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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - -X	
UNITED STATES OF AMERICA,	: 18-CR-439 (MKB)
	:
Plaintiff,	:
	:
-against-	: United States Courthouse
	: Brooklyn, New York
JOHN DOE,	:
	:
Defendant.	: Tuesday, August 28, 2018
	: 10:30 a.m.
- - - - -X	

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**S E A L E D P R O C E E D I N G S**

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TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING  
BEFORE THE HONORABLE MARGO K. BRODIE  
UNITED STATES DISTRICT JUDGE

SEALED PROCEEDINGS

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

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EUGENE SULLIVAN, II, ESQ.

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Proceedings recorded by Stenographic machine shorthand,  
transcript produced by Computer-Assisted Transcription.

P R O C E E D I N G S

--oo0oo--

(Closed courtroom, sealed proceedings.)

THE COURTROOM DEPUTY: Criminal cause for  
pleading, Docket Number 18-CR-439, USA versus John Doe.  
Counsel, please state your appearances for the  
record.

MS. KASULIS: On behalf of the United States,  
Jacquelyn Kasulis and Drew Rolle for the U.S. Attorney's  
Office in the Eastern District of New York.

SEALED PROCEEDINGS

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1 THE COURT: Good morning, Counsel.

2 MR. ROLLE: Good morning, Judge.

3 MS. KASULIS: We also have Jennifer Ambuehl and  
4 Mary Ann McCarthy and Woo Lee, W-0-0; L-E-E, from the Money  
5 Laundering and Asset Recovery Section of the Criminal  
6 Division. And then we have Kate Nielsen from the Fraud  
7 Section of the Criminal Division.

8 THE COURT: Okay. Thank you.

9 MS. KASULIS: Good morning, Your Honor.

10 THE COURT: Good morning, everyone.

11 MR. O'NEILL: Robert O'Neill for the Defendant Tim  
12 Leissner.

13 THE COURT: Good morning.

14 Good morning, Mr. Leissner.

15 THE DEFENDANT: Good morning, Your Honor.

16 MR. O'NEILL: Also present are two attorneys that  
17 I am also working with, Eugene Sullivan and Eugene  
18 Sullivan, II.

19 MR. SULLIVAN: Good morning.

20 MR. SULLIVAN, II: Good morning, Your Honor.

21 THE COURT: Good morning to you all.

22 And as I indicated, you can remain seated  
23 throughout the proceedings.

24 MR. O'NEILL: Sure. Thank you.

25 THE COURT: Okay. As I understand it,

SEALED PROCEEDINGS

4

1 Mr. Leissner -- is that how you pronounce your name?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: -- that you are going to waive  
4 indictment and plead guilty to a two-count information.

5 Is that correct?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: All right. So I am going to have her  
8 administer the oath to you.

9 THE COURTROOM DEPUTY: Would you please raise your  
10 right hand.

11 **T I M L E I S S N E R,**

12 called as a witness having been  
13 first duly sworn/affirmed, was examined and  
14 testified as follows:

15 THE COURTROOM DEPUTY: Please state and spell your  
16 name for the record.

17 THE DEFENDANT: It's Tim Leissner, T-I-M,  
18 L-E-I-S-S-N-E-R.

19 THE COURT: Thank you. Please be seated,  
20 Mr. Leissner.

21 THE DEFENDANT: Thank you, Your Honor.

22 THE COURT: I want to make sure you understand  
23 that now that you are under oath, if you answer any of my  
24 questions falsely, you could face another prosecution for  
25 perjury or for making a false statement.

SEALED PROCEEDINGS

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1 Do you understand?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. And how old are you,  
4 Mr. Leissner?

5 THE DEFENDANT: Forty-eight.

6 THE COURT: All right. How far did you get in  
7 school?

8 THE DEFENDANT: I got a Ph.D. at the end, a  
9 doctorate. I have a Master's Degree and Bachelor's in  
10 business.

11 THE COURT: All right. So you are quite educated.  
12 And you speak and understand English, correct?

13 THE DEFENDANT: Yes, I do, Your Honor.

14 THE COURT: Counsel, have you been able to  
15 communicate with your client in English?

16 MR. O'NEILL: Yes, Your Honor.

17 THE COURT: You do not have to stand. I know it  
18 is --

19 MR. O'NEILL: Yes, Your Honor.

20 THE COURT: -- the natural reaction, but you can  
21 remain seated in the courtroom unless there is a jury.

22 MR. O'NEILL: Thank you.

23 THE COURT: Mr. Leissner, are you currently or  
24 have you recently been under the care of a doctor or a  
25 psychiatrist?

SEALED PROCEEDINGS

6

1 THE COURTROOM DEPUTY: No, Your Honor, I have not.

2 THE COURT: Are you currently or have you recently  
3 been treated or hospitalized for any type of addiction,  
4 including drug or alcohol addiction?

5 THE COURTROOM DEPUTY: No, Your Honor, I have not.

6 THE COURT: Have you taken any drugs, medicine, or  
7 pills --

8 THE DEFENDANT: No.

9 THE COURT: -- or had any alcoholic beverages  
10 within the last 48 hours?

11 THE COURTROOM DEPUTY: No, Your Honor, I have not  
12 even had a drink.

13 THE COURT: Not even a drink?

14 THE DEFENDANT: Right.

15 THE COURT: Okay. Is your mind clear today?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: And do you understand what is  
18 happening today?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Okay. You have been charged in a  
21 two-count information.

22 Have you had a chance to review that information?

23 THE DEFENDANT: Yes, Your Honor, I have with my  
24 counsel.

25 THE COURT: And do you understand that the charges

SEALED PROCEEDINGS

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1 are conspiracy to violate the Foreign Corrupt Practices Act  
2 and conspiracy to commit money laundering?

