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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - -X
UNITED STATES OF AMERICA 19-CR-6135(G)

vs.

PERRY SANTILLO,
Defendant.

Rochester, New York
October 2, 2019
11:03 a.m.

- - - - -X

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE FRANK P. GERACI, JR.
UNITED STATES DISTRICT CHIEF JUDGE

JAMES P. KENNEDY, JR., ESQ.
United States Attorney
BY: JOHN J. FIELD, ESQ.
Assistant United States Attorney
500 Federal Building
Rochester, New York 14614

JAMES L. NOBLES, ESQ.
900 Times Square Building
45 Exchange Boulevard
Rochester, New York 14614
Appearing on behalf of the Defendant

ALSO PRESENT: Sarah Whitcomb, U.S. Probation Office

COURT REPORTER: Christi A. Macri, FAPR-RMR-CRR
Kenneth B. Keating Federal Building
100 State Street, Room 2120
Rochester, New York 14614

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P R O C E E D I N G S

* * *

(WHEREUPON, the defendant is present).

THE COURT: Are you Perry Santillo?

11:12:53AM **THE DEFENDANT:** Yes.

THE COURT: Appear with your attorney Mr. Nobles.

Mr. Field represents the Government.

This matter's on for potential plea. Is your client ready to proceed?

11:13:00AM **MR. NOBLES:** He is, Your Honor.

THE COURT: Mr. Santillo, over the next several minutes I'll be asking you a series of questions. You will be placed under oath. If you fail to give any truthful responses, do you understand you could be charged with a separate crime of perjury?

THE DEFENDANT: Yes, I do.

THE COURT: Okay. Please place the defendant under oath.

(WHEREUPON, the defendant was sworn).

11:13:25AM **THE COURT:** Mr. Santillo, how old are you?

THE DEFENDANT: 39.

THE COURT: How far did you go in school?

THE DEFENDANT: I have some college education.

11:13:39AM **THE COURT:** Are you currently taking any medications or drugs?

1 **THE DEFENDANT:** No, sir.

2 **THE COURT:** Do you have any health or medical
3 condition affecting your ability to understand these
4 proceedings?

11:13:45AM 5 **THE DEFENDANT:** No, sir.

6 **THE COURT:** Is anybody forcing you, coercing you or
7 threatening to you enter a plea of guilty?

8 **THE DEFENDANT:** No, sir.

9 **THE COURT:** Have you had a chance to review this
11:14:02AM 10 agreement with your attorney Mr. Nobles?

11 **THE DEFENDANT:** Yes, I have.

12 **THE COURT:** Are you satisfied with his
13 representations?

14 **THE DEFENDANT:** Yes, I am.

11:14:07AM 15 **THE COURT:** Do you understand you have a right to an
16 attorney throughout these proceedings right through the time
17 of sentencing?

18 **THE DEFENDANT:** I do.

19 **THE COURT:** Okay. Do you understand you have a
11:14:15AM 20 right to persist or continue your plea of not guilty?

21 **THE DEFENDANT:** Yes, I do.

22 **THE COURT:** However, when you do plead guilty do you
23 understand you give up certain rights, including your right to
24 have a trial by jury or a judge?

11:14:25AM 25 **THE DEFENDANT:** Yes, I do.

1 **THE COURT:** You give up your right to allow your
2 attorney to cross-examine witnesses on your behalf?

3 **THE DEFENDANT:** Yes, I understand.

4 **THE COURT:** You give up your right to have the
11:14:33AM 5 Government prove this case against you beyond a reasonable
6 doubt?

7 **THE DEFENDANT:** Yes.

8 **THE COURT:** And do you understand if the matter did
9 go to trial, you would have the right to testify, present
11:14:42AM 10 evidence, and subpoena witnesses for trial?

11 **THE DEFENDANT:** I understand.

12 **THE COURT:** However, do you understand you could not
13 be compelled to do any of that because you're presumed to be
14 innocent and the burden of proof rests on the Government?

11:14:52AM 15 **THE DEFENDANT:** Yes, I understand.

16 **THE COURT:** Next I'm going to review this agreement
17 with you. It's pretty lengthy. If at any point there's
18 anything you do not understand, take a step back and talk to
19 your attorney.

11:15:05AM 20 **THE DEFENDANT:** Okay.

21 **THE COURT:** First of all, this calls for you to
22 plead guilty by Waiver of Indictment. Waiving indictment
23 means you're giving up your right to have this matter
24 presented to a grand jury and instead you're agreeing to be
11:15:19AM 25 prosecuted by an information filed by the United States

1 Attorney.

2 Do you understand that?

3 **THE DEFENDANT:** Yes.

4 **THE COURT:** Do you understand that information has
11:15:25AM 5 the same force and effect as an indictment filed by the grand
6 jury?

7 **THE DEFENDANT:** Yes.

8 **THE COURT:** And that information will charge you in
9 three separate counts. In the first count with conspiracy to
11:15:37AM 10 commit mail fraud, a charge which carries a maximum sentence
11 of 20 years imprisonment, a fine up to \$250,000 or twice the
12 gross loss, a mandatory \$100 special assessment, and a term of
13 supervised release of three years.

14 Do you understand that?

11:15:57AM 15 **THE DEFENDANT:** Yes, I do.

16 **THE COURT:** The second count which charges you with
17 mail fraud, carries a maximum sentence of 20 years, a fine up
18 to \$250,000 or again twice the gross loss, a mandatory \$100
19 special assessment, and a term of supervised release of three
11:16:14AM 20 years.

21 Do you understand that?

22 **THE DEFENDANT:** Yes, I do.

23 **THE COURT:** The third count charges you with
24 conspiracy to launder money, which carries a maximum sentence
11:16:25AM 25 of a term of imprisonment of 20 years, a fine up to \$500,000

1 or twice the gross loss, a \$100 mandatory special assessment,
2 and a term of supervised release of three years.

3 Do you understand that?

4 **THE DEFENDANT:** Yes.

11:16:41AM

5 **THE COURT:** Okay. Do you understand if ultimately
6 you're sentenced to a period of supervised release and you
7 violate the conditions of supervised release, you could
8 receive a sentence up to six years imprisonment without
9 receiving credit for the time you had served on supervised
10 release?

11:16:54AM

11 **THE DEFENDANT:** Yes, I do.

12 **THE COURT:** Okay. Next I want to discuss the
13 elements of these charges, these three charges, this is what
14 the Government would need to prove beyond a reasonable doubt
15 before you could be convicted at trial.

11:17:05AM

16 First, on the charge of conspiracy to commit mail
17 fraud, they would have to prove first that two or more persons
18 in some way or manner came to a mutual understanding or
19 agreement to commit mail fraud.

11:17:22AM

20 Second, that you as the defendant, knowing the
21 unlawful purpose of the understanding or agreement, willfully
22 joined in that agreement.

23 Do you understand those elements?

24 **THE DEFENDANT:** Yes.

11:17:36AM

25 **THE COURT:** The second count, mail fraud, are the

1 following elements. First, that you as the defendant
2 knowingly and intentionally devised a scheme to defraud or to
3 obtain money or property by materially false or fraudulent
4 pretenses, representations or promises.

11:17:53AM 5 Second, that you did so with the intent to defraud.

6 And, third, for the purpose of executing the scheme
7 to defraud, that you placed in any post office or authorized
8 depository for mail matter, or sent or caused to be sent or
9 delivered according to the direction thereon, or took or
11:18:15AM 10 received some matter or thing from the Postal Service or a
11 private or commercial interstate carrier.

12 Do you understand those elements?

13 **THE DEFENDANT:** Yes.

14 **THE COURT:** And the third charge, conspiracy to
11:18:25AM 15 launder money, the following elements need to be proven beyond
16 a reasonable doubt. First, that two or more persons in some
17 way came to a mutual understanding or agreement to conduct or
18 attempt to conduct a financial transaction with proceeds of
19 specified unlawful activity while knowing that the financial
11:18:47AM 20 transaction involved proceeds from some form of unlawful
21 activity, and that it was designed in whole or in part to
22 conceal or disguise the nature, location, source, ownership or
23 control of the proceeds of specified unlawful activity.

24 And, finally, that you as the defendant knowing the
11:19:09AM 25 unlawful purpose of the plan willfully joined in it.

