016. (Scalfani, Deborah) (Entered: 05/06/2016)
05/06/2016	256	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/attorneys/general-info.htm (Scalfani, Deborah) (Entered: 05/06/2016)
05/09/2016	<u>257</u>	MOTION for Judgment NOV as to Rosalind Herman. (O'Hara, Raymond) (Entered: 05/09/2016)
05/10/2016	261	

		Judge William G. Young: ELECTRONIC ORDER entered denying <u>257</u> Motion for Judgment NOV as to Rosalind Herman (2) (Paine, Matthew) (Entered: 05/11/2016)
06/06/2016	<u>272</u>	Judge William G. Young: ORDER entered. PROCEDURAL ORDER re sentencing hearing as to Rosalind Herman. Sentencing set for 6/29/2016 02:00 PM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 06/06/2016)
06/06/2016	273	ELECTRONIC NOTICE OF HEARING as to Rosalind Herman. Hearing Re Enhancements set for 6/29/2016 11:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 06/06/2016)
06/20/2016	275	ELECTRONIC NOTICE CANCELING HEARING OR OTHER DEADLINE as to Rosalind Herman. Hearing or Deadline canceled: The sentencing hearing set for 6/29/2016 at 2:00 PM is hereby canceled. A new date will be set under separate notice. (Gaudet, Jennifer) (Entered: 06/20/2016)
06/28/2016	<u>276</u>	MOTION <i>For Postverdict Voir Dire of Juror</i> as to Rosalind Herman. (Attachments: # <u>1</u> Affidavit)(O'Hara, Raymond) (Entered: 06/28/2016)
06/28/2016	<u>277</u>	SENTENCING MEMORANDUM by USA as to Rosalind Herman (Attachments: # <u>1</u> Exhibit A (Tax Loss Charts), # <u>2</u> Exhibit B (Selected Trial Exhibits))(Murrane, Mary) (Entered: 06/28/2016)
06/29/2016	278	Judge William G. Young: ELECTRONIC ORDER entered re <u>276</u> MOTION For Postverdict Voir Dire of Juror as to Rosalind Herman (2): Motion denied. Even crediting this affidavit, it is far too tenuous to cause the Court to embark on some post-verdict juror inquiry. (Paine, Matthew) (Entered: 06/30/2016)
06/29/2016	279	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Hearing regarding enhancements as to Rosalind Herman held on 6/29/2016. After hearing from counsel, the Court announces his findings on which enhancement will apply. See transcript for details. Sentencing is set for July 27, 2016 at 10:00 AM.(Attorneys present: AUSA Murrane, Defense counsel Benzaken and O'Hara.)Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 06/30/2016)
06/29/2016	280	Set/Reset Hearings as to Rosalind Herman. Sentencing set for 7/27/2016 10:00 AM in Courtroom 18 before Judge William G. Young. (Gaudet, Jennifer) (Entered: 06/30/2016)
07/06/2016	<u>282</u>	NOTICE OF ATTORNEY APPEARANCE: Geoffrey G. Nathan appearing for Interested Party Bruce Gilmartin (Nathan, Geoffrey) (Entered: 07/06/2016)
07/19/2016	<u>283</u>	MOTION for Forfeiture of Property (<i>Money Judgment</i>) as to Rosalind Herman by USA. (Attachments: # <u>1</u> Text of Proposed Order (Money Judgment)) (Rachal, Doreen) (Entered: 07/19/2016)
07/19/2016	<u>284</u>	

		<i>Sentencing</i> Letter (non-motion) regarding Bruce Gilmartin as to Rosalind Herman (Nathan, Geoffrey) (Entered: 07/19/2016)
07/21/2016	<u>285</u>	Judge William G. Young: ELECTRONIC ORDER entered granting <u>283</u> MOTION for Forfeiture of Property (Money Judgment) as to Rosalind Herman (2) (Paine, Matthew) (Entered: 07/21/2016)
07/21/2016	<u>286</u>	Judge William G. Young: ORDER entered. ORDER OF FORFEITURE (MONEY JUDGMENT) as to Rosalind Herman. (Paine, Matthew) (Entered: 07/21/2016)
07/22/2016	<u>287</u>	SENTENCING MEMORANDUM by Rosalind Herman (Attachments: # <u>1</u> letter, # <u>2</u> letter, # <u>3</u> letter, # <u>4</u> letter, # <u>5</u> letter)(O'Hara, Raymond) (Entered: 07/22/2016)
07/25/2016	<u>288</u>	SENTENCING MEMORANDUM as to Rosalind Herman (O'Hara, Raymond) (Modified on 7/26/2016 to Correct Docket Text) (Paine, Matthew). (Entered: 07/25/2016)
07/25/2016	<u>289</u>	Letter (non-motion) regarding sentencing as to Rosalind Herman (O'Hara, Raymond) (Entered: 07/25/2016)
07/25/2016	<u>290</u>	MOTION to Withdraw Document <u>288</u> by Rosalind Herman (O'Hara, Raymond) (Modified on 7/26/2016 to Correct Docket and CM/ECF Filing Event) (Paine, Matthew). (Entered: 07/25/2016)
07/25/2016	<u>291</u>	Letter (non-motion) regarding Sentencing as to Rosalind Herman (O'Hara, Raymond) (Entered: 07/25/2016)
07/26/2016	<u>292</u>	Judge William G. Young: ELECTRONIC ORDER entered granting <u>290</u> Motion to Withdraw Document as to Rosalind Herman (2) (Paine, Matthew) (Entered: 07/26/2016)
07/26/2016	<u>293</u>	SENTENCING MEMORANDUM by USA as to Rosalind Herman (Murrane, Mary) (Entered: 07/26/2016)
07/27/2016	<u>294</u>	NOTICE OF APPEAL re <u>299</u> JUDGMENT by Rosalind Herman (Fee Status: IFP granted) NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov MUST be completed and submitted to the Court of Appeals. Counsel shall register for a First Circuit CM/ECF Appellate Filer Account at http://pacer.psc.uscourts.gov/cmecf . Counsel shall also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at http://www.ca1.uscourts.gov/cmecf . US District Court Clerk to deliver official record to Court of Appeals by 8/16/2016. (O'Hara, Raymond) (Modified on 8/1/2016 to Correct Docket Text and CM/ECF Document Link) (Paine, Matthew). (Entered: 07/27/2016)
07/27/2016	<u>295</u>	Electronic Clerk's Notes for proceedings held before Judge William G. Young: Sentencing held on 7/27/2016 for Rosalind Herman (2). The Court hears from the victims, announces the top of the advisory guideline, average sentences and calculates and announces guideline calculations. After hearing from the government, defense counsel and the defendant the Court imposes the