3 THE DEFENDANT: Yes, Your Honor, I understand.

4 THE COURT: Because these are felony crimes, you  
5 have a constitutional right to be charged by way of an  
6 indictment by a grand jury, but you can waive that right and  
7 instead consent to be charged by the United States Attorney  
8 by way of an information. Instead of an indictment, these  
9 felony charges against you have been brought by way of an  
10 information by the U.S. Attorney's Office. Unless you waive  
11 indictment, you may not be charged with a felony unless a  
12 grand jury finds and returns an indictment and finds that  
13 there is probable cause to charge you. If you do not waive  
14 indictment, the Government may present the case to the  
15 grand jury and the grand jury, they might or they might not  
16 indict you. A grand jury, as I am sure your lawyers have  
17 explained to you, is comprised of at least 15, but not more  
18 than 23 persons and at least 12 of them would have to vote  
19 to indict you.

20 Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: They would have to find that there is  
23 probable cause to believe that you have committed the two  
24 crimes.

25 THE DEFENDANT: Yes, Your Honor, and I understand.

SEALED PROCEEDINGS

8

1 THE COURT: If you waive indictment by the  
2 grand jury, the case will proceed against you by way of the  
3 information charged by the U.S. Attorney as though you had  
4 been indicted.

5 Have you discussed the matter of waiving your  
6 right to indictment by a grand jury with your attorneys?

7 THE DEFENDANT: Yes, Your Honor, I have.

8 THE COURT: And do you understand your right to  
9 have an indictment returned by the grand jury?

10 THE DEFENDANT: Yes.

11 THE COURT: Have any threats or promises been made  
12 to you to induce you to waive indictment?

13 THE DEFENDANT: No, Your Honor, they have not.

14 THE COURT: Do you wish to waive your right to  
15 indictment by a grand jury?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Counsel, do you see any reason why  
18 your client should not waive indictment?

19 MR. O'NEILL: No, Your Honor.

20 THE COURT: Okay. I have before me a Waiver of  
21 Indictment. May I have the parties please sign it.

22 There you go.

23 MS. KASULIS: We have it --

24 THE COURT: Is there one that is already signed?

25 MS. KASULIS: We do have one, Your Honor.



SEALED PROCEEDINGS

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1 THE COURT: Okay. Can you show it to Mr. Leissner  
2 so I can confirm that that is actually his signature?

3 THE DEFENDANT: Yes, Your Honor, that's my  
4 signature.

5 THE COURT: Okay. So I will sign this order.

6 I find that the Waiver of Indictment is knowingly  
7 and voluntarily made and I accept it.

8 Here you go.

9 So now I am going to arraign you on the charges in  
10 the information. I have already told you what they are, the  
11 two conspiracy charges, and you have informed me,  
12 Mr. Leissner, that you have reviewed a copy of the  
13 information with your attorney.

14 Counsel, would you like me to read the information  
15 to your client or do you waive the read-in?

16 MR. O'NEILL: Your Honor, we waive the read-in.

17 THE COURT: Okay.

18 Now, Mr. Leissner, because of your wish to plead  
19 guilty to the two counts of the information, I need to ask  
20 you a number of questions. This is a serious decision and I  
21 need to ensure myself that you are making this decision  
22 knowingly and voluntarily. I am going to also explain  
23 certain rights to you. With regard to the questions if at  
24 any time you do not understand my questions, let me know and  
25 I will reword the question. If at any time you need to

SEALED PROCEEDINGS

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1 consult with your lawyers, let me know and I will take a  
2 break for you to do that.

3 THE DEFENDANT: Thank you, Your Honor.

4 THE COURT: I remind you that you are still under  
5 oath.

6 THE DEFENDANT: Yes.

7 THE COURT: And so you must answer my questions  
8 truthfully.

9 Mr. -- I am not sure which lawyer I should refer  
10 to you. Is it you --

11 MR. O'NEILL: Yes, Your Honor.

12 THE COURT: -- do I address you with the  
13 questions?

14 MR. O'NEILL: Yes.

15 THE COURT: Okay. Tell me your name again,  
16 please, sir.

17 MR. O'NEILL: O'Neill.

18 THE COURT: Mr. O'Neill. Okay.

19 MR. O'NEILL: Yes, Your Honor.

20 THE COURT: All right. Mr. O'Neill, have you  
21 discussed the matter of pleading guilty with your client?

22 MR. O'NEILL: I have, Your Honor.

23 THE COURT: Does he understand the rights he would  
24 be waiving by pleading guilty?

25 MR. O'NEILL: Yes, Your Honor. We went over the

SEALED PROCEEDINGS

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1 rules and the colloquy.

2 THE COURT: Okay. Is he capable of understanding  
3 the nature of these proceedings?

4 MR. O'NEILL: Yes, Judge.

5 THE COURT: Do you have any doubt as to  
6 Mr. Leissner's competence to plead at this time?

7 MR. O'NEILL: None whatsoever, Your Honor.

8 THE COURT: Have you advised him of the maximum  
9 and minimum sentence and fine that can be imposed, as well  
10 as the forfeiture allegations in the information?

11 MR. O'NEILL: Yes, Judge. We went over all the  
12 applicable benefits.

13 THE COURT: And have you discussed with him the  
14 effect of the sentencing guidelines?

15 MR. O'NEILL: I have, Your Honor. We have not  
16 come to a complete computation, for obvious reasons. I have  
17 explained to him the whole sentencing process, that  
18 Pretrial Services will get involved, there will be a  
19 presentence report, and the Court ultimately makes the  
20 determination. He understands the parameters, what the  
21 maximums are, what the minimums are, and they can be  
22 anywhere in between.

23 THE COURT: Okay. And that Probation, rather than  
24 Pretrial would get involved?

25 MR. O'NEILL: That's correct, Your Honor. I

SEALED PROCEEDINGS

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1 misspoke, Judge.