1 Do you understand that?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** Okay. Next I want to go through the
4 factual basis with you, but before we do -- I'm going to have
11:19:23AM 5 Mr. Field in a second tell us -- but tell me in your own words
6 what happened here. What was this about?

7 **THE DEFENDANT:** From the beginning?

8 **THE COURT:** Yes.

9 **THE DEFENDANT:** We -- myself and a partner -- a
11:19:33AM 10 couple partners, we wound up in a situation with a previous
11 investor that we intended to correct and, unfortunately,
12 didn't pan out that way.

13 **THE COURT:** Okay. What did you do subsequent to
14 that then?

11:19:47AM 15 **THE DEFENDANT:** You know, so we had directed
16 investment to a particular individual, I believe he's named in
17 the document here, turned out that he was running a Ponzi
18 scheme, so being young and ignorant we thought we could fix
19 that and we began raising capital and, unfortunately, it
11:20:03AM 20 didn't work out.

21 **THE COURT:** Okay. What do you mean by "Ponzi
22 scheme"?

23 **THE DEFENDANT:** Well, he was taking one investor's
24 money to pay off another investor.

11:20:13AM 25 **THE COURT:** You got engaged in that activity then?

1 **THE DEFENDANT:** Unfortunately, yes.

2 **THE COURT:** Tell me what your role was.

3 **THE DEFENDANT:** Sure. So when we assumed that
4 liability under the best of intentions, we were going to be
11:20:24AM 5 able to -- attempt to be able to fix the monies that had been
6 lost and, unfortunately, it just snowballed.

7 **THE COURT:** Okay. How long did this go on for?

8 **THE DEFENDANT:** Approximately ten years or so.

9 **THE COURT:** Okay. And over that period of time --
11:20:35AM 10 so you were taking investors' money; is that correct?

11 **THE DEFENDANT:** Yes, sir.

12 **THE COURT:** Trying to pay off old debt?

13 **THE DEFENDANT:** So we were gonna take in capital to
14 make investments to pay off old debt and, unfortunately, the
11:20:47AM 15 snowball effect didn't allow it to happen.

16 **THE COURT:** When you took in these new investments
17 you didn't actually invest them in the funds that were
18 promised to the individuals who made the investment; is that
19 right?

11:20:58AM 20 **THE DEFENDANT:** Some of the money did. Majority did
21 not.

22 **THE COURT:** Okay. And what happened with some of
23 the money? What did you do with it?

24 **THE DEFENDANT:** Went to pay investors and take care
11:21:07AM 25 of living expenses.

1 **THE COURT:** Your own living expenses?

2 **THE DEFENDANT:** Yes, sir.

3 **THE COURT:** And also did some of the monies go
4 toward paying the operation of the various businesses?

11:21:19AM 5 **THE DEFENDANT:** Yes, sir.

6 **THE COURT:** How many businesses did you have?

7 **THE DEFENDANT:** Six-ish.

8 **THE COURT:** Okay. And did you pass some of this
9 money through banks in the area?

11:21:27AM 10 **THE DEFENDANT:** Yes, sir.

11 **THE COURT:** And how many banks? Just name some of
12 them.

13 **THE DEFENDANT:** Bank of America, Citizens Bank, GRV
14 -- Genesee Regional Valley I believe it is. Predominantly
15 Bank of America and Citizens Bank.

11:21:41AM 16 **THE COURT:** Okay. Were they all local banks?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** "Local" I mean within the Western
19 District of New York?

11:21:49AM 20 **THE DEFENDANT:** Yes, sir.

21 **THE COURT:** Do you know what that is?

22 **THE DEFENDANT:** I'm assuming this general area. The
23 only -- there was a couple banks -- after having read the
24 initial documentation that I was unaware of out of Michigan,
11:22:01AM 25 but anything I would do I believe was here local in the

1 Rochester area so...

2 **THE COURT:** In addition to that, was the Postal
3 Service or some interstate carrier utilized to process some of
4 these documents --

11:22:14AM 5 **THE DEFENDANT:** Yes, sir.

6 **THE COURT:** -- through the mails or other interstate
7 carrier means?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** All right. And did you know that you
10 were engaged in this fraudulent activity?

11 **THE DEFENDANT:** Yes, sir.

12 **THE COURT:** Okay. And you continued to engage in it
13 knowing that?

14 **THE DEFENDANT:** I did.

11:22:29AM 15 **THE COURT:** Did it result in losses to a number of
16 individuals?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** Do you know how many?

19 **THE DEFENDANT:** I believe approximately 600.

11:22:36AM 20 **THE COURT:** Okay. You know the amount of the loss
21 total?

22 **THE DEFENDANT:** I've read the documentation. I
23 don't know personally, but I believe it's around \$100 million.

24 **THE COURT:** Okay. All right. I just wanted to get a
11:22:46AM 25 general outline from you.

1 Now, Mr. Field, if you can go through in a little
2 more detail.

3 **MR. FIELD:** Absolutely, Judge.

4 So as Mr. Santillo referenced, this all begins --
11:22:59AM 5 as set forth in the factual basis in paragraph 4 of the plea
6 agreement in great detail -- I'm not gonna through each and
7 every word of it, but this all begins with Mr. Santillo and
8 his co-partner identified as C.P. in a business known as
9 Lucian Development, which was located at 36 West Main Street
11:23:22AM 10 in Rochester, New York, which is in the Western District of
11 New York.

12 In or about 2007 Lucian Development solicited its
13 clients to raise millions of dollars on behalf of a fellow by
14 the name of Ephren Taylor who was touting this City Capital
11:23:44AM 15 Corporation development project, which I believe was in Kansas
16 City, Missouri.

17 And then the investors' money was placed with
18 Ephren Taylor at City Capital. Shortly after placing that
19 money, Mr. Santillo and his partner learned that, in fact,
11:24:01AM 20 Mr. Ephren Taylor had essentially stolen the money as part of
21 his Ponzi scheme and that his investors were out -- or that
22 Mr. Santillo's and C.P.'s investors were accordingly out
23 several million dollars back in 2007.

24 As reflected in paragraph (d), this is where the
11:24:20AM 25 thing really went off the rails for Mr. Santillo. Rather than

1 disclosing the fact and the truth that his investors had their
2 money stolen, they decided to try to repay them, sweep the
3 thing under the rug and make it all good.

4 And they did that by embarking on a cycle of
11:24:42AM 5 soliciting ever increasing amounts of money from new investors
6 in an unsuccessful attempt to recover their losses.

7 So over the years, as Mr. Santillo indicated, and
8 in a classic Ponzi scheme fashion, the thing snowballed and a
9 substantial portion of incoming new investor money was
11:25:05AM 10 immediately deleted by always repaying earlier investors.

11 The truth of this was never disclosed to any
12 investor. The investments that were being made were being
13 pitched as, you know, separate investments in various
14 different entities that the -- that were established by
11:25:25AM 15 Mr. Santillo and Mr. C.P., including a number of companies
16 that are -- that are listed in paragraph -- subparagraph (n)
17 of the factual basis, including First Nationle Solutions,
18 Percipience Global Corporation, United RL Capital Services,
19 Boyles America, Middlebury Development Corporation, NexMedical
11:25:49AM 20 Solutions and others.

21 None of these businesses had actual substantial
22 bona fide business operations. They were basically used as a
23 device to pitch investors to invest in these entities. Once
24 the investment was made, when we look at the bank account
11:26:04AM 25 activity, you see that the money from the investor arrives at

1 the account, it's immediately then parceled out in various
2 ways: A chunk of it going to repay debt that's due to prior
3 investors in order to keep the scheme going; a chunk of it is
4 used to pay the ongoing operating expenses of the business,
11:26:22AM 5 which included real estate rentals, salaries, payments to
6 third-party lenders they owed money to; then a chunk of it is
7 used to finance personal lifestyle for Mr. Santillo and his --
8 and his partners or co-conspirators in this matter.

9 **THE COURT:** Let me stop you for a second.

11:26:43AM 10 Mr. Santillo, what Mr. Field said at this point, do
11 you agree with that?

12 **THE DEFENDANT:** Yes, I do.

13 **THE COURT:** It's all correct?

14 **THE DEFENDANT:** Yes, it is.