		<p>following sentence: Count(s) 1, 1s, 2s, 4s-7s, Dismissed; Count(s) 1ss, 2ss, The defendant is committed to the custody of the bureau of prisons for five (5) years to run concurrently with the sentence imposed on all other counts to be followed by 36 months of supervised release with standard and special conditions. No fine. Total of \$700 special assessment. Restitution in the amount of \$1,819,391.87.; Count(s) 3, 3s, Dismissed on government motion; Count(s) 3ss, Count Dismissed Upon Government Motion; Count(s) 4ss-7ss, The defendant is committed to the custody of the Bureau of Prisons for seven (7) years to run concurrently with sentence imposed on all other counts to be followed by 36 months of supervised release with standard and special conditions. No fine. A total of \$700 special assessment. Restitution in the amount of \$1,819,391.87.; Count(s) 9s, Dismissed; Count(s) 9ss, The defendant is committed to the custody of the Bureau of Prisons for three (3) years to run concurrently with the sentence imposed on all other counts to be followed by 36 months of supervised release. No fine. A total of \$700 special assessment. Restitution in the amount of \$1,819,391.87. Restitution is joint and several with co-defendant Caplitz. The defendant is notified of the right to appeal. Should an appeal be contemplated, the Court ORDERS the parties to move for the production of the necessary transcript, PRIOR to the filing of the notice of appeal. The Court makes a Judicial Recommendation that the defendant be sent to a medical facility to be evaluated for proper designation. Defendant is remanded to custody. (Attorneys present: Murrane and Bloom for the government, O'Hara for the defendant, US Probation Officer Victoria.) Court Reporter Name and Contact or digital recording information: Richard Romanow at bulldog@richromanow.com. (Gaudet, Jennifer) (Entered: 07/28/2016)</p>
07/29/2016	<u>299</u>	<p>Judge William G. Young: ORDER entered. JUDGMENT as to Rosalind Herman (2), Count(s) 1, 1s, 2s, 4s-7s, Dismissed.; Count(s) 1ss, 2ss, The defendant is committed to the custody of the bureau of prisons for 5 years to run concurrently with the sentence imposed on all other counts to be followed by 36 months of supervised release with standard and special conditions. No fine. Total of \$700 special assessment. Restitution in the amount of \$1,819,391.87.; Count(s) 3, 3s, Dismissed on government motion.; Count(s) 3ss, Count Dismissed Upon Government Motion; Count(s) 4ss-7ss, The defendant is committed to the custody of the Bureau of Prisons for seven (7) years to run concurrently with sentence imposed on all other counts to be followed by 36 months of supervised release with standard and special conditions. No fine. A total of \$700 special assessment. Restitution in the amount of \$1,819,391.87.; Count(s) 9s, Dismissed; Count(s) 9ss, The defendant is committed to the custody of the Bureau of Prisons for three (3) years to run concurrently with the sentence imposed on all other counts to be followed by 36 months of supervised release. No fine. A total of \$700 special assessment. Restitution in the amount of \$1,819,391.87 (Attachments: # <u>1</u> Transcript Excerpt of Sentencing Hearing) (Gaudet, Jennifer) (Entered: 08/01/2016)</p>
08/01/2016	<u>300</u>	<p>Judge William G. Young: ORDER entered. STATEMENT OF REASONS as to Rosalind Herman. (Gaudet, Jennifer) (Entered: 08/01/2016)</p>

08/02/2016	<u>301</u>	Certified and Transmitted Abbreviated Electronic Record on Appeal as to Rosalind Herman to US Court of Appeals re <u>294</u> Notice of Appeal - Final Judgment. (Paine, Matthew) (Entered: 08/02/2016)
08/02/2016	302	USCA Case Number as to Rosalind Herman 16-2001 for <u>294</u> Notice of Appeal - Final Judgment filed by Rosalind Herman. (Paine, Matthew) (Entered: 08/02/2016)
08/03/2016	<u>303</u>	First MOTION for Return of Surety as to Rosalind Herman. (O'Hara, Raymond) (Entered: 08/03/2016)
08/04/2016	304	Judge William G. Young: ELECTRONIC ORDER entered. Order Referring Case to Magistrate Judge Marianne B. Bowler as to Rosalind Herman <u>303</u> First MOTION for Return of Surety (Paine, Matthew) Motions referred to Marianne B. Bowler. (Entered: 08/04/2016)
08/04/2016		Magistrate Judge Marianne B. Bowler: ELECTRONIC ORDER entered granting <u>303</u> Motion for Return of Surety as to Rosalind Herman (2). (Bowler, Marianne) (Entered: 08/04/2016)
08/10/2016	<u>305</u>	Magistrate Judge Marianne B. Bowler: ORDER entered. as to Rosalind Herman re <u>303</u> First MOTION for Return of Surety filed by Rosalind Herman (Garvin, Brendan) (Entered: 08/10/2016)
09/16/2016	<u>306</u>	Transcript of Jury Trial Day One as to Rosalind Herman held on March 28, 2016, before Judge William G. Young. COA Case No. 16-2001. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	<u>307</u>	Transcript of Jury Trial Day Two as to Rosalind Herman held on March 29, 2016, before Judge William G. Young. COA Case No. 16-2001. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	<u>308</u>	Transcript of Jury Trial Day Three as to Rosalind Herman held on March 30, 2016, before Judge William G. Young. COA Case No. 16-2001. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	<u>309</u>	Transcript of Jury Trial Day Four as to Rosalind Herman held on March 31, 2016, before Judge William G. Young. COA Case No. 16-2001. Court

		Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	<u>310</u>	Transcript of Jury Trial Day Five (including Charge Conference) as to Rosalind Herman held on April 1, 2016, before Judge William G. Young. COA Case No. 16-2001. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	<u>311</u>	Transcript of Jury Trial Day Six as to Rosalind Herman held on April 4, 2016, before Judge William G. Young. COA Case No. 16-2001. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	<u>312</u>	Transcript of Jury Trial Day Seven (including Closing Arguments, Judge's Charge to the Jury, and Verdict) as to Rosalind Herman held on April 5, 2016, before Judge William G. Young. COA Case No. 16-2001. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	<u>313</u>	Transcript of Enhancement Hearing as to Rosalind Herman held on June 29, 2016, before Judge William G. Young. COA Case No. 16-2001. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	<u>314</u>	Transcript of Sentencing as to Rosalind Herman held on July 27, 2016, before Judge William G. Young. COA Case No. 16-2001. Court Reporter Name and Contact Information: Richard Romanow at bulldog@richromanow.com The Transcript may be purchased through the Court Reporter, viewed at the public terminal, or viewed through PACER after it is released. Redaction Request due 10/7/2016. Redacted Transcript Deadline set for 10/17/2016. Release of

		Transcript Restriction set for 12/15/2016. (Scalfani, Deborah) (Entered: 09/16/2016)
09/16/2016	315	NOTICE is hereby given that an official transcript of a proceeding has been filed by the court reporter in the above-captioned matter. Counsel are referred to the Court's Transcript Redaction Policy, available on the court website at http://www.mad.uscourts.gov/attorneys/general-info.htm (Scalfani, Deborah) (Entered: 09/16/2016)
02/06/2017	<u>316</u>	OPINION of USCA as to Rosalind Herman re <u>294</u> Notice of Appeal - Final Judgment. (Paine, Matthew) (Entered: 02/07/2017)
02/06/2017	<u>317</u>	JUDGMENT of USCA as to Rosalind Herman re <u>294</u> Notice of Appeal - Final Judgment. AFFIRMED... (Paine, Matthew) (Entered: 02/07/2017)
02/28/2017	<u>318</u>	MANDATE of USCA as to Rosalind Herman re Appeal number <u>294</u> . Appeal number <u>294</u> Terminated (Paine, Matthew) (Entered: 03/01/2017)

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Exhibit J

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UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

No. 1:12-cr-10015-WGY

UNITED STATES OF AMERICA

vs.

ROSALIND HERMAN

For Hearing Before:
Judge William G. Young

Sentencing

United States District Court
District of Massachusetts (Boston)
One Courthouse Way
Boston, Massachusetts 02210
Wednesday, July 27, 2016

REPORTER: RICHARD H. ROMANOW, RPR
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A P P E A R A N C E S

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1 P R O C E E D I N G S

2 (Begins, 10:00 a.m.)

3 THE CLERK: Now hearing Criminal Matter 12-10015,
4 the United States of America versus Rosalind Herman.

5 THE COURT: Good morning. We welcome to the bench
6 this morning, the Honorable Tomo Yakota. Judge Yakota
7 is a judge in the Toyko District Court. He is studying
8 and visiting here in the United States. And when we
9 have a visiting judge, and indeed this morning we have
10 two, but I invite them to sit on the bench and they can
11 actually see things the way I see them.

12 Very well. Would counsel introduce themselves.

13 MS. MURRANE: Good morning, your Honor, Mary
14 Murrane on behalf of the United States.

15 MS. BLOOM: Good morning, your Honor, Sara Bloom
16 on behalf of the United States.

17 MR. O'HARA: Good morning, your Honor, Raymond A.
18 O'Hara on behalf of Mrs. Herman.

19 THE COURT: Who is present.
20 May I speak to her directly?

21 MR. O'HARA: Yes.

22 THE COURT: Ms. Herman, have you read the
23 presentence report that's been prepared in your case?
24 Have you read it?

25 MR. O'HARA: Yes.

1 THE COURT: Yeah, I'm talking to her.

2 THE DEFENDANT: Um, I don't know which one
3 you're --

4 THE COURT: There is something called a
5 "presentence report" and it outlines the calculations
6 that I am advised by the sentencing commission.

7 Have you seen it, ma'am?

8 (Pause.)

9 THE DEFENDANT: I don't remember, to be honest
10 with you.

11 THE COURT: Well, take a look at mine.

12 (Passes to defendant.)

13 MS. BLOOM: Your Honor, would you like to keep
14 yours? I have a copy and I would be --

15 THE COURT: Oh, yes, would you.

16 (Hands over to defendant.)

17 THE COURT: Have you seen that document?

18 (Pause.)

19 THE DEFENDANT: It might have been the document I
20 couldn't open. I don't think I've seen this. But I
21 will read it, if you don't mind?

22 (Reads.)

23 THE DEFENDANT: Oh, I have seen this. I remember
24 now.

25 THE COURT: You do?

1 THE DEFENDANT: Yes.

2 THE COURT: Have you read it?

3 THE DEFENDANT: Yes.

4 THE COURT: Have you talked it all over with
5 Mr. O'Hara?

6 THE DEFENDANT: Yes, we did.

7 THE COURT: Do you think you understand it?

8 THE DEFENDANT: Yes, I do.

9 THE COURT: All right. Thank you.

10 Nothing's been withheld from the presentence
11 report under the rules of criminal procedure?

12 PROBATION OFFICER: No, your Honor.

13 THE COURT: Very well.

14 This is a sentencing that proceeds in five steps.
15 In this case certain victims wish to address the Court,
16 that is their right, and the Court welcomes such
17 statements and that's where we will begin. I just want
18 to outline the steps so we know what we're going to do.
19 I'll hear victim statements, then I will do the
20 necessary arithmetic calculations. That's the next
21 three steps. I calculate the highest sentence that
22 under the Constitution I could impose -- that doesn't
23 mean I'm going to impose it, but I calculate it. I look
24 at the average sentences for offenses of this sort. I
25 do not sentence from any average, but I look at the

1 averages because they tell me the weight to be given to
2 the advisory sentencing guidelines. Then I calculate,
3 as the law requires, the advisory sentencing guidelines.

4 As to the arithmetic steps, if counsel would
5 differ with any of the Court's calculations, I want you
6 to interrupt me and I will try to resolve the matter at
7 that time.

8 Then we come to the fourth and equally -- perhaps
9 the most important step, that's fashioning a fair and a
10 just sentence for Ms. Herman, having in minds the needs
11 of society, the principles of criminal sentencing, and
12 her own personal situation. To do that we'll hear from
13 the government, we're hear from defense counsel, and if
14 Ms. Herman wishes to be heard from herself, we'll hear
15 from her.