2 THE COURT: Okay.

3 All right. Mr. Leissner, you have reviewed a copy  
4 of the information, correct?

5 THE DEFENDANT: Yes, Your Honor, I have.

6 THE COURT: I know I have asked you that a number  
7 of times.

8 THE DEFENDANT: No, I have reviewed it, correct.

9 THE COURT: So the two charges in the information,  
10 I am going to just spend a little bit of time discussing  
11 that and the elements of the crime to make sure you  
12 understand what it is you are pleading guilty to.

13 THE DEFENDANT: Thank you, Your Honor.

14 THE COURT: Count 1 charges that between  
15 January 2009 and October 2014 you, and others, knowingly and  
16 willfully conspired to violate the Foreign Corrupt Practices  
17 Act.

18 Count 2 charges that in or about January of 2009  
19 and October of 2014 you, and others, knowingly and  
20 intentionally conspired to commit money laundering.

21 Now, and I know your attorney has gone over this  
22 with you, but I am going to try to just explain to you in  
23 general terms what these charges mean. The conspiracy, as  
24 you know, means that you and at least one other person acted  
25 for purposes of committing a crime, and the conspiracies

SEALED PROCEEDINGS

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1 here charge certain overt acts. In order for the Government  
2 to convict you at a trial of conspiracy, and this is just  
3 conspiracy generally, they would have to show that two or  
4 more persons entered into an unlawful agreement, the  
5 agreement that is charged in the information, starting on or  
6 about January 2009 and continued through the end of the  
7 charge period, which I believe is 2014; that you knowingly  
8 and willfully become a member of the conspiracy; that one of  
9 the members, it does not have to be you, of the conspiracy  
10 knowingly committed at least one of the overt acts charged  
11 in the indictment, and there are a number of overt acts  
12 charged with regard to Count 1.

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: Yes, the overt acts are charged with  
15 regard to Count 1. And that the overt acts were committed  
16 to further some object of the conspiracy. So that is  
17 generally the law on conspiracy and what the Government  
18 would have to prove at a trial against you.

19 With regard to the Foreign Corrupt Practices Act,  
20 you are charged under the Antibribery Division, and you are  
21 charged both as an issuer, as I understand it, and a  
22 domestic concern.

23 Is that accurate, Counsel?

24 MS. KASULIS: Yes, Your Honor.

25 THE COURT: Okay.

SEALED PROCEEDINGS

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1 MS. KASULIS: The employee or agent of an issuer  
2 under domestic concern.

3 THE COURT: And so the elements would be the same  
4 for both, except they could prove that you are one or the  
5 other.

6 THE DEFENDANT: Yes.

7 THE COURT: And to convict you at the trial,  
8 the Government would have to prove that you are -- you were  
9 an employee or agent of an issuer as charged in the  
10 indictment; that you made use of the mail or any other means  
11 or instrumentality of interstate commerce, which could be  
12 wires also in addition to the mail, in furtherance of an  
13 offer, payment, promise to pay, or authorization of the  
14 payment of anything of value to either a foreign official or  
15 any person with knowledge that all or a portion of such  
16 money or thing of value would be offered, given, or promised  
17 directly or indirectly to any foreign official; that this  
18 was done corruptly and for the purpose of influencing an  
19 official act or an official in his official capacity or  
20 inducing a foreign official to do or omit an act in  
21 violation of that official's lawful duty or securing any  
22 improper advantage or inducing the foreign official to use  
23 his influence with a foreign government or instrumentality  
24 to effect or influence any act or decision of such  
25 government or instrumentality, and that the purpose was to

SEALED PROCEEDINGS

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1 assist the issuer, you, in obtaining -- well, you as an  
2 employee or general of the issuer, obtaining or retaining  
3 business for or with or directly in business to any person  
4 and that you did all of this willfully.

5 Do you understand those?

6 THE DEFENDANT: Yes, Your Honor, I do understand.

7 THE COURT: Okay. So that is more or less what  
8 the Government would have to prove if it were to go to  
9 trial. Again, you are not charged with a substantive crime  
10 of violating the Foreign Corrupt Practices Act, you are  
11 charged with conspiring to do so. But at a trial, the jury  
12 would have to understand what that means in order to  
13 determine whether or not you conspired to commit that crime.

14 Ms. Kasulis?

15 MS. KASULIS: So in the information we are also  
16 alleging violation of 78dd-3.

17 THE COURT: Okay.

18 MS. KASULIS: Which is not in the elements  
19 checklist that we sent over to Your Honor. We apologize for  
20 that. To establish dd-3 liability, action needed to be  
21 taken within the United States in furtherance of the  
22 violation of the FCPA, conspiracy to violate the FCPA, and  
23 we have alleged that that prong of the FCPA was also  
24 violated, conspiracy to violate it, as set forth in the  
25 information, and there were actions taken by Mr. Leissner in

SEALED PROCEEDINGS

16

1 the United States --

2 THE COURT: Within the U.S.?

3 MS. KASULIS: Exactly.

4 -- separate and apart from dd-1 and dd-2  
5 liability.

6 THE COURT: Okay. And then you are also charged  
7 with circumvention of internal controls, and to prove that,  
8 the Government would have to show that you somehow  
9 circumvented the issuer's internal controls and caused  
10 transactions to be executed that were not authorized by the  
11 issuer or reported promptly, and you do so knowingly and  
12 willfully.

13 Do you understand that?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Okay. With regard to the money  
16 laundering count, I believe you are charged under two  
17 different provision, 1956(a)(2)(A) and 1957(a).

18 As to 1956(a)(2)(A), you are charged with  
19 attempting -- the elements that the Government would have to  
20 prove at trial, they would have to show that you attempted  
21 to -- or that you transported, transmitted, or transferred  
22 money instruments or funds to or through the United States  
23 for the purpose of promoting violations of the  
24 Foreign Corrupt Practices Act and also the Malaysian Penal  
25 Law.