11:26:50AM 15 **THE COURT:** And you willingly, knowingly engaged in
16 this scheme during this period of time?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** Okay. You may continue.

19 **MR. FIELD:** So in general, over a period ten years
11:27:02AM 20 according to what the Government has been able to reconstruct
21 from the financial records that are the bank account documents
22 that we have collected, they raised at least \$115.5 million
23 from approximately a thousand investors between January 2012
24 and June 2018; so for that six year period.

11:27:24AM 25 The scheme collapsed in June 2018 as the result of

1 a search warrant that was executed by our office, and at that
2 point in time -- again, this is according to the financial
3 records the Government has reviewed and this is what the
4 Government would offer into evidence at trial -- approximately
5 \$44.8 million had been used to repay investors as part of the
6 scheme, but the amount continued to be owed to investors was
7 approximately \$70.7 million. And that's just the principal
8 repayments; doesn't take into account any of the interest
9 payments that the investors were promised but didn't receive.

11:27:45AM 5
11:28:14AM 10 **THE COURT:** Mr. Santillo, as part of this, there's a
11 reference on page 6, paragraph (i) which indicates at some
12 point employees were directed to use false names when
13 communicating with investors in order to further maintain the
14 illusion.

11:28:33AM 15 Can you explain that?

16 **THE DEFENDANT:** Yes, sir. That was the directive
17 given by my former partner -- not that I'm trying to shift
18 blame, but that is something I was adamantly against and on
19 many occasions requested they did not use false names.

11:28:45AM 20 **THE COURT:** But you knew that was happening?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** Okay. And that was done in order to
23 again further the scheme?

24 **THE DEFENDANT:** Yes, sir.

11:28:51AM 25 **THE COURT:** Okay, thank you.

1 **MR. FIELD:** So what that's about, Judge, is when the
2 sales -- when they were soliciting investors they wouldn't
3 offer just one product to invest in, they would offer several
4 different products from several different issuers.

11:29:03AM 5 They didn't want the investors to understand that
6 these were all basically one big interrelated company that
7 they control. So they portray these different entities as
8 separate independent entities. They were incorporated in
9 different states, they had different purported business
11:29:20AM 10 addresses, no business was ever done at these other purported
11 business addresses.

12 And when the investors would call and say, you
13 know, think they're calling to First Nationle Solutions, to
14 FNS, you know, they would think they're calling a number and
11:29:33AM 15 the person answering the phone would pretend to be somebody
16 from First Nationle Solutions and use a fake name.

17 Investor calls back about a different investment, a
18 different issuer, they would call the number, it would be the
19 same person using a different name pretending to be somebody
11:29:49AM 20 else.

21 **THE COURT:** Is that correct, Mr. Santillo?

22 **THE DEFENDANT:** Yes, sir.

23 **THE COURT:** Is that your understanding? Thank you.

24 **MR. FIELD:** So one of the points, where some of the
11:30:02AM 25 money was spent was in order to find new investors to solicit,

1 the scheme, the conspiracy involved purchasing the business --
2 books of business from investment advisors or brokers --
3 legitimate, presumably, investment advisors and brokers who
4 were looking to retire or exit the business for some reason.

11:30:26AM 5 So Mr. Santillo and C.P. would buy these books of
6 businesses, would then arrange for the selling broker or
7 investment advisor to introduce them to the clients, and then
8 they would go and review the client's portfolio and make
9 recommendations, you know, tell them in effect that their
11:30:45AM 10 current portfolios were substandard and would advise them to
11 transfer their existing investments into other -- the
12 purported investment vehicles that they were selling, that is
13 the First Nationle Solutions and Percipience products.

14 They would then induce the clients of these
11:31:00AM 15 investment advisors, which became their clients at that point,
16 to invest in promissory notes, preferred stock offerings, or
17 whatever the investment offering was that was being pitched at
18 that point in time.

19 They did this for at least 15 different books of
11:31:16AM 20 businesses around the country which they had acquired. So it
21 was *seriatim*; when one book of business was exhausted, they
22 would go and acquire another book of business to solicit
23 additional investments.

24 **THE COURT:** Again, Mr. Santillo; is that correct as
11:31:28AM 25 Mr. Field just stated?

1 **THE DEFENDANT:** Yes, it is.

2 **THE COURT:** Okay.

3 **MR. FIELD:** As indicated in subparagraph (h), this
4 occurred starting in approximately 2008 and continued to
11:31:39AM 5 approximately September 2017; it involved 15 different
6 investment advisors or brokers -- at least 15; and these
7 businesses were located across the country, including
8 Tennessee, Ohio, Minnesota, Nevada, California -- there are
9 several books of business in California, Florida, South
11:31:57AM 10 Carolina, Texas, Pennsylvania, Maryland and Indiana.

11 And prior investor money they had raised previously
12 was being used to acquire these books of businesses. Again,
13 this is not something that was disclosed to investors when
14 they were pitching them, so money was being used in an
11:32:15AM 15 inconsistent way to what had been presented to the investors
16 to induce them to make the investment in the first instance.

17 So then paragraphs -- subparagraphs (i) through (n)
18 detail basically the use of the fraudulent investment
19 offerings, and I would just ask that the Court inquire of
11:32:40AM 20 Mr. Santillo that he agrees with the entirety of those
21 paragraphs.

22 **THE COURT:** (i) through (n) did you say?

23 **MR. FIELD:** Yes, subparagraphs (i) through
24 subparagraph (n).

11:32:51AM 25 **THE COURT:** Okay, Mr. Santillo, have you had a

1 chance to review that? That's the area that's entitled
2 fraudulent investment offerings, paragraphs (i) through and
3 including (n).

4 **MR. NOBLES:** Judge, I would just say that there is
11:33:04AM 5 some information in this document that my client doesn't have
6 personal knowledge of. There is some information that he does
7 have personal information of.

8 But I believe he would tell you that there is
9 nothing that he would contravert. There's certain things that
11:33:17AM 10 he doesn't know what his partner or partners did in certain
11 instances, but I'll let him answer in his own words. We've
12 been through these paragraphs and there's nothing he can say
13 with certainty did not happen.

14 **THE COURT:** Tell me in your own words what you do
11:33:28AM 15 know.

16 **THE DEFENDANT:** So Mr. Field is accurate. We would
17 purchase books of business again with the intent of being able
18 to fix the trouble. Unfortunately, it would never pan out that
19 way.

11:33:41AM 20 There was a separation between my partner and I
21 years back, although we still worked together. We'll call it
22 a less than amicable separation. Again, still stuck in the
23 same trouble, but there's a number of things that I can't say
24 undoubtedly, but as a whole what Mr. Field said is accurate.

11:33:59AM 25 **THE COURT:** Okay. Did you want to summarize some of

1 these victims?

2 **MR. FIELD:** Yes, Judge. So we've selected to
3 establish the jurisdictional acts that are required by the
4 law, I believe six different victims as example victims.

11:34:19AM 5 Again, these are picked from, you know, many hundreds and up
6 to a thousand different victims. So we tried to be
7 representative and select victims from different areas and
8 different books of business, but these are just, again, just
9 an illustration of the victims involved.

11:34:36AM 10 The first victim lived in Webster, New York. He
11 retired in 2008 and was approached in February 2009 to invest
12 funds from his IRA in a promissory note issued by
13 Lucian Development.

14 That note then matured in February 2012 having
11:34:56AM 15 promised to pay annual interest at a rate of 5.35% on a
16 principal investment amount of approximately \$83,199.75.

17 And when that note matured, Mr. Santillo and his
18 partner met victim 1 at his home to convince him to continue
19 his investment by entering into a superseding promissory note
11:35:21AM 20 and solicited an additional \$10,000 investment from the
21 victim.

22 Going forward, as the notes matured, Mr. Santillo
23 would meet with victim 1 to convince him to reinvestment the
24 money in a new note that offered an increased rate of return.

11:35:38AM 25 And victim 1 did receive sporadic interest payments

1 over this period of time.

2 Of course, the name of the game in these Ponzi
3 schemes is to avoid paying out cash to your victims. So the
4 reason Mr. Santillo would go and meet with victim 1 and
11:35:55AM 5 convince him to reinvest is to avoid having to repay victim 1
6 the entire amount of his investment, plus accumulated
7 interest. So this allowed them to continue to perpetuate the
8 scheme.