16 All right. Now, I'll turn to the government
17 because you've spoken with the victims and you have some
18 sense of how we're going to proceed and, Ms. Murrane,
19 why don't you tell me.

20 MS. MURRANE: Thank you, your Honor.

21 So there are three statements that victims have
22 requested be read to the Court this morning, two of them
23 are being read by folks who have been designated by the
24 victims --

25 THE COURT: That's acceptable.

1 MS. MURRANE: -- and then one victim is here. So
2 the first would be from our office, Valerie Gauthier,
3 who is a victim witness advocate, and she's going to
4 read a statement from Susan and Martin Paley.

5 THE COURT: I'll hear Ms. Gauthier. And these
6 statements are -- for each of the people who will speak,
7 I want to accommodate you. I think it makes sense,
8 Ms. Gauthier, why don't you come right up inside the bar
9 enclosure there -- or wherever you'd be comfortable, and
10 I can hear you from there. I want to hear you and
11 listen to you and I want to get it on the record.

12 MS. GAUTHIER: Absolutely. Thank you, your Honor.

13 (Moves.)

14 MS. GAUTHIER: "Rosalind Herman is a conniving
15 disgusting reprobate who deprived us of our retirement.
16 She used our money on herself while knowing full well
17 this was supposed to be invested. Rosalind is a thief
18 and a liar. She has caused us great financial hardship.
19 Please show her no mercy and sentence her to the maximum
20 penalty allowed.

21 Thank you, Martin and Susan."

22 THE COURT: Thank you.

23 Ms. Murrane.

24 MS. MURRANE: The second is the victim, Bruce
25 Gilmartin, has asked that his attorney, Jeffrey Nathan,

1 who is here, read his statement.

2 THE COURT: And I'll hear you from there,
3 Mr. Nathan.

4 MR. NATHAN: Thank you, your Honor. My name is
5 Attorney Jeffrey Nathan and on behalf of Bruce Gilmartin
6 we got the phone-in letter and then last night and this
7 morning I spoke with him, he's got some additional
8 remarks. On July 18th, he states:

9 "You have heard my testimony regarding the funds
10 stolen from me by Greg Caplitz and Rosalind Herman, but
11 that does not capture all the rage, fear, and stress
12 that I have experienced as a victim.

13 I have worked at jobs steadily since I was 15
14 years old. I am a veteran of both the war in Korea and
15 Vietnam. I spent my life providing for my two children
16 and for over a decade taking care of my elderly parents
17 in my home. I'm 75 years old. [REDACTED]

18 [REDACTED]

19 The stress of living with the worry over finances
20 has taken an additional toll on my health. Imagine my
21 feelings, I have saved as much money as possible trying
22 to invest wisely so I could live comfortably, not
23 extravagantly in my old age. I now find my life savings
24 ravished by the financial investors that I hired and
25 trusted to take care of my life savings. For the rest

1 of my life I must sustain myself on a limited income. I
2 was counting on the IRA investments to help me pay
3 property taxes and heating bills and cover long-term
4 care should I need it. Right at the moment [REDACTED]
5 is [REDACTED] and I've [REDACTED].

6 [REDACTED]
7 [REDACTED] If I
8 never had these two thieves steal me blind, I would be
9 able to pay for these [REDACTED]
10 [REDACTED]

11 What isn't factored in this case is the fact that
12 Caplitz and Herman invested a sum of \$400,000 in a
13 scheme that promised a return of 3,000 to \$6,000 a month
14 when in fact we got very little return. We have no way
15 of recovering any of this. All total they have lost me
16 \$500,000 to gamble away on the slots.

17 My family has worked too hard to have this happen.
18 I had almost hoped that my two children and my three
19 grandchildren would inherit my nest egg, both are very
20 responsible people and would not waste the opportunity.
21 Not so now. But now 3/4ths of my savings has vanished
22 in the pockets of Gregg Caplitz and Rosalind Herman.

23 They deliberately took large withdrawals from my
24 IRA without my knowledge by fraudulent means. They
25 knowingly broke the trust that comes with taking on the

1 role of financial advisor. They can only think of the
2 victims as ignorant slobs and that they deserved to
3 acquire all of their assets for their own use.

4 As far as sentencing goes, both deserve to serve
5 the maximum time allowable for these crimes. While in
6 theory if given a short sentence so that they may find
7 gainful employment upon release and begin making
8 payments and restitution for victims, in reality it is
9 unlikely that convicted felons will be able to find
10 well-paying jobs. Restitution will amount to pennies on
11 the dollar and I personally will get greater
12 satisfaction from seeing both of these perpetrators
13 incarcerated for as long as possible. It is the only
14 compensation that I am likely to get for the deprivation
15 that I will face for the rest of my life and the loss of
16 the inheritance my children now face. They did not have
17 mercy on me and do not deserve mercy by this Court.

18 Sincerely, Bruce Gilmartin."

19 Now, subsequent to Mr. Gilmartin writing this, he
20 and I spoke -- he's asking that this defendant, if
21 sentenced today, be incarcerated today, if you impose a
22 sentencing of incarceration, unless she brought a check
23 for restitution, because she knows that that's what
24 Mr. Gilmartin really wants.

25 (To defendant.) Do you have a reimbursement check

1 for my client?

2 THE COURT: No, wait a minute. I preside here.

3 MR. NATHAN: Yes, your Honor.

4 THE COURT: Now, your client has a right to make
5 his statement. I afford full latitude to allow such
6 statements to be made and I take them into account, but
7 you're not questioning anyone.

8 MR. NATHAN: Yes, your Honor.

9 THE COURT: You're not establishing conditions.
10 This is not a case between your client and Ms. Herman,
11 it's a case brought by the United States of America.
12 Under our laws they give your client the right to be
13 present here and to be heard, either personally, by
14 letter, or as you have effectively read his letter to
15 the Court, and I welcome it, but all other conditions
16 are my responsibility after a cool and careful
17 reflection on all the facts. It's not given to the
18 wronged individual to set conditions. Thank you very
19 much.

20 All right.

21 MS. MURRANE: Thank you, your Honor.

22 The third, um, statement for this morning is from
23 the victim Carmine Leuci, who is here today.

24 THE COURT: Yes, and Mr. Leuci.

25 MR. LEUCI: It is both sad and disgusting for any

1 of us to have to be here today under these
2 circumstances. Rosalind Herman, you are cold,
3 deceitful, calculating, uncaring, cruel, and most of all
4 a thief and a criminal, and I also might add a monster.
5 You did not steal from the rich, but you stole from
6 hardworking, honest people with whom they had faith with
7 both you and Gregg Caplitz handling their finances.