## SEALED PROCEEDINGS

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1           And then with regard to 1957(a), the Government  
2 would have to show that you engaged in or attempted to  
3 engage in a monetary transaction in or affecting interstate  
4 commerce, and that the monetary transaction involved  
5 criminally derived property of a value greater than \$10,000;  
6 that the property was derived from specified unlawful  
7 activity, and I believe here the specified unlawful  
8 activities in the indictment are the same as I just  
9 indicated, violation of the FCPA, and also of the Malaysian  
10 Penal Law.

11           And fourth, that you acted knowingly and with  
12 knowledge that the transaction involved proceeds of a  
13 criminal offense, and that the transaction took place in the  
14 United States, or that you are a United States person.

15           I believe that covers all of the elements of the  
16 two charges in the indictment.

17           Is that correct, Counsel?

18           MR. ROLLE: It does, Your Honor. There is one  
19 additional theory of liability for the money laundering --

20           THE COURT: Okay.

21           MR. ROLLE: -- as recited in Count 2, which is  
22 Subsection 1956(a)(2)(B)(i), which we've alleged that these  
23 transactions were also done intended in whole or in part to  
24 conceal or disguise the nature, location, source, ownership,  
25 and control of the proceedings of the S underlying unlawful

SEALED PROCEEDINGS

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1 activity.

2 THE COURT: Okay.

3 MR. ROLLE: And of which are the same SUA's that  
4 we've alleged as Your Honor has recounted in the other  
5 provision of 1956.

6 THE COURT: Thank you, Counsel.

7 MR. ROLLE: Yes, Your Honor.

8 THE COURT: So do you understand, Mr. Leissner,  
9 the elements of the two counts that you wish to plead guilty  
10 to?

11 THE DEFENDANT: Yes, Your Honor, I understand.

12 THE COURT: Do you have any questions about them?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Okay.

15 THE DEFENDANT: Thank you.

16 THE COURT: Have you had sufficient time to  
17 discuss with your attorney whether or not to plead guilty,  
18 sir?

19 THE DEFENDANT: Yes, Your Honor, I have.

20 THE COURT: And are you fully satisfied with  
21 Counsel's representation and advice given to you by your  
22 attorneys in this case?

23 (Pause in proceedings.)

24 THE DEFENDANT: Yes, Your Honor, I am.

25 THE COURT: Okay.

SEALED PROCEEDINGS

19

1 THE DEFENDANT: I thought I would make him sweat a  
2 little bit.

3 THE COURT: I'm sorry?

4 THE DEFENDANT: I thought I would make him sweat a  
5 little bit for that.

6 THE COURT: Okay. A sense of humor this morning.  
7 Okay.

8 THE DEFENDANT: I'm sorry.

9 THE COURT: I am now going to explain certain  
10 rights that you have, and these are rights that you will be  
11 giving up by entering a plea of guilty. You have a right to  
12 continue to plead not guilty. Even if you are guilty of the  
13 charge, you can decide to plead not guilty to these charges  
14 and to proceed to trial. No one can be forced to plead  
15 guilty.

16 Do you understand?

17 THE DEFENDANT: Yes, Your Honor, I understand.

18 THE COURT: Okay.

19 THE DEFENDANT: Thank you.

20 THE COURT: You would have a right under the  
21 Constitution and Laws of the United States to a speedy and  
22 public trial by a jury.

23 Do you understand?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: At the trial you would be presumed to

SEALED PROCEEDINGS

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1 be innocent and the Government would have to prove you  
2 guilty beyond a reasonable doubt.

3 Do you understand that?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: You have the right to the assistance  
6 of counsel for your defense. If you were not able to afford  
7 counsel, I would appoint counsel to represent you at every  
8 stage of the proceeding.

9 Do you understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: At trial, you would have the right to  
12 see and hear all witnesses and to have them cross-examined  
13 in your defense.

14 Do you understand?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: You would have the right on your own  
17 part to decline to testify unless you voluntarily elected to  
18 do so.

19 Do you understand?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: You have the right to compel the  
22 attendance of witnesses to testify in your defense.

23 Do you understand?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: Should you decide not to testify at a

SEALED PROCEEDINGS

21

1 trial or not to put on any evidence, these facts could not  
2 be used against you.

3 Do you understand?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: By entering a plea of guilty, and if I  
6 accept your plea, there will be no trial of any kind and you  
7 would have waived and given up your right to a trial as well  
8 as those rights associated with the trial as I have just  
9 described to you.

10 Do you understand?

11 THE DEFENDANT: Yes, Your Honor.

12 THE COURT: There will be no further trial of any  
13 kind and no right to appeal from the judgment of guilty. I  
14 will simply enter a judgment of guilty on the basis of your  
15 guilty plea.

16 Do you understand?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: If you plead guilty, I will have to  
19 ask you questions as to what you did in order to satisfy  
20 myself that you are, in fact, guilty of the charges. And  
21 you will have to answer my questions and acknowledge your  
22 guilt. By answering my questions, you will be giving up  
23 your right not to incriminate yourself.

24 Do you understand that?

25 THE DEFENDANT: Yes, Your Honor.

SEALED PROCEEDINGS

22

1 THE COURT: Are you willing to give up your right  
2 to trial and all those rights that I have just discussed by  
3 pleading guilty?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: You are pleading pursuant to an  
6 agreement with the Government.

7 Does someone have the original agreement?

8 MS. KASULIS: Yes, Your Honor.

9 THE COURT: Okay. Thank you.

10 I am having the agreement marked as  
11 Court Exhibit 1.

12 (Court's Exhibit Number 1 so marked and received  
13 in evidence.)

14 THE COURT: Did you sign this agreement?

15 THE DEFENDANT: Yes, Your Honor, I did.

16 THE COURT: Okay. I am going to have my courtroom  
17 deputy show you Page 13, and I just need you to confirm that  
18 this is your signature above your name?