9 **THE COURT:** Relating to victim 1, Mr. Santillo, you
11:36:10AM 10 actually met with that person?

11 **THE DEFENDANT:** Yes, best I can determine, that's a
12 life-long family friend. I believe he -- I believe he
13 actually invested with Ephren, if I remember correctly.

14 **THE COURT:** I'm sorry, what?

11:36:22AM 15 **THE DEFENDANT:** I believe he invested with a
16 previous individual initially, Ephren Taylor, if I remember
17 correctly.

18 Yes, what Mr. Field said is accurate, but there
19 again it's, you know, that was a life-long -- he's known my
11:36:37AM 20 family as long as I've been alive.

21 **THE COURT:** But you then did meet with him to
22 reinvest this money; is that right?

23 **THE DEFENDANT:** Yes, sir.

24 **THE COURT:** Knowing the money was not going to be
11:36:43AM 25 actually invested in the area that you had promised him?

1 **THE DEFENDANT:** I don't believe we actually had
2 that particular pot of money -- or that particular chunk of
3 money. Again, I do apologize, I can't say definitively we
4 didn't have it, but I believe he was one of the folks who had
11:36:59AM 5 invested with Ephren.

6 When we acquired that liability, we didn't acquire
7 the capital. So when I went back to meet with him and obtain
8 an additional \$10,000 that would have been, you know, in hopes
9 of being able to put that to work to make money but, again,
11:37:14AM 10 there's -- it's been a long time.

11 **THE COURT:** Okay. You may continue.

12 **MR. FIELD:** So in May 2018, that's roughly five
13 months after his most recent promissory note had matured, and
14 without having received any intervening payments of principal
11:37:34AM 15 or interest, he tried to contact Mr. Santillo. Mr. Santillo
16 didn't respond.

17 Then after making various inquiries of friends and
18 former contacts, he was able to identify a physical office
19 location that he could go to, which was at 1100 Long Pond Road
11:37:53AM 20 in Greece. At that point in time that was the office that the
21 scheme was operating from. He traveled there to find out what
22 was going on.

23 And there he was met by an employee of Mr. Santillo
24 and his partner J.P.. J.P. represented to victim 1 that his
11:38:12AM 25 money was safe in an account, even though that was untrue and

1 they knew it was untrue, and J.P. then again tried to convince
2 victim 1 to reinvest his principal and accrued interest in yet
3 another note.

4 Victim 1 has not been repaid his principal or
11:38:27AM 5 interest as promised to date.

6 **THE COURT:** The amount involved with victim 1 is
7 approximately \$94,000; is that correct?

8 **MR. FIELD:** That's correct.

9 **THE COURT:** Okay.

11:38:35AM 10 **MR. FIELD:** That's correct, Your Honor. And as set
11 forth in subparagraph (r), in order to execute the scheme
12 Mr. Santillo and Mr. C.P. caused mail to be sent to victim 1,
13 including an annual report dated December 31, 2017, reporting
14 on his -- falsely reporting on his investment with FNS that it
11:38:57AM 15 had a total asset value of \$94,341.89. In fact, on that date
16 his investment was worthless or close to it.

17 **THE COURT:** You agree with that, Mr. Santillo?

18 **THE DEFENDANT:** I don't know definitively, but I
19 would say that's probably accurate, yes, sir.

11:39:13AM 20 **THE COURT:** Okay.

21 **MR. FIELD:** That's what the bank records would show,
22 Judge.

23 **THE COURT:** You may proceed.

24 **MR. FIELD:** Victim 2, a resident of Victor,
11:39:21AM 25 New York, this probably fits into the category of something

1 that Mr. Santillo does not have firsthand knowledge of because
2 it involves his partner's conduct, but this is what the
3 Government would prove at trial.

4 Victim 2 knew the partner through a band mate who
11:39:43AM 5 was the partner's brother. He met with victim 2 -- the
6 partner C.P. met with victim 2 in November 2017 to tout
7 investments in FNS and Middlebury Development.

8 He recommended that victim 2 and his wife liquidate
9 their IRA and invest the money with them representing that the
11:40:01AM 10 money would be invested in real estate and medical devices.

11 So the victim and his wife invested a total of
12 approximately \$220,000 in November and December of 2017, with
13 \$150,000 allocated for Middlebury and 73 allocated for FNS,
14 and the balance to be used in unspecified ways. They got
11:40:24AM 15 promissory notes in return for that.

16 The investments were made through a series of
17 checks and deposits that are detailed in subparagraph (u). As
18 soon as the money gets into the account, it starts getting
19 used in ways again as detailed in paragraph (u) that are
11:40:41AM 20 completely inconsistent with the representations that had been
21 made to the victim about how the money was to be used.

22 In fact, it was used to pay first off C.P.'s
23 brother, then prior investors, then high interest rate lenders
24 that Mr. Santillo and Mr. C.P. had owned -- owed to these high
11:41:06AM 25 interest rate lenders to pay ongoing operating extensions and

1 other expenses. None of the money was invested in either real
2 estate or medical devices.

3 Again, there was correspondence that that was sent
4 in furtherance of the scheme as set forth in subparagraph (v),
11:41:26AM 5 that is, the use of the mail, including documentation
6 involving a request to cash out his investment.

7 **THE COURT:** Mr. Santillo, apparently you don't have
8 firsthand knowledge of all these facts in this case, but do
9 you dispute any of this regarding the conduct of your partner
11:41:42AM 10 as part of the conspiracy here?

11 **THE DEFENDANT:** As you said, sir, I don't know
12 definitively, but I believe it to be accurate.

13 **THE COURT:** And it does appear that the victim in
14 this situation did receive some payments, three payments at
11:41:56AM 15 \$2,500 at one point.

16 **MR. FIELD:** That's correct. But he has sustained a
17 loss of roughly \$214,000.

18 **THE COURT:** Okay.

19 **MR. FIELD:** Victim 3 is now deceased. She formerly
11:42:07AM 20 resided in Ocala, Florida. She was introduced to Mr. Santillo
21 by her tax advisor.

22 And then in or about September 2014 she and her
23 son-in-law met with Mr. Santillo at an office in Ocala. They
24 had sold the family farm in Ohio and had cash available to
11:42:25AM 25 invest.

1 Mr. Santillo solicited investments from victim 3
2 representing that the investments would be related to
3 commercial and real estate and medical testing laboratories.

4 So victim 3 decided to invest. She invested
11:42:42AM 5 \$200,000 in Percipience in September 2014 by the checks that
6 are specified in subparagraph (x).

7 And then a few days later she invests an additional
8 \$152,000 in Percipience. That again is by a wire transfer
9 that's specified in paragraph (x).

11:43:03AM 10 That money is used in a way that's inconsistent
11 with what the representations were, specifically the bulk of
12 it is transferred to Mr. Santillo's personal account where it
13 then gets spent. And over the following week then the money
14 is paid out to Mr. Santillo, to C.P. and to repay other
11:43:25AM 15 investors.

16 A year later in September 2015, victim 3 invests
17 another \$200,000 in United RL Services. This is specified
18 in -- the details of this are specified in subparagraph (y).
19 At the time she was suffering from dementia and living in an
11:43:44AM 20 assisted living facility.

21 In or about October 1, 2015, paperwork for victim
22 3's 2015 investment, together with a check is delivered by
23 FedEx to Rochester, New York. The \$200,000 is then deposited
24 into a United RL Capital Services bank account that's
11:44:05AM 25 specified in paragraph (y).

1 And then the next day the money is wire transferred
2 into an account in the name of Middlebury; then it's further
3 wired transferred to a Lucian Development account; then the
4 money is disbursed into various accounts that Mr. Santillo,
11:44:19AM 5 his partner control and is used to pay other investors and
6 ongoing business expenses.

7 So none of victim 3's money, \$500,000 investment,
8 was invested in real estate or medical testing laboratories as
9 promised. Instead, it was used for the personal benefit of
11:44:35AM 10 Mr. Santillo and his wife, of C.P. and to just perpetuate the
11 Ponzi scheme in general.

12 **THE COURT:** Mr. Santillo, going back to paragraph
13 (x), if you have it in front of you there, it indicates during
14 this particular part of the scheme regarding victim 3, that
11:44:53AM 15 approximately \$148,000 was transferred to your personal
16 account owned jointly with your wife at Bank of America; is
17 that correct?