8 You stole from people that were sick, from a woman
9 who is paralyzed in a wheelchair, from a person in a
10 nursing home, and from a person dying with cancer and
11 who has since died. In most cases you stole their life
12 savings for your personal benefit. The person that is
13 in the nursing home with dementia and his family was
14 depending on his assets to keep him comfortable and
15 being taken care of. What happens to him now?

16 How do you get up in the morning, look in the
17 mirror, and live with yourself? Well, guess what, where
18 you're going there may not be any mirrors.

19 Perhaps if any of these monies that had been
20 stolen were used for beneficial needs such as a life or
21 death situation, it might have made some sense, however
22 this was greed, but instead you gambled, ate out at
23 restaurants, paid for vacations for family members,
24 bought gas and cigarettes, and for personal expenses.
25 Then there is the gambling from your home television.

1 Did you get that lazy that you couldn't drive to the
2 casinos? All wasted, not one cent put to good use. Did
3 you think justice was not to come?

4 Living on a limited income and living on the coast
5 close to the ocean in Newburyport, Massachusetts, owning
6 property has becoming increasingly expensive. Not only
7 did we have medical expenses we were responsible for, we
8 also had a large tax increase, and we were hit with a
9 large increase for flood insurance since we were living
10 next to the ocean.

11 The way this supposedly hedge fund program was
12 explained to us by you and Mr. Caplitz, we were to
13 receive approximately \$10,000 the first of every
14 January. We felt this would help us to continue to live
15 on Plum Island, the place we called home and loved for
16 many years. However, due to this scam we were forced to
17 sell and move, not to mention the medication and the
18 doctors that I had to see for all this [REDACTED] and

19 [REDACTED]

20 We can only hope the Court gives you the maximum
21 penalty allowed by law and hope that a day does not go
22 by that you are totally not miserable in your new
23 surroundings soon to be called home. Thank you.

24 THE COURT: Very well.

25 Now, moving on to the calculations that the Court

1 makes.

2 As I understand the Constitution of the United
3 States, the maximum sentence in our quasi-determinate
4 sentencing system is 135 months in prison. That's not
5 the statutory maximum, but that's the top of the
6 advisory guideline given the appropriate calculations.
7 I -- my understanding is that given the detailed
8 sentencing guidelines, which Congress has approved, it
9 would be unwarranted discretion to sentence any higher
10 than that amount.

11 I also consult the average sentences for offenses
12 of this sort. As I say, I do not sentence from any
13 average, but I look at the averages because they give me
14 some idea of the -- of what actually is imposed. In
15 this case I look first to the sentences of the --
16 derived from the United States Sentencing Commission and
17 that has the advantage of letting me see a great number
18 of sentences but the disadvantage that they're all
19 grouped under the general heading of "fraud" and you
20 can't really tell what the offense was, but for what
21 they're worth, since Booker, the average sentence
22 nation-wide for fraud is 30 months. In the First
23 Circuit, it is 26 months. In the District of
24 Massachusetts, it's 34 months.

25 Mr. Richard Romanow, the Court Reporter in this

1 session, maintains an offense-specific database started
2 by his predecessor, the Reporter, Donald Womack, I
3 always consult that, and that has the advantage of
4 giving me the specific offenses of conviction, but it
5 has the disadvantage that there aren't very many of
6 them. Specifically if I looked at the offense that I
7 have sentenced most frequently since Booker, it is for
8 conspiracy, and there are 14 such sentences with an
9 average sentence of 23 months. I've sentenced once for
10 a violation of the Investment Advisors Act -- I take
11 that back, I've sentenced twice for that offense, the
12 average is 129 months. So there's not really an
13 average. The law requires that I accurately calculate
14 the sentencing guidelines and I proceed to do so at this
15 time.

16 First, we'll group the offenses first as to the
17 conspiracy charge. The base -- the total offense level
18 here is 14 levels -- oh, I take that back, just a
19 moment. The base offense level is 7, I add 14 levels
20 because the loss here is more than \$550,000, but not
21 more than \$1,500,000. I increase by an additional four
22 levels because this offense has occasioned substantial
23 hardship to five or more victims. I increase by another
24 four levels because the offense involved violations of
25 the securities law and at the time of the offense the

1 offense was an investment advisor -- the defendant was
2 an investment advisor. That takes us to an adjusted
3 level of 29. I add another two levels because
4 Ms. Herman knew or should have known that the victims of
5 the offense were vulnerable.

6 The second group is a corrupt endeavor to impede
7 the administration of our Internal Revenue Laws. The
8 base offense level is 18, I add two levels because
9 the -- there was not reported income exceeding \$10,000
10 derived from criminal activity. So I add those two
11 levels to take us to 20.

12 Under the grouping rules, the -- I take the
13 highest of the two, the combined total adjusted offense
14 level is 31. In this case the criminal history category
15 is 1. That leads us to a guideline sentence of not less
16 than 108 nor more than 135 months, a period of
17 supervised release of not less than 1 nor more than 3
18 years, a fine of not less than \$15,000 nor more than
19 \$2,770,514, a restitution amount in the sum of
20 \$1,819,391.87, and a special assessment of \$700, \$100
21 dollars on each count.

22 Ms. Murrane, arithmetically are the guidelines
23 properly calculated?

24 MS. MURRANE: Yes, the only addition I would
25 include is that it would also include forfeiture of

1 \$1,323,807.

2 THE COURT: That's accurately stated and the Court
3 so declares.

4 Mr. O'Hara, arithmetically are the guidelines
5 properly calculated?

6 MR. O'HARA: Yes, your Honor, they are and, um, I
7 would renew any objections I made at the enhancement
8 hearing.

9 THE COURT: Your rights are saved. We held a
10 special hearing to make the findings that undergird --
11 on actual evidence that undergird the conclusions I just
12 stated and your rights are saved as to any objections
13 there made.

14 All right, now we turn to the fifth step, to
15 fashion a fair and a just sentence in this particular
16 case. I have read all the papers that have been
17 submitted to me. I express appreciation for the very
18 thorough sentencing memoranda. I'll hear the
19 government.