19 THE DEFENDANT: Yes, Your Honor.

20 MS. KASULIS: Your Honor, I also have a fully  
21 executed copy of the information --

22 THE COURT: Okay.

23 MS. KASULIS: -- signed by all the parties. I can  
24 also hand that up to your deputy.

25 THE COURT: Okay. Sure.

SEALED PROCEEDINGS

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1 MS. KASULIS: Thank you.

2 THE COURT: And has either document changed from  
3 what you sent me yesterday?

4 MS. KASULIS: No, Your Honor.

5 THE COURT: Okay. Thank you.

6 Okay. Did you have an opportunity to read and  
7 discuss the agreement with your attorneys before you sign  
8 it, Mr. Leissner?

9 THE DEFENDANT: Yes, I did, Your Honor.

10 THE COURT: And did you understand it before you  
11 signed it?

12 THE DEFENDANT: Yes, Your Honor, I did.

13 THE COURT: Did you have sufficient time to review  
14 it with your attorneys?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: And, Mr. O'Neill, did you have  
17 sufficient time to review the agreement with your client?

18 MR. O'NEILL: Yes, Your Honor.

19 THE COURT: Mr. Leissner, do you have any  
20 questions about the agreement?

21 THE DEFENDANT: No, Your Honor.

22 THE COURT: Okay.

23 THE DEFENDANT: I understand.

24 THE COURT: Does the agreement represent your full  
25 understanding of your agreement with the Government,

SEALED PROCEEDINGS

24

1 Mr. Leissner?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Has anyone made any promise or  
4 assurance that is not in the agreement to persuade you to  
5 accept this agreement?

6 THE DEFENDANT: No, Your Honor.

7 THE COURT: Has anyone threatened you in any way  
8 to persuade you to accept the agreement?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: Are you pleading guilty of your own  
11 free will because you are guilty?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: And I know you understand that the  
14 charges that you are pleading guilty to are felony offenses,  
15 and if I accept them, you will be adjudicated guilty and  
16 will be deprived of certain valuable civil rights such as  
17 the right to vote, the right to hold public office, the  
18 right to serve on a jury, and the right to possess a firearm  
19 of any kind.

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: I understand that you are not a  
22 U.S. citizen.

23 Is that correct?

24 THE DEFENDANT: That's correct, Your Honor.

25 THE COURT: And do you understand that your plea



SEALED PROCEEDINGS

25

1 of guilty may affect your residency and your status in the  
2 United States with immigration authorities?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: That you will likely be deported as a  
5 result of pleading guilty to these charges?

6 THE DEFENDANT: Yes, Your Honor, I understand.

7 THE COURT: Are you still willing to plead guilty  
8 despite these likely immigration consequences?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Mr. O'Neill, were all formal plea  
11 offers from the Government conveyed to Mr. Leissner?

12 MR. O'NEILL: Yes, Your Honor.

13 THE COURT: Okay.

14 All right. I am going to review certain  
15 provisions of the agreement with you to make sure you  
16 understand the consequences.

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: As to Count 1, pursuant to violate the  
19 FCPA, the maximum term of imprisonment is five years with no  
20 minimum. You also face a maximum supervised release term of  
21 three years.

22 Do you understand what that means, that you would  
23 be on supervision after serving any time?

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: If you violate your supervision in any

SEALED PROCEEDINGS

26

1 way, you could be sent back to prison for up to two years  
2 without any credit for any time already served in custody or  
3 on supervision.

4 Do you understand that?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: You also face a maximum fine of  
7 \$250,000 or twice the gross gain or loss, whichever is  
8 greater.

9 Do you understand?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Restitution is mandatory for this  
12 count, and you will be required to repay the full amount of  
13 the victims' losses as determined at sentencing.

14 Do you understand that?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: You also agree to \$43,700,000 in  
17 forfeiture as set forth in the agreement in Paragraphs 6  
18 through 12.

19 Counsel, I am just going to change F on Page 3  
20 where it says Paragraph 6 through 13. I believe that should  
21 be 6 through 12.

22 Do you want to just confirm that?

23 MS. KASULIS: Yes, Your Honor, that is correct.

24 THE COURT: Okay.

25 So I set forth in Paragraphs 6 through 12 of the

SEALED PROCEEDINGS

27

1 agreement, you have agreed to that amount in criminal  
2 forfeiture.

3 Do you understand that?

4 THE DEFENDANT: Yes, Your Honor, I do.

5 THE COURT: You will also be responsible for \$100  
6 special assessment on this count and removal as I have  
7 already indicated.

8 THE DEFENDANT: Yes.

9 THE COURT: With regard to Count 2, conspiracy to  
10 commit money laundering, there is a maximum term of  
11 imprisonment of 20 years, no minimum. You also face a  
12 maximum supervised release term of three years. If you  
13 violate supervision, you could be sent back to jail for up  
14 to two years without any credit for time served for  
15 supervised time, as I indicated on the other count also.

16 You also face on this count a maximum fine of  
17 \$500,000 or twice the value of the monetary instrument or  
18 funds involved in the transfer, whichever is greater. You  
19 face restitution also on this count, and the criminal  
20 forfeiture agreement is consistent with your criminal  
21 forfeiture on the other count.

22 Do you understand that?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And I am going to change this  
25 paragraph also so it reads 6 through 12.

SEALED PROCEEDINGS

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1           You also are responsible for \$100 special  
2 assessment on this count, and removal also on this count.

3           THE DEFENDANT: Yes, Your Honor.

4           THE COURT: And I do want to make sure that you  
5 understand that because you are pleading guilty to two  
6 separate counts, the sentences could be linked to run  
7 consecutive so that you can be sentenced to time on one  
8 count and the time sentenced on the second count could be  
9 made to run in addition to.