18 **THE DEFENDANT:** Your Honor, can I say who I believe
19 the victim to be? Can I say their name or that's not
11:45:10AM 20 permitted? It's tough --

21 **THE COURT:** They're not identified in here.

22 **MR. FIELD:** They're not identified. I mean, I
23 couldn't confirm one way or the other standing here today the
24 name of the victim, but --

11:45:23AM 25 **THE DEFENDANT:** Was this person --

1 **MR. FIELD:** -- based on who you believe it is.

2 **THE DEFENDANT:** Okay, so I guess I can give you a
3 general answer. I believe this person was repaid in full, but
4 let me backtrack to your question, sir.

11:45:33AM 5 **THE COURT:** Sure.

6 **THE DEFENDANT:** The \$148,000 you had asked about,
7 my personal credit card was used to perpetuate the scheme, as
8 Mr. Field has identified.

9 So it was very likely that large sum of money was
11:45:46AM 10 sent to my personal account for the purpose of paying. And,
11 of course, I lived off that card as well. But by no means did
12 I take \$148,000 in one lump sum and spend it.

13 **THE COURT:** But some of that money clearly was not
14 intended to go into your personal account for your expenses or
11:46:01AM 15 your wife's expenses?

16 **THE DEFENDANT:** My wife never received anything.

17 **THE COURT:** But it was in a joint account?

18 **THE DEFENDANT:** Most likely, yes, sir.

19 **THE COURT:** Okay. You knew that at the time?

11:46:09AM 20 **THE DEFENDANT:** Sorry?

21 **THE COURT:** You knew that at the time you weren't
22 really authorized to have any of that money in your account
23 for your own personal expenses?

24 **THE DEFENDANT:** Yes, sir.

11:46:16AM 25 **MR. NOBLES:** Judge, I think there's one point that's

1 important to clarify.

2 **THE COURT:** Sure.

3 **MR. NOBLES:** This entire operation on a
4 month-to-month basis, because they lacked sufficient capital
11:46:25AM 5 for expenses, was run on Mr. Santillo's personal American
6 Express card, which would vary anywhere from 100 to \$500,000 a
7 month.

8 **THE DEFENDANT:** Closer to 500.

9 **MR. NOBLES:** That would run, Judge, all the offices,
11:46:39AM 10 rental cars for people, travel, pay salaries. I mean,
11 basically everything.

12 And I think that's a valid point he's raising.
13 Yes, that money would come in and a lot of it would go back to
14 running the scheme, which certainly is illegal as well. It
11:46:52AM 15 wasn't as if he would be getting \$148,000 that he personally
16 would be grabbing on to. That was really to pay off the
17 monthly balance of the American Express card, that would then
18 next month would allow the scheme to continue.

19 **THE COURT:** But the funds were used for expenses to
11:47:05AM 20 carry on the scheme; is that right?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** And you knew that was improper and
23 illegal?

24 **THE DEFENDANT:** Yes, sir.

11:47:09AM 25 **THE COURT:** Okay. You may proceed.

1 **MR. FIELD:** I want to note I have no dispute with
2 what Mr. Nobles is saying, but a lot of the American Express
3 card that's referenced wasn't just used to fund the operating
4 expenses of the business. A lot of the expenditures were to
11:47:24AM 5 finance Mr. Santillo's personal lifestyle.

6 **MR. NOBLES:** And Mr. C.P. as well, right?

7 **MR. FIELD:** I'm sorry?

8 **MR. NOBLES:** And Mr. C.P. as well?

9 **MR. FIELD:** And Mr. C.P. had a connected card that
11:47:35AM 10 was used as well.

11 **THE COURT:** Thank you.

12 **MR. FIELD:** Victim 4 involved a resident of Salinas,
13 California who was introduced to Mr. Santillo by her former
14 investment advisor. This is a book of business that was
11:47:45AM 15 acquired by Mr. Santillo.

16 Mr. Santillo met the victim, who I see is
17 identified here by mistake so I'm going to ask that that be
18 redacted.

19 **THE COURT:** Their initials?

11:47:59AM 20 **MR. FIELD:** As victim 4, yeah.

21 **THE COURT:** Is there initials for victim 4?

22 **MR. FIELD:** The last name is identified.

23 **THE COURT:** Just C? Mr. and Mrs. C?

24 **MR. FIELD:** Mr. and Mrs. C.

11:48:10AM 25 **THE DEFENDANT:** J.C. if you want the --

1 **THE COURT:** J.C.?

2 **THE DEFENDANT:** Yes. She's a widow. So just J.C.

3 **THE COURT:** That will be redacted to reflect J.C. as
4 opposed to the name that's currently in the plea agreement.

11:48:23AM 5 **MR. FIELD:** I see that's actually on three locations
6 in this paragraph so somehow we missed converting that to
7 victim 4.

8 So victim 4 in any event advised Santillo that she
9 wanted conservative investments. She recently retired.
11:48:37AM 10 Mr. Santillo recommended she move her funds into FNS with a
11 smaller investment in United RL with a total investment of
12 approximately \$100,000. Mr. Santillo promised an upfront
13 bonus of 10%, plus annual interest rate of 3.3% for her
14 investment in FNS.

11:48:55AM 15 So then the next paragraph (ab) details the money
16 flow. Again, there's -- the investment comes in various
17 parts. First in November 2016 victim 4 invests roughly
18 \$56,000 in a promissory note. That's through a check that's
19 deposited into an FNS account.

11:49:15AM 20 These funds are transferred through other accounts
21 and then spent in furtherance of the Ponzi scheme. They're
22 not invested in any real estate or other FNS business .

23 On or about -- so a few months later then in
24 January 2017 the victim invests approximately \$81,000 from an
11:49:36AM 25 IRA account of hers. That's wire transferred into an FNS

1 account.

2 Then in mid May 2017 the victim invests an
3 additional \$282,000 approximately by a check that's
4 identified, which is deposited in an FNS account.

11:49:53AM 5 So these funds then are transferred to other issuer
6 accounts and ultimately spent in furtherance of the Ponzi
7 scheme, including payments to other investors and lenders and
8 a payment to Mr. C.P.

9 **THE COURT:** Do you agree with that, Mr. Santillo,
11:50:10AM 10 what's been said?

11 **THE DEFENDANT:** Yes, sir. Again, this is a typical
12 case in which I would have initiated the contact with the
13 individual and, again, knowing it was not proper or accurate,
14 a portion of the investment was made, I moved on to another
11:50:24AM 15 location, and my partner came back around and picked up a
16 substantial amount in the back end. We did -- I did know that
17 it should not have begun to start with.

18 **THE COURT:** Thank you. You may continue.

19 **MR. FIELD:** So then in subparagraph (ac) the
11:50:41AM 20 jurisdictional acts are set forth that on or about
21 November 30th, 2016, copy of the check is mailed by victim 4
22 and other pertinent investment documents are delivered by
23 Federal Express to Rochester, New York.

24 Then in May -- on or about May 19th, 2017, another
11:51:03AM 25 check, this one in the amount of approximately \$282,000 is

1 delivered by Federal Express to Rochester, New York.

2 And then finally on June 2nd a check in the amount
3 of \$155,000 is delivered by Federal Express to Rochester, New
4 York.

11:51:18AM 5 So in total, as reflected in subparagraph (ae)
6 victim 4 invested approximately \$660,000 in FNS and
7 approximately \$120,000 in United RL. And, again, none of that
8 money was invested conservatively or otherwise used in the
9 manner promised and represented to victim 4.

11:51:36AM 10 **THE COURT:** Was any of that money returned to the
11 victim?

12 **MR. NOBLES:** If you know?

13 **THE DEFENDANT:** This is J.C.?

14 **MR. NOBLES:** Yes.

11:51:45AM 15 **THE DEFENDANT:** I don't know, to be honest, sir.

16 **THE COURT:** All right. But what Mr. Field just
17 indicated you agree that's correct?

18 **THE DEFENDANT:** Yes, I do.

19 **THE COURT:** Okay, thank you. Victim 5.

11:51:54AM 20 **MR. FIELD:** Victim 5 resided in East Stroudsburg,
21 Pennsylvania. Victim 5 met with Santillo and an individual
22 who is employed by Santillo identified by the initials J.L. in
23 July 2015 having been introduced there by their former
24 investment advisor.