20 MS. MURRANE: Thank you, your Honor.

21 The government recommends a sentence of 9 1/2
22 years, or 114 months incarceration, 3 years of
23 supervised release, restitution of \$1,819,391.87,
24 forfeiture of \$1,323,807 consistent with the order of
25 forfeiture that this Court has already entered, with

1 both restitution and forfeiture joint and several with
2 Gregg Caplitz, no fine and a special assessment of \$700.

3 9 1/2 years is a very significant sentence and for
4 this defendant and for these crimes it is wholly
5 appropriate. Letters written on behalf of the defendant
6 submitted to the Court talk about how the defendant
7 placed family first and that may well be true. It's
8 certainly clear that she didn't place the victims of
9 this crime first, the folks who believed that they were
10 being prudent by hiring an investment advisor, someone
11 who is a professional in the industry to manage their
12 retirement.

13 Folks like Patricia Wentzell who worked for 28
14 years as a telephone operator and saved every penny so
15 that she knew she would be in a position to take care of
16 herself and her health issues as she aged. Folks like
17 the Bigelows who had a small plumbing company and saved
18 their money so that they could have a comfortable
19 retirement. Your Honor had the benefit of hearing the
20 testimony from many of these victims, James Connell,
21 Carmine Leuci, Bruce Gilmartin, and Susan Paley, regular
22 folks who did not have significant income and who were
23 not sophisticated investors.

24 Yes, Rosalind Herman put her family first when she
25 took that money from these investors and instead of

1 investing it spent it on her family. And not just on
2 necessities, although as the Court saw from the bank
3 records that were admitted in this case, there was
4 plenty of that, but also on luxuries too like BMWs and
5 Jaguars, trips and gambling.

6 And this was not something that the defendant did
7 once or did for a short period of time. As Trial
8 Exhibit 103 laid out, that chart that showed each of the
9 payments by the various victims, this defendant took
10 money from these investors from 2008 to 2013.
11 Incredibly she continued to take money and spend the
12 money from these investors after first Gregg Caplitz was
13 indicted and then for another year after she herself had
14 been indicted.

15 Pleasing family first with this defendant in these
16 circumstances does not offer any basis for a shorter
17 sentence, quite the opposite.

18 And the fraud was not limited to that 2008 to 2013
19 time period, it lasted a decade dating back on her
20 conviction for conspiracy to defraud the IRS in a
21 corrupt endeavor, to impede the administration of the
22 IRS. For a decade this defendant did whatever it was
23 that she needed to do to make sure that money came into
24 her bank account and only left it when she decided to
25 spend it. It was not an episode of bad judgment, it

1 reflected years and years of greed, manipulation, and
2 putting herself and her family above anything and
3 everything else.

4 THE COURT: Let me ask you this, though this is a
5 bit theoretic, and I don't impugn your recitation of the
6 facts, in light of the jury verdict you're
7 well-authorized to argue those facts and the Court fully
8 accepts them.

9 My question goes to the fact that the sentencing
10 guidelines, I have, as I must under the sentencing
11 guidelines, I've added 14 levels for the loss. Now
12 numerous commentators have criticized that as a measure
13 of culpability. How does that play out in this case?

14 MS. MURRANE: Well, I think that if -- I think
15 that the enhancements added, based upon the loss, are
16 entirely appropriate. If this case was a loss of
17 \$10,000 from one person's nest egg, it would be an
18 entirely different crime and warrant an entirely
19 different sentence than this circumstance where we have
20 \$1.3 million, almost \$1.4 million from over a dozen
21 different victims, and I think while in the abstract it
22 might look as though it's just looking at numbers to
23 come up with some arbitrary enhancement, the numbers
24 actually have meaning.

25 In this case, in particular, where these numbers

1 reflect actual savings that people had set aside after
2 years of work to plan their retirement, they have
3 meaning and should be reflected in the sentence that's
4 imposed.

5 THE COURT: Thank you.

6 MS. MURRANE: Um --

7 MS. BLOOM: I just want to add this one --

8 THE COURT: I'm not accustomed to having some
9 tag-team here.

10 MS. BLOOM: I won't add then.

11 THE COURT: All right. I always respect,
12 Ms. Bloom, you're speaking, but I think one is
13 sufficient for the government.

14 Ms. Murrane.

15 MS. MURRANE: So I think, your Honor, while you're
16 pointing to the guidelines as to the enhancement of the
17 14 points, um, when you consider the 3553 factors, the
18 nature and circumstances of this offense and the history
19 and characteristics of this defendant are of primary
20 importance in fashioning the appropriate sentence. The
21 offense is both the tax charges and the wire fraud and
22 the investment advisor fraud charges, but particularly
23 the latter, are very very serious, and as this Court
24 heard from the victims who testified in this case, they
25 had a very real and serious impact.

1 The defendant's history and characteristics have
2 been established by -- for years, actually a decade, of
3 fraud and deceit, and characteristics that this Court
4 heard the defendant had displayed at many many turns,
5 lying to an online gambling company telling them that
6 she was blind so that she could get her money back, and
7 before your Honor using -- setting forth, um, a basis to
8 have victims denied of justice at trial again and again
9 and again and again by delay of this case.

10 THE COURT: Well, wait a minute. I -- that's a
11 nonstarter. If this case was delayed, for whatever
12 reason, the Court bears the responsibility for that, and
13 I accept my responsibility on that.

14 It -- in this Court's eyes it was vitally
15 important that Ms. Herman have competent and vigorous
16 representation. She has had such representation. I
17 honor Mr. O'Hara for his efforts. And, yes, it was
18 delayed. I regret that. But I'll take responsibility
19 for that. That's not going to count here.

20 Anything else?

21 MS. MURRANE: Understood, your Honor.

22 To this day the defendant has yet to show any
23 remorse or accept any responsibility for her conduct and
24 this is despite the fact, that is shown by the bank
25 records, the defendant received and spent the lion's

1 share of the proceeds from these crimes. She continues
2 to assert that she in fact did nothing wrong and that
3 all blame lay at the foot of Mr. Caplitz, that he alone
4 is responsible and incredibly letters submitted on her
5 behalf suggest that she is a victim in this case.