10           Do you understand that?

11           THE DEFENDANT: Yes, Your Honor.

12           THE COURT: Okay.

13           All right. Do you understand these possible  
14 consequences of your plea that I have just discussed with  
15 you?

16           THE DEFENDANT: Yes, Your Honor.

17           THE COURT: Now, under the guidelines, they are  
18 advisory but I do have to consider them in determining what  
19 is an appropriate sentence in your case. I will also look  
20 at a number of factors, such as deterrent factors as I am  
21 required to.

22           Have you discussed with your attorney how the  
23 guidelines might define your case?

24           THE DEFENDANT: Yes, Your Honor.

25           THE COURT: I cannot determine what your advisory

SEALED PROCEEDINGS

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1 guideline range will be at this time. I will not know that  
2 until sentencing after, as your attorney indicated, the  
3 probation department has prepared a presentence report and  
4 you and your attorneys and the Government have had an  
5 opportunity to review it and make any objections to the  
6 facts or to the calculation. However, the sentence that I  
7 ultimately impose may be different from any estimate that  
8 you and your attorneys may have given you.

9 Do you understand that?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: After the initial advisory guideline  
12 range has been determined, I do have the authority to move  
13 upward or downward, and I do not have to sentence you within  
14 the guideline range.

15 Do you understand that?

16 THE DEFENDANT: Yes. Yes, Your Honor.

17 THE COURT: Parole has been abolished, and so to  
18 the extent you are sentenced to any jail time, you will have  
19 to serve that time.

20 Do you understand that?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Do the parties have an estimate -- at  
23 least the Government has an estimate as to what the  
24 guideline range would be in this case?

25 MR. ROLLE: Yes, Your Honor. The guideline

## SEALED PROCEEDINGS

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1 estimate as calculated by the Government is a range of life,  
2 and the basis for that is the base offense level pursuant to  
3 2S1.1(a)(1) is the offense level applicable to the  
4 underlying crime here, violations of the FCPA, and that  
5 level is 48. That is based on the base offense level of 12,  
6 increased by the value of the bribe in this case is more  
7 than \$550 million, which increases the base offense level by  
8 30. There is more than one bribe in this case, which  
9 increases it by 2. There is an involvement of high level  
10 officials, which then increases it by 4, resulting in 48.

11 Turning to the money laundering, because the  
12 defendant was convicted under Section 1956, the offense  
13 level then increases by 2. Since this involved  
14 sophisticated laundering, use of shell companies, so then it  
15 also increased again by 2, resulting in a total offense  
16 level of --

17 THE COURT: Slow down. You do not have to race  
18 through it.

19 MR. ROLLE: -- resulting in a --

20 THE COURT: The reporter has to keep up with you,  
21 Mr. Rolle.

22 MR. ROLLE: Thank you, Your Honor.

23 -- the total offense level of 52. And at a  
24 criminal history category of 1 resulting in guidelines range  
25 of life.

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1 THE COURT: Okay.

2 Counsel, Mr. O'Neill, do you agree with the  
3 Government's estimate of the guideline range?

4 MR. O'NEILL: That is potentially possible, yes.

5 THE COURT: Pull the mic towards you. You need to  
6 pull the mic towards you.

7 You are saying that that is potentially possible?

8 MR. O'NEILL: That is potentially possible. It's  
9 a potential life sentence if all charges were brought upon  
10 Mr. Leissner.

11 THE COURT: Okay.

12 And, Mr. Leissner, do you understand that these  
13 estimates could be wrong?

14 THE DEFENDANT: Yes, Your Honor, they could be  
15 wrong.

16 THE COURT: Okay. And do you understand that  
17 there is no guarantee as to the guidelines range for  
18 sentencing?

19 THE DEFENDANT: Yes, Your Honor, I understand.

20 THE COURT: Do you also understand that I have to  
21 determine the range and that I am not required to sentence  
22 you within the range?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: If the advisory range in the  
25 presentence report is different from the guideline range you

SEALED PROCEEDINGS

1 expect, you could not take your plea back.

2 Do you understand that?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: If your ultimate sentence is different  
5 than what you hope it will be, you cannot take your plea  
6 back.

7 Do you understand?

8 THE DEFENDANT: Yes, Your Honor.

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]



SEALED PROCEEDINGS

1 [REDACTED] [REDACTED]  
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9 [REDACTED] [REDACTED]  
10 [REDACTED]  
11 [REDACTED] [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED] [REDACTED]  
17 [REDACTED] [REDACTED]

18 Under some circumstances the Government may -- the  
19 Government and you may have the right to appeal any sentence  
20 that I impose. However, by entering into this agreement and  
21 pleading guilty, I believe you have waived or given up your  
22 right to appeal or collaterally attack all or part of your  
23 sentence if I sentence you, sir, to 300 months or less in  
24 custody.

25 Do you understand that?

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1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Mr. Leissner, do you have any  
3 questions about the rights you are giving up, the punishment  
4 you face, the nature of the charges, the plea agreement, or  
5 anything else that you would like to discuss with the Court  
6 at this time?

7 THE DEFENDANT: No, I don't, Your Honor. Thank  
8 you.

9 THE COURT: Are you ready to plead guilty?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Mr. O'Neill, do you know of any reason  
12 why your client should not plead guilty?

13 MR. O'NEILL: No, Your Honor.

14 THE COURT: Are you aware of any viable defenses?

15 MR. O'NEILL: None, Your Honor.

16 THE COURT: Mr. Leissner, what is your plea to  
17 Count 1 of the indictment charging you with conspiracy to  
18 violate the Foreign Corrupt Practices Act, guilty or not  
19 guilty?

20 THE DEFENDANT: Guilty.

21 THE COURT: What is your plea to Count 2 of the  
22 indictment charging you with conspiracy to commit -- I'm  
23 sorry. I keep saying "indictment," as my courtroom deputy  
24 just pointed out. You are pleading guilty to information.