11:52:15AM 25 Victim 5 then was -- the initial investment pitch

1 after the first meeting, the initial investment pitch was made
2 by J.L. who promoted investments in FNS. And then victim 5
3 decided to invest. In July invested -- July 2015 invested
4 \$60,000 again with a promised upfront bonus of 10% and an
11:52:38AM 5 annual interest rate of 6%.

6 Victim 5 makes later additional investments in FNS,
7 and also in United RL and Boyles America, which are other
8 issuers that are touted as part of the scheme. The
9 investments total approximately \$185,000.

11:52:56AM 10 A few years later in June 2017 victim 5 and his
11 wife met with Mr. Santillo who falsely assured them that their
12 investments in FNS, United RL and Boyles America were safe and
13 secure, and pitched them on a new investment this time in a
14 company called NexMedical Solutions.

11:53:16AM 15 Mr. Santillo represented that the new investment
16 would be used to acquire a medical device that would be placed
17 in a physician's office, that the machine would be paid for
18 within three months plus interest, and that an escrow would be
19 established to hold royalties from the use of the machine on
11:53:30AM 20 an ongoing basis.

21 So victim 5 in June 2017 invests a total of
22 approximately \$160,000 in NexMedical Solutions by checks that
23 are made payable to Middlebury Development.

24 The two checks are mailed by Federal Express from
11:53:49AM 25 the Middle District of Pennsylvania where they resided to

1 Rochester, New York, in our district here.

2 Again, as set forth in paragraph (aj) victim's 5
3 money was not used as represented. Instead a review of the
4 bank account showed that it was transferred through various
11:54:04AM 5 accounts and ultimately used to pay the personal -- used for
6 the personal benefit of Mr. Santillo, it was used to repay
7 earlier investors, to make payments on high interest rate
8 loans, and to pay the ongoing expenses associated with
9 operating the Ponzi scheme.

11:54:19AM 10 None of the money was used to purchase any promised
11 medical devices or otherwise invested as promised or
12 represented.

13 **THE COURT:** Mr. Santillo, on this particular
14 occasion it indicates you personally met with this victim 5
11:54:31AM 15 and his wife; is that right? Assuring them that their
16 investments were properly safe and secure when you knew they
17 were not?

18 **THE DEFENDANT:** Yes, that would have -- so I don't
19 know exactly who this is obviously, but that would have
11:54:43AM 20 definitely been the general case where I would have went to
21 assure the folks that their money is fine.

22 I very rarely, if ever, pitched the medical device
23 portion, you know, the NexMedical Solutions. This -- by that
24 juncture my former partner and I were not really on speaking
11:55:00AM 25 terms.

1 Can I say definitively that I didn't? No. But I
2 don't recall ever pitching a medical device.

3 **THE COURT:** Okay. But do you dispute any of the
4 facts just articulated by Mr. Field?

11:55:12AM 5 **THE DEFENDANT:** No, I don't dispute any of that,
6 no.

7 **THE COURT:** Okay, thank you. Victim 6.

8 **MR. FIELD:** Victim 6 is the final example victim.
9 Victim 6 resided in Salinas, California. Victim 6 met with
10 Mr. Santillo and J.P., an individual who was employed by the
11 scheme and Mr. Santillo and Mr. C.P. in or about October 2016
12 having been introduced by their former investment advisor.

13 Mr. Santillo advised victim 6 that due to the
14 volatile market, victim 6 should temporarily move his
15 retirement monies into a high yielding tax deferred fund.

16 In furtherance of the scheme on or about
17 October 25, 2016 and, again, on January 27th, 2017, victim 6
18 invested by mailing checks payable to FNS to the scheme
19 headquarters in Rochester, New York.

11:56:09AM 20 Victim 6's money was not deposited into high
21 yielding tax deferred fund as promised. Instead on or about
22 October 26th, \$126,000 of victim 6's money was deposited into
23 an FNS bank account, and later it's deposited into --
24 additional money is deposited into the same FNS bank account,
11:56:32AM 25 this is all set forth in subparagraph (a).

1 So as a result \$244,000 approximately of victim 6's
2 money is transferred to FNS without his consent. He didn't
3 realize he was investing in FNS.

4 **THE COURT:** You agree with that, Mr. Santillo, in
11:56:50AM 5 this case you were personally involved with; is that correct?

6 **THE DEFENDANT:** That's what it says. I'm trying to
7 figure out which victim this is. I could tell you that
8 whenever I was pitching a deal -- of course it was not proper
9 to be doing it this way, but they were well-informed where the
11:57:08AM 10 money was divided, number one.

11 Number two, it speaks of the funds being
12 disqualified, meaning it was moved from an IRA into
13 a non-qualified account. I never did that. Not one time did
14 I ever take IRA money and cause taxation.

11:57:26AM 15 I'm not saying you're wrong here, but furthermore,
16 Salinas -- my former partner worked out there quite
17 frequently. Maybe this should have been Mr. C.P.

18 Is it possible? I'm not trying to debate with
19 Mr. Field. I just don't know that this is -- was me on this
11:57:44AM 20 particular case.

21 **MR. FIELD:** This is the information that was
22 reported to the Government by victim 6. What Mr. Santillo
23 says is correct, as we're gonna see that victim 6 was also
24 solicited by Mr. C.P.. So it may have been Mr. C.P. who made
11:57:59AM 25 that representation and not Mr. Santillo.

1 But, you know, I believe that we would prove that
2 the representation was made.

3 **THE COURT:** Again, you agree with that?

4 **THE DEFENDANT:** Yes, sir. It was definitely one of
5 us. I just don't know that in this case it was me. I don't
6 think anything is inaccurate here. I just don't know that it
7 was me that made that representation.

8 **THE COURT:** Thank you.

9 **MR. FIELD:** So moving on to paragraph (am) --
10 subparagraph (am) later -- in or around July 2017 victim 6
11 recalled meeting C.P. who was -- portrayed himself as victim
12 6's new financial advisor replacing Mr. Santillo.

13 C.P. solicited additional investment from victim 6,
14 which was funded by the sale of victim 6's family house.
15 Victim 6 informed C.P. that his investment needed to be able
16 to cover his kids' college expenses, and at C.P.'s direction
17 victim 6 invested \$160,000 by wire transfer on December 28th,
18 2017.

19 That money was immediately used to make \$141,800
20 payment to C.P.'s brother.

21 On or about January 3rd, 2018, victim 6 wired an
22 additional \$350,000 to a Middlebury Development bank account.
23 That money is then used to fund seven payments totaling
24 \$108,000 to C.P.'s brother, among other uses.

11:59:25AM 25 Again, little of the money was used or invested

1 conservatively as promised or used in the manner represented,
2 and most of it is used to repay earlier investors and make
3 payments on high interest rate loans that Mr. Santillo and
4 C.P. had taken out beginning in 2016.

11:59:42AM 5 **THE COURT:** Do you agree with that, Mr. Santillo, as
6 well?

7 **THE DEFENDANT:** I would say it's accurate. Just if
8 I could caveat one thing? The high interest rate loans were
9 never agreed by -- I never agreed to those. Those were signed
10 for by my former partner and/or one of the other employees.

11 Those -- we never really touched on that during our
12 discussion, but yes, I did know that they had been taken out
13 and they were being paid for with funds that should not have
14 been paid for.

12:00:09PM 15 **THE COURT:** And the monies were used to pay the
16 earlier investors; is that correct? As opposed to the
17 representations made to this individual?

18 **THE DEFENDANT:** Yes, sir, that's correct.

19 **THE COURT:** Okay. Additional facts?

12:00:20PM 20 **MR. FIELD:** So then these next paragraphs deal with
21 the money laundering conspiracy. And starting in paragraph
22 subparagraph (ao), the parties are agreeing that Mr. Santillo
23 and C.P. controlled hundreds of different business bank
24 accounts that were opened under various -- the different
12:00:38PM 25 business names at a number of different financial institutions

1 over time.

2 These included Bank of America, Citizens Bank,
3 which Mr. Santillo has identified as the primary banks. These
4 banks eventually stopped doing business with Mr. Santillo and
12:00:54PM 5 Mr. C.P., and they started seeking to enter into banking
6 relations at other smaller banks, including Genesee Regional
7 Bank, and ESL Federal Credit Union, among numerous others.