6 There are victims in this case and there are many
7 of them and the defendant is not one of them, she helped
8 to create them. These 3553 factors warrant the
9 imposition of a significant sentence, the one
10 recommended by the United States, which is at the bottom
11 end of the guidelines, and a sentence of 9 1/2 years is
12 sufficient but not greater than necessary to comply with
13 the purposes of 3553.

14 THE COURT: Thank you. Mr. O'Hara.

15 MR. O'HARA: Thank you, your Honor. I just wanted
16 to point out that I was appointed to represent
17 Ms. Herman back in November of this year, a firm trial
18 date was set, and that date was moved up by a couple of
19 weeks.

20 THE COURT: I appreciate that. What I said stands
21 and as I try to be transparent, that's going to play no
22 role in the sentence here. Now let's talk about the
23 actual facts as established by the jury verdict.

24 MR. O'HARA: This is not the first case I've had
25 where there are allegations of fraud, it's not the first

1 case I've had where there are allegations of investment
2 fraud, it is the first case I've ever had which
3 involved, um, failure to comply with income tax
4 requirements and it's also the first case I've ever had
5 involving hedge funds. I knew nothing about hedge funds
6 except for what I had read in the paper about them.

7 And to educate myself, in order to represent her
8 better, I contacted a number of people, including the
9 attorney who was representing Mrs. Herman and
10 Mr. Caplitz in a concurrent civil action with the
11 Securities and Exchange Commission, and he was of no
12 help at all, although he has some background in this
13 area of law, he only provided me with one little kernel
14 of information, which I'll relate later. But eventually
15 I did a lot of research on the internet and then I
16 reached out to a former client of mine, a Mr. Michael
17 Zanetti, Z-A-N-E-T-T-I, who was convicted of a major
18 fraud participation, it was multinational out in
19 Springfield, but he was a graduate of Brown University
20 with a degree in finance, he's also a law school
21 graduate, and he also contained and obtained the same
22 Securities and Exchange Commission licenses that
23 Mr. Caplitz had, and he explained to me the rigor and
24 the difficulty in the education that's necessary before
25 you can get those licenses. And when I asked him to

1 explain to me, if he could, how hedge funds worked, he
2 just laughed at me and said there's not enough time,
3 they're too complicated, you know, it just is almost
4 impossible. So he gave me the bare bones of it.

5 I also contacted some of the attorneys who were
6 involved with Mrs. Herman and Mr. Caplitz in the past to
7 see if they could shed some light on their relationship,
8 they were singularly and plurally unwilling to be of
9 much help with the exception of Attorney Robert Cohan
10 who had represented them in a number of civil suits, I
11 was impressed with his pleadings, he also represented
12 Mr. Caplitz at the hearing before the enforcement board
13 for certified financial planners. And I asked him, I
14 said, you know, "I've read all these pleadings, I've
15 seen all these cases, I've seen all these entries of
16 summary judgment, I've seen how much money was spent on
17 lawyers, what was going on, why did these cases go
18 forward, why didn't they settle? Why were plaintiffs
19 added or defendants added who were later dropped?" And
20 he said "The only thing I can tell you is that when push
21 came to shove she would follow Mr. Caplitz's advice over
22 mine." And that was about all he could tell me.

23 Mr. Andrews, who represented both of them before
24 the Securities and Exchange Commission called me shortly
25 after the jury verdict came in, and although he was of

1 no help to me in preparing for the defense, he
2 commiserated with the result and he said, "You know
3 what? In my opinion she didn't have the gray matter to
4 understand what was going on here regarding this
5 investment fraud."

6 So I bring that up only to point out that there is
7 a disparity here between the offense conduct of
8 Mr. Caplitz and Ms. Herman, which I brought up ad
9 infinitum during my defense of Ms. Herman and also in
10 motions that I filed subsequent to the verdict. There's
11 also a disparity between their educational background,
12 between their intelligence, and between their ability to
13 articulate.

14 And, um, Ms. Herman, for want of a better word,
15 does not take care of herself. The impression I got
16 from having met with her extended family members is that
17 she takes care of everybody else. As your Honor knows,
18 she has one son [REDACTED]
19 [REDACTED], [REDACTED]
20 [REDACTED] their employment records are spotty, she
21 continually took care of them, she continually took care
22 of her younger sister and her older sister and provided
23 them with employment. When her grandchildren were born,
24 her son and her daughter-in-law were [REDACTED] and she
25 took care of them. And she doesn't go to the doctor,

1 she doesn't take care of herself, she is emaciated. And
2 during the trial, as your Honor knows, she [REDACTED]
3 and she was actually [REDACTED]
4 [REDACTED] I've paid for the [REDACTED], they've
5 never arrived. I have nothing except a note that I
6 received indicating that she was being released to come
7 to court on April 4th [REDACTED], so
8 she was present during the trial although she was in a
9 [REDACTED].

10 I ask the Court to take into consideration the
11 disparity between the conduct of Mr. Caplitz and
12 Ms. Herman. Yes, this was a conspiracy and it involved
13 more than one person, I understand that monies were
14 spent that were not hers, but in terms of stealing money
15 from these people, in terms of forging signatures and
16 withdrawing money without their permission, she had
17 nothing to do with that, and Mr. Caplitz admitted during
18 his testimony that he never told her that he was
19 stealing from his clients, that he was forging their
20 signatures, or even that he was borrowing money from
21 them. He also admitted during his testimony that he was
22 assuring her that she had no tax consequences. So I
23 would ask the Court to keep that in consideration.

24 The sentence recommended by the government, given
25 her condition, I would suggest to the Court is

1 tantamount to a death sentence. She has worked for 45
2 years, starting off when she was 15 years old, serving
3 food in a cafeteria. She doesn't have anything that was
4 ever given to her, as she was growing up, whatever she
5 did, she earned on her own, she worked two and three
6 jobs, she managed to put down a downpayment first on a
7 town home, then on a house that she lives in with her
8 husband, and she's living there with him off and on
9 between being in Las Vegas and coming here for about 10
10 years.

11 In 2012, your Honor, he suffered a [REDACTED]
12 [REDACTED], he had a [REDACTED], but it was
13 [REDACTED] 2012 which resulted in his almost
14 complete incapacitation, and since 2012 she has been his
15 sole caretaker.