25 THE DEFENDANT: Yes.

SEALED PROCEEDINGS

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1 THE COURT: What is your plea to Count 2 of the  
2 information charging you with conspiracy to commit money  
3 laundering, guilty or not guilty?

4 THE DEFENDANT: Guilty.

5 THE COURT: Are you making the plea of guilty  
6 voluntarily and of your own free will?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Has anyone threatened or forced you to  
9 plead guilty?

10 THE DEFENDANT: No, Your Honor.

11 THE COURT: Other than the agreement with the  
12 Government, has anyone made any promises that caused you to  
13 plead guilty?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Has anyone made any promises as to  
16 what your sentence will be?

17 THE DEFENDANT: No, Your Honor.

18 THE COURT: Okay. So I need you to tell me in  
19 your own words what you did to make you guilty of Counts 1  
20 and 2, keeping in mind the elements of both crimes as we  
21 discussed earlier in the proceeding.

22 THE DEFENDANT: Your Honor, I wrote a statement.

23 THE COURT: Okay.

24 THE DEFENDANT: May I read that?

25 THE COURT: You may.

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1 THE DEFENDANT: Thank you.

2 THE COURT: Just read it slowly so that the court  
3 reporter can take it all down.

4 THE DEFENDANT: I have read the information filed  
5 by the Government. As described in the information, I was  
6 an employee of Goldman Sachs - Asia, LLC between  
7 approximately 2011 and 2016, as well as of other public  
8 subsidiaries of Goldman Sachs, which is identified as U.S.  
9 Financial Institution Number 1 in the information. At all  
10 times, I was an agent of Goldman Sachs and was a  
11 participating managing director of Goldman Sachs. At all  
12 times concerning the 1MDB business that Goldman Sachs  
13 conducted with 1MDB between 2009 and 2014, and which is  
14 described in the information, including the negotiation and  
15 execution of three bond deals and other transactions, I  
16 acted on behalf of, and within the scope of my employment  
17 and agency of, Goldman Sachs to acquire and execute the 1MDB  
18 transaction in business --

19 THE COURT: Slow down.

20 Let me ask you one question.

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Did you say that you were employed at  
23 Goldman Sachs from 2011 to 2016?

24 THE DEFENDANT: I was employed during that time at  
25 Goldman Sachs, but I actually started employment at

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1 Goldman Sachs much earlier. But, yes, I was employed during  
2 that time.

3 THE COURT: I only asked because you are  
4 allocuting to conduct from 2009 to 2014.

5 THE DEFENDANT: Correct. I was an employee at  
6 Goldman Sachs from 1998 to 2016. That's the whole entire  
7 employment at Goldman Sachs. Development period for this  
8 cause was 2009 through 2014.

9 THE COURT: Okay. Thank you for that  
10 clarification.

11 You may continue.

12 THE DEFENDANT: 1MDB was a strategic investment  
13 and development company wholly owned and controlled by the  
14 Government of Malaysia. As I understood, 1MDB was created  
15 to pursue investment and development projects for the  
16 economic benefit of Malaysia and its people. While acting  
17 within the scope of my employment and with the intent to  
18 benefit Goldman Sachs and myself, as an employee and agent  
19 of Goldman Sachs, I entered into a conspiracy with those  
20 individuals identified in the Government's information to  
21 pay bribes and kickbacks to obtain and then retain business  
22 from 1MDB for Goldman Sachs.

23 THE COURT: Including the person identified as the  
24 intermediary who you dealt with who then dealt with --

25 THE DEFENDANT: Yes.

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1 THE COURT: -- this entity?

2 THE DEFENDANT: Yes, that's correct.

3 THE COURT: Okay.

4 THE DEFENDANT: That individual would be Jho Low  
5 that you're referring to, I think, as Conspirator Number 1,  
6 Co-Conspirator Number 1 in the information.

7 THE COURT: All right.

8 THE DEFENDANT: Yes.

9 THE COURT: Please proceed.

10 THE DEFENDANT: Yes, Your Honor.

11 The goal of paying bribes and kickbacks was to  
12 influence the government officials to take official action  
13 so that Goldman Sachs would receive business from 1MDB. I  
14 took part in the process of paying some of these bribes and  
15 kickbacks. I also knew that some of the funds that would be  
16 used to pay bribes and kickbacks to government officials  
17 would move through the U.S. banking system. For instance, I  
18 knew that funds derived from Project Magnolia, specifically  
19 mentioned in the information, would be diverted to me and  
20 others, including government officials, through shell  
21 companies beneficially owned and controlled by myself and  
22 others in U.S. dollars, and those financial transactions  
23 would be processed through the United States. I knew that  
24 the use of shell companies in these fund -- these fund  
25 transfers was designed, at least in part, to conceal and

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1 disguise the nature, location, source, ownership, and  
2 control of the diverted and the stolen funds.

3           The following is one specific instance involving  
4 the movement of funds: On or about October 10, 2014, I  
5 caused approximately \$4.1 million to be wire transferred  
6 from a foreign bank account controlled by myself and another  
7 individual to the U.S. bank account of a New York jeweler in  
8 part to pay for jewelry for the wife of a Malaysian  
9 government official. I understood that this payment to the  
10 New York jeweler was intended to benefit the Malaysian  
11 government official and his wife in order to influence the  
12 government official to take official acts that would help  
13 provide 1MDB business to Goldman Sachs, for the benefit of  
14 Goldman Sachs and myself. During the course of the  
15 conspiracy, I conspired with other employees and agents of  
16 Goldman Sachs very much in line of its culture of  
17 Goldman Sachs to conceal facts from certain compliance and  
18 legal employees of Goldman Sachs, including the fact that  
19 Jho Low, who is identified as Co-Conspirator Number 1 in the  
20 information, was acting as a intermediary for on behalf of  
21 Goldman Sachs, 1MDB, and Malaysian and Abu Dhabi officials.