8 The accounts for these banks were all located in
9 Rochester, New York. They were opened in Rochester, New York
12:01:10PM 10 and operated in Rochester, New York.

11 Mr. Santillo and Mr. C.P. directed and authorized
12 the transactions that occurred in these accounts, including
13 deposits, withdrawals, check writing and fund transfers.

14 And typically for any specific financial
12:01:27PM 15 transaction, there was a particular employee identified by the
16 initials R.V. who would make the transaction and implement the
17 instruction that had been given to her.

18 **THE COURT:** Is that correct, Mr. Santillo?

19 **THE DEFENDANT:** Yes, it is.

12:01:41PM 20 **THE COURT:** Do you know who R.V. is?

21 **THE DEFENDANT:** Yes, I do.

22 **THE COURT:** Okay. Go ahead.

23 **MR. FIELD:** Mr. Santillo and Mr. C.P. used the
24 various banks to transfer money from one account to another.
12:01:51PM 25 Incoming investor money was routinely transferred through

1 several accounts as we've seen from the prior illustrations
2 before the funds were finally spent on whatever the ultimate
3 purpose was that Mr. Santillo and Mr. C.P. authorized.

4 By moving investor funds through various accounts
12:02:07PM 5 and various entity names, Santillo and Mr. C.P. intended to
6 were and able to conceal and obscure the fact that new
7 investor money was being used to repay earlier investors,
8 finance the operations of the Ponzi scheme, and fund their
9 lifestyles.

12:02:26PM 10 In paragraph (aq) it's noted that Mr. Santillo and
11 Mr. C.P. received assistance from an employee first of Bank of
12 America and later Citizens Bank who had a relationship with
13 Mr. Santillo and Mr. C.P. and took steps to ensure that
14 out-of-state checks quickly cleared so the funds would become
12:02:51PM 15 available immediately; and also agreed to misrepresent the
16 amount of money in the bank accounts to a third-party
17 creditor.

18 Let me amplify on that a little bit since
19 Mr. Santillo had brought it up. The credit card that was
12:03:07PM 20 referenced before was American Express. From time to time
21 American Express would call -- would need to receive
22 independent verification that there was sufficient money in
23 the business accounts to authorize the amount of money, debt
24 that was being incurred, the \$500,000 a month.

12:03:25PM 25 During these calls the employee referenced in

1 paragraph (aq), the bank employee, knowing full well there was
2 maybe 5, 10, \$20,000 in total in the bank accounts on any
3 given point in time, would lie to American Express
4 representatives on behalf of Mr. Santillo and Mr. C.P. and
12:03:46PM 5 tell them, the American Express representatives, that there
6 was, you know, a million or two million or whatever it was
7 that would be sufficient to avoid having American Express shut
8 down the line of credit.

9 **THE COURT:** Mr. Santillo, did you understand that
12:03:59PM 10 was happening with this bank employee?

11 **THE DEFENDANT:** Yes.

12 **THE COURT:** And did you have direct conversations
13 with that employee regarding that?

14 **THE DEFENDANT:** Yes.

12:04:06PM 15 **THE COURT:** That issue?

16 **THE DEFENDANT:** Yeah, I had very detailed
17 conversations with her.

18 **THE COURT:** Knowing they were going to make
19 misrepresentations regarding the balance of these accounts?

12:04:15PM 20 **THE DEFENDANT:** Yes, sir. They required that every
21 six months.

22 **THE COURT:** Okay, thank you.

23 **MR. FIELD:** So both of these measures, these sort of
24 acts by the bank employee, provided Mr. Santillo and Mr. C.P.
12:04:29PM 25 with immediate liquidity that was -- that they needed to

1 continue operating the Ponzi scheme without the thing
2 collapsing and them being detected.

3 And then there's an illustration that's set forth
4 in paragraph (ar) of a money laundering transaction. The
12:04:48PM 5 transaction begins on or about September 1, 2016, with two
6 investor victims of the Ponzi scheme who are located in
7 California, wire transferring a total of \$442,850.38 to an FNS
8 bank account at Citizens Bank that's identified in the
9 paragraph.

12:05:11PM 10 The funds were proceeds of a specified illegal
11 activity, that is, the Ponzi scheme, mail fraud and conspiracy
12 to commit mail fraud.

13 Were then immediately transferred to a
14 Lucian Development account at Citizens Bank that's identified.

12:05:26PM 15 The funds are then that same day further transferred by two
16 additional wires from the Lucian Development account to a
17 Middlebury Development account at Citizen Bank and, again, the
18 same day the funds were then transferred yet again to a
19 different Middlebury account, this time at Bank of America and
12:05:43PM 20 a United RL account at Bank of America.

21 Then within the next day, by September the 2nd,
22 2016, the funds are further transferred and used to first
23 repay prior investors; second, repay high interest rate loans;
24 third, fund personal accounts of Mr. Santillo and Mr. C.P. and
12:06:03PM 25 Mr. J.P.; and, four, pay the ongoing operating expenses of the

1 Ponzi scheme, among other uses.

2 **THE COURT:** Do you agree with all that,
3 Mr. Santillo?

4 **THE DEFENDANT:** Yes, sir. I don't know
12:06:13PM 5 specifically the numbers or the date, but I would imagine that
6 is definitely something that would have happened.

7 **MR. FIELD:** Yeah, that's what the Government would
8 prove based on the bank account records at trial, Judge.

9 **THE COURT:** Thank you. Does that complete the
12:06:24PM 10 factual?

11 **MR. FIELD:** That completes the factual basis, Your
12 Honor.

13 **THE COURT:** Thank you. Mr. Santillo, next we're
14 going to discuss the sentencing guidelines. Do you understand
12:06:31PM 15 that the Court must consider the guidelines, but I'm not bound
16 by those?

17 Do you understand that?

18 **THE DEFENDANT:** Yes, sir.

19 **THE COURT:** Do you understand this charge carries a
12:06:38PM 20 base offense level of 43, which is determined as follows: That
21 the fraud base offense is 7.

22 Based upon the total loss in excess of \$65 million,
23 there's a 24 offense level increase.

24 Based upon there being financial hardship to 25 or
12:07:03PM 25 more individuals, there's a six offense level increase.

1 Based upon the scheme involving a sophisticated
2 means, there's a two level offense increase.

3 Based upon there being a violation of securities
4 laws at the time that you were a registered broker or dealer,
5 that there's a four level increase.

12:07:24PM

6 Do you understand all those?

7 **THE DEFENDANT:** Yes, sir.

8 **THE COURT:** And then finally based upon the fact a
9 conviction under Title 18, United States Code, Section 1956,
10 there's a two level offense level increase.

12:07:38PM

11 Do you understand that as well?

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** That results in a total of 43 adjusted
14 offense level.

12:07:48PM

15 Do you understand that?

16 **THE DEFENDANT:** Yes, sir.

17 **THE COURT:** Okay. In addition, there's some
18 additional adjustments which apply in this case. A four level
19 increase based upon the fact you were a leader of the criminal
20 activity and that there was extensive and involved five or
21 more individuals.

12:08:02PM

22 Do you agree with that as well?

23 **THE DEFENDANT:** Yes, sir.

24 **THE COURT:** And that there's a two level increase
25 based upon the fact that you as the defendant knew or should

12:08:12PM

1 have known that a victim of the offense was a vulnerable
2 victim; is that correct?

3 **THE DEFENDANT:** Yes, sir.

4 **THE COURT:** In that case the vulnerable victim is
12:08:24PM 5 based upon age, Mr. Field, or --

6 **MR. FIELD:** Based on a combination of age, and in
7 one example we have a victim who suffered dementia. There's
8 other examples where we've learned that the victims are in a
9 similar situation where they're mentally feeble.

10 **THE COURT:** Do you agree with that, Mr. Santillo?

11 **THE DEFENDANT:** Yes, sir.

12 **THE COURT:** Okay. That results in an adjusted
13 offense level of 51.

14 There's then a three level downward adjustment for
12:08:53PM 15 your acceptance of responsibility, resulting in a total

16 offense level of 48.

17 The second part of calculating somebody's sentence
18 under the guidelines is their criminal history category. It's
19 my understanding you don't have any prior criminal history.