16 She has difficulty driving a car. She basically
17 stays home with him. And once again I would ask the
18 Court to take into consideration what I've represented
19 in my sentencing report, I'm not going to go over that
20 again, it's quite lengthy, along with the disparity
21 between the conduct between Mrs. Herman and Mr. Caplitz,
22 and impose a sentence that reflects that disparity.

23 Thank you.

24 THE COURT: Thank you.

25 Ms. Herman, you have the right to talk to me

1 directly. You are not required to. If you want to,
2 I'll hear you now.

3 THE DEFENDANT: Your Honor, and to all the
4 victims, I am extremely sorry from the bottom of my
5 heart and soul. As I sat through this trial I was in
6 shock and disbelief at all the events Caplitz repeated
7 here, every single one of them I am in disbelief.

8 I trusted Mr. Caplitz as a compliance officer and
9 a human being. I trusted him to follow the instructions
10 of the New York law firm which I hired. I had no idea
11 he was stealing money and forging people's signatures.
12 If I knew that, I would have called the police myself.

13 I never knew Mrs. Connell was ■■■. I didn't
14 even -- I didn't know her really that well at all. I
15 hardly knew any of the clients. I cannot believe and I
16 am horrified by his ruthless and heartless acts. I
17 truly am sorry.

18 Your Honor, I -- I have lost everything I worked
19 35-plus years for and I hope everyone believes how sorry
20 I am for what Mr. Caplitz did. Thank you.

21 (Pause.)

22 THE COURT: Ms. Rosalind Herman, in consideration
23 of the offenses of which you stand convicted, the
24 principles of 18 United States Code, Section 3553(a),
25 the information from the United States Attorney, your

1 attorney, the probation officer and yourself, this Court
2 sentences you to 7 years in the custody of the United
3 States Attorney General. The Court sentences you to 7
4 years in prison on each of the counts of wire fraud, the
5 sentence on each count to run concurrent, one with the
6 other. The Court sentences you to 5 years on the count
7 of conspiracy to run concurrent with the sentence just
8 imposed. The Court sentences you to 5 years on the
9 violation, the willful violation of the sections of the
10 Investment Advisors Act to run concurrent with the
11 sentence just imposed. The Court sentences you to three
12 years on the corrupt endeavor to impede the
13 administration of the Internal Revenue Law, which
14 sentence will run concurrent with the sentences just
15 imposed. So the total sentence is a 7-year sentence --
16 84 months.

17 The Court places you on supervised release for a
18 period of 3 years with all the general conditions of
19 supervised release and the following special conditions.

20 You're prohibited from possessing a firearm, a
21 destructive device, or other dangerous weapon. You're
22 prohibited from engaging in an occupation, business, or
23 profession that requires or enables you to sell
24 insurance, make financial investment, or handle client
25 funds.

1 The Court imposes upon you restitution in the
2 amount of \$1,819,391.87 in accordance with the schedule
3 furnished to the Court setting forth the interests of
4 each of the individuals who lost money and the interest
5 of the IRS. The sentence of restitution is joint and
6 several with the restitution imposed upon the defendant
7 Gregory Caplitz. You are to pay the balance of the
8 restitution according to a court-ordered repayment
9 schedule.

10 You're prohibited from incurring new credit
11 charges or opening additional lines of credit. You're
12 required to provide the probation office access to any
13 requested financial information, which may be shared
14 with the Financial Litigation Unit of the United States
15 Attorney's office. You are -- I shall impose -- I must
16 impose a mandatory special assessment of \$700 as
17 required by the law. I impose forfeiture as already
18 decreed. There will be no fine due to your inability to
19 pay a fine.

20 As requested in your sentencing memorandum, the
21 Court recommends to the Bureau of Prisons that you first
22 be incarcerated at a Bureau of Prisons medical facility
23 for a complete evaluation of your medical situation such
24 that an appropriate place of incarceration may be found.
25 Now, let me explain this sentence to you.

1 Ms. Herman, you're in denial here. I don't doubt
2 that Mr. Caplitz was the brains here, I haven't doubted
3 that for a moment, but you knew precisely what was going
4 on -- I take that back, not precisely, you knew what was
5 going on was criminal from the get-go, and you knew that
6 you were stealing people's money, for years and years
7 you were stealing people's money. This is a fair and a
8 just sentence. It takes into account all aspects so
9 ably argued by the government, by Ms. Murrane, but also
10 by Mr. O'Hara.

11 You have the right to appeal from any findings or
12 rulings the Court has made against you. Should you
13 appeal and should your appeal be successful, in whole or
14 in part, and the case remanded, it would be resentenced
15 before another judge. Mr. O'Hara, if an appeal is
16 decided upon and you want transcript, seek it from this
17 session of the court because I'll turn it around right
18 away.

19 Do you understand?

20 MR. O'HARA: I've already done that, your Honor.

21 THE COURT: And I appreciate that.

22 Now, I'm truly concerned, Ms. Herman, that you are
23 in such denial here and I do think that the interests of
24 justice are best served if you are taken into custody
25 right away.

1 Custody, Mr. Officer. Very well.

2 MR. O'HARA: Your Honor, if I may?

3 THE COURT: Yes, I'll hear you.

4 MR. O'HARA: I would point out that on the last
5 day of this trial when she [REDACTED] she did come to
6 court, although her doctors advised her to stay in the
7 hospital. So she's certainly not a risk of flight. And
8 her opinions about what happened I think are consistent
9 with the testimony that was heard at trial. I would ask
10 that the Court consider letting her self-report,
11 especially if she has to go to a federal medical center.

12 The medical facilities of Wyatt are contracted out
13 and in my opinion they're terrible, and to incarcerate
14 her down at Wyatt for the 6 to 8 weeks that it's going
15 to take for the federal Bureau of Prisons to determine
16 what facility she should report to I think would be
17 cruel and unusual given the fact that she's 61 years
18 old, she's in [REDACTED] and she has no
19 criminal history, and she has no place to go, she has no
20 money, she's homebound with her husband.

21 THE COURT: It's not the risk of flight that
22 concerns the Court, what concerns the Court is that she
23 may do violence to herself and candidly her health, both
24 physical and mental, in light of everything I've heard,
25 is a matter of concern. She's remanded to the custody

1 of the marshals. That's the order of the Court.

2 We'll recess.

3 (Ends, 11:00 a.m.)

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C E R T I F I C A T E

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/s/ Richard H. Romanow 09-16-16

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RICHARD H. ROMANOW Date

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