22           As stated in the information, on one occasion in  
23 2012, I told a committee at Goldman Sachs that Jho Low was  
24 not involved in one of the bond transactions. This was not  
25 true. I knew that concealing Jho Low's involvement as an

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1 intermediary was contrary to Goldman Sachs's stated internal  
2 policies and procedures. I and several other employees of  
3 Goldman Sachs at the time also concealed that we knew that  
4 Jho Low was promising and paying bribes and kickbacks to  
5 foreign officials to obtain and retain 1MDB business for  
6 Goldman Sachs, for the benefit of Goldman Sachs and myself,  
7 and using some of the proceeds of the 1MDB bonds to do so.  
8 I knew that this was contrary to Goldman Sachs's stated  
9 policies and procedures.

10 As a result of these bribes and kickbacks, and in  
11 movement of the funds through the bribes and kickbacks,  
12 Goldman Sachs received substantial business from 1MDB. The  
13 three bond deals and related transactions resulted in  
14 substantial fees and revenues for Goldman Sachs, of which  
15 and in many cases, it was very proud of at the time. In  
16 addition, I received large year-end bonuses as an employee  
17 and agent of Goldman Sachs.

18 That concludes my statement, Your Honor.

19 THE COURT: Okay. I believe that covers all of  
20 the elements.

21 Is there anything else the Government would like  
22 to add as to any additional evidence it would produce at a  
23 trial?

24 MS. KASULIS: Yes, Your Honor. The Government  
25 would be prepared to introduce evidence at trial that would



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1 show the use of interstate wires in furtherance of the  
2 schemes, and that those wires passed through the  
3 Eastern District of New York, among other sources of  
4 evidence establishing venue within the Eastern District,  
5 such as travel records and the use of wires by  
6 Goldman Sachs's employees in the New York City headquarters  
7 to communicate regarding the 1MDB bond deals. So those  
8 communications additionally were transported through the  
9 Eastern District of New York.

10 THE COURT: And I take it that Mr. Leissner would  
11 waive any venue and to the extent that there was a challenge  
12 to venue in this case?

13 THE DEFENDANT: I'm sorry. Let me just ask a  
14 question.

15 THE COURT: Sure.

16 (Pause in proceedings.)

17 THE DEFENDANT: Yes, Your Honor, I understand.

18 THE COURT: That even though it appears most of  
19 the conduct took place in the Southern District of New York,  
20 the Government's argument is that the use of interstate wire  
21 is sufficient for venue in the Eastern District of New York.  
22 But to the extent that there are any issues, that you would  
23 waive challenge to venue --

24 THE DEFENDANT: Yes, Your Honor.

25 THE COURT: -- and agree to venue here in the

SEALED PROCEEDINGS

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1 Eastern District of New York?

2 THE DEFENDANT: Yes, Your Honor, I would agree to  
3 that.

4 THE COURT: All right.

5 All right. Is there anything else that I need to  
6 ask Mr. Leissner?

7 MS. KASULIS: No, Your Honor.

8 THE COURT: Okay. Based on the information given  
9 to me, my observation of Mr. Leissner and his demeanor here  
10 in the courtroom, representation of Counsel, and information  
11 from the Government, I find that you are fully competent and  
12 capable of entering an informed plea; that you are aware of  
13 the nature of the charges and the consequences of pleading  
14 guilty; and that the plea of guilty here to both counts of  
15 the information is knowingly and voluntary and it is also  
16 supported by an independent basis, in fact, containing the  
17 essential elements of the offense, and so I, therefore,  
18 accept the plea of guilty to both counts of the information,  
19 and I adjudicate you guilty of both offenses.

20 As I refer you to the probation department that we  
21 discussed earlier, they will interview you. You have the  
22 right to have your attorney present at that interview, and  
23 they will prepare a presentence investigation report. You  
24 will have an opportunity to review that, comment upon it,  
25 object to anything in it.

SEALED PROCEEDINGS

1 Give me a date, please.

2 THE COURTROOM DEPUTY: January 10th at 10:00 a.m.

3 THE COURT: January -- push it back, please.

4 THE COURTROOM DEPUTY: Later?

5 THE COURT: Yes.

6 THE COURTROOM DEPUTY: January 17th.

7 THE COURT: January 17th at 10:00 a.m. for  
8 sentencing.

9 Is there anything else we need to discuss?

10 MR. O'NEILL: Yes, Your Honor.

11 THE COURT: Bail.

12 MR. O'NEILL: If I may, Your Honor?

13 THE COURT: Okay.

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

SEALED PROCEEDINGS

1 [REDACTED] [REDACTED]

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SEALED PROCEEDINGS

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SEALED PROCEEDINGS

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SEALED PROCEEDINGS

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19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED] [REDACTED]  
22 [REDACTED]  
23 [REDACTED] [REDACTED]

24 THE COURT: All right.  
25 Is there anything else?

SEALED PROCEEDINGS

1 MR. O'NEILL: No, not at this time.

2 THE COURT: Okay.

3 MR. O'NEILL: Thank you, Your Honor.

4 THE COURT: All right.

5 Okay. Mr. Leissner, you have to continue to

6 comply with all of your Pretrial Services's conditions.

7 Okay?

8 Then we are adjourned.

9 MS. KASULIS: Thank you, Your Honor.

10 MR. O'NEILL: Thank you.

11 THE COURT: Have a good day everyone.

12 (Matter concluded.)

13

14 --oo0oo--

15

16 I N D E X

17 EXHIBITS

18

19 Court's Exhibit Number 1

22

20

21

22 I (we) certify that the foregoing is a correct transcript  
23 from the record of proceedings in the above-entitled matter.

23

24 /s/ David R. Roy

October 15, 2018

25 DAVID R. ROY

Date