12:09:06PM 20 Based upon that your criminal history category is a level I,
21 which is the lowest possible level.

22 When the Court then combines the total offense
23 level 48 with a criminal history category III -- excuse me, I,
24 do you understand that the sentence under the guidelines
12:09:25PM 25 involves a term of imprisonment of 60 years; a fine of twice

1 the pecuniary loss, that is approximately \$141.4 million; and
2 a period of supervised release of three years.

3 Do you understand that?

4 **THE DEFENDANT:** Yes, sir.

12:09:41PM 5 **THE COURT:** Do you understand under this agreement,
6 nevertheless, you are subject to the maximum penalties that I
7 earlier discussed?

8 **THE DEFENDANT:** Yes.

9 **THE COURT:** And under this agreement do you
12:09:53PM 10 understand the Government and you have reserved your right to
11 recommend a sentence outside the guideline range.

12 Do you understand that?

13 **THE DEFENDANT:** Yes, sir.

14 **THE COURT:** Okay. In addition, in this case it
12:10:11PM 15 indicates that you are anticipated to enter a plea of guilty
16 to a one count information to be filed in the Middle District
17 of Pennsylvania that the conduct underlying that offense is
18 accounted for as relevant conduct in this case.

19 Do you understand that?

12:10:27PM 20 **THE DEFENDANT:** Yes, sir.

21 **THE COURT:** Yes?

22 **THE DEFENDANT:** Yes, sir.

23 **THE COURT:** And the sentence for the instant offense
24 is recommended to be imposed concurrently or together with any
12:10:38PM 25 sentence that may be imposed by the United States District

1 Court in the Middle District of Pennsylvania.

2 Do you understand that as well?

3 **THE DEFENDANT:** Yes, sir.

4 **THE COURT:** However, do you understand that the

12:10:49PM 5 Court is not bound to sentence you to a concurrent term of the
6 discharged term of imprisonment?

7 Do you understand that?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** Mr. Nobles, I assume, explained that to
10 you?

12:10:59PM

11 **MR. NOBLES:** Yeah.

12 **THE COURT:** Thank you. Next, do you understand that

13 if for some reason this plea is withdrawn, vacated or set

14 aside, the original charges would be refiled and you're

12:11:09PM 15 waiving what's called the "statute of limitations defense" or

16 the time limit for refiling those charges?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** Are you a citizen of the United States?

19 **THE DEFENDANT:** Yes, sir.

12:11:18PM

20 **THE COURT:** Do you understand if for some reason

21 it's found you are not a citizen of the United States, based

22 upon a conviction of this charge you could be removed from the

23 United States, denied citizenship, or denied admission to the

24 United States in the future?

12:11:31PM

25 **THE DEFENDANT:** Yes, sir.

1 **THE COURT:** Do you understand the Government has
2 reserved their right to provide Probation and the Court with
3 information regarding this case as well as your background,
4 character and involvement in the offense charged?

12:11:44PM 5 **THE DEFENDANT:** Yes, sir.

6 **THE COURT:** That they can respond at the time of
7 sentencing to any statements you make or made on your behalf?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** That they can advocate for a sentence
12:11:52PM 10 consistent with this agreement?

11 **THE DEFENDANT:** Yes, sir.

12 **THE COURT:** They can oppose an application for a
13 downward departure for a sentence outside guideline range.

14 Do you understand that?

12:12:02PM 15 **THE DEFENDANT:** Yes, sir.

16 **THE COURT:** Do you understand in this case the
17 parties agree that the Court must order restitution in an
18 amount to be determined to be paid to the victims as part of
19 any sentence in this case?

12:12:17PM 20 **THE DEFENDANT:** Yes, sir.

21 **THE COURT:** And the Government at this time
22 estimates that the restitution in this matter will total
23 \$70.7 million; is that correct?

24 **THE DEFENDANT:** Yes, sir.

12:12:30PM 25 **THE COURT:** But also notes that there could be new

1 victims and additional losses that could be discovered prior
2 to sentencing and, therefore, this amount could increase.

3 Do you understand that?

4 **THE DEFENDANT:** Yes, sir.

12:12:41PM

5 **THE COURT:** And you agree to disclose fully and
6 completely any assets which may be within your control, you
7 exercise control over, directly or indirectly, including those
8 held by a spouse, a nominee or a third-party.

9 Do you understand that?

12:12:56PM

10 **THE DEFENDANT:** Yes, sir.

11 **THE COURT:** And you authorize release of all
12 financial information requested by the United States to
13 determine any assets or property within your control.

14 Do you understand that?

12:13:06PM

15 **THE DEFENDANT:** Yes, sir.

16 **THE COURT:** You'll submit to an examination under
17 oath or polygraph examination to be conducted on the issue of
18 your financial disclosures and assets.

19 Do you understand that?

12:13:17PM

20 **THE DEFENDANT:** Yes, sir.

21 **THE COURT:** And do you agree any financial records
22 and information provided to the Probation Office may be
23 disclosed to the United States Attorney's Office for the
24 collection of any unpaid financial obligations? And that
12:13:33PM 25 could be restitution, fines, or assessments.

1 Do you understand that?

2 **THE DEFENDANT:** Yes, sir.

3 **THE COURT:** Okay. Do you understand any monetary
4 penalties imposed at the time of sentencing are to be due and
12:13:48PM 5 payable in full immediately and subject to immediate
6 enforcement of the United States law?

7 Do you understand that?

8 **THE DEFENDANT:** Yes, sir.

9 **THE COURT:** I want to discuss with you your appeal
12:14:04PM 10 rights. Do you understand in this case you're limiting your
11 right to appeal any sentence imposed in this case. You
12 specifically waive the right to appeal and collaterally attack
13 any component of a sentence imposed by the Court which falls
14 within or is less than the sentencing range for imprisonment,
12:14:23PM 15 fine, or supervised release as set forth in this agreement?

16 Do you understand that?

17 **THE DEFENDANT:** I do.

18 **THE COURT:** In addition, you further agree not to
19 appeal a restitution order which does not exceed \$70.7
12:14:36PM 20 million.

21 Do you understand that?

22 **THE DEFENDANT:** Yes.

23 **THE COURT:** There's provisions under Section 8(a) on
24 pages 22(a), (b), (c) (d) and (e). Have you reviewed those
12:14:58PM 25 with your attorney?

1 **THE DEFENDANT:** Yes, I have.

2 **THE COURT:** Do you understand whether or not you
3 receive any consideration under that would first be based upon
4 a recommendation from the United States Attorney's Office?

12:15:08PM 5 **THE DEFENDANT:** Yes.

6 **THE COURT:** And then, second, it would be up to the
7 Court to determine whether or not you should receive any
8 consideration?

9 **THE DEFENDANT:** Yes, I understand.

12:15:14PM 10 **THE COURT:** Specifically under paragraph 29(e) this
11 indicates that there's potential or consideration of a
12 departure downward from the guidelines of at least five
13 levels, which would result in a total offense level of 38 and
14 sentencing range of 232 to 293 months of imprisonment; is that
15 correct?

16 **THE DEFENDANT:** Yes.

17 **THE COURT:** Okay. For some reason I think I
18 misspoke. Didn't I indicate the offense level at 48?

19 **MR. FIELD:** Yes.

12:15:49PM 20 **THE COURT:** It should be 43.

21 **MR. FIELD:** Yes, Your Honor.

22 **THE COURT:** That's the maximum?

23 **MR. FIELD:** 43 is the maximum. It gets bumped down
24 to 43.

12:15:55PM 25 **THE COURT:** When I discussed that earlier sentencing

1 guidelines, I indicated the offense level at 48. However,
2 based upon the maximum potential offense level under the
3 guidelines is 43, it gets reduced to 43.

4 Do you understand that?

12:16:09PM 5 **THE DEFENDANT:** Yes, sir.

6 **THE COURT:** Then if, in fact, there is a five level
7 downward departure, then it goes down to 38.

8 Do you understand that?

9 **THE DEFENDANT:** Yes, sir.

12:16:16PM 10 **THE COURT:** Okay. Is there anything about those
11 provisions that you don't understand? Anything you want to
12 clarify with your counsel?

13 **THE DEFENDANT:** No, I'm all set.

14 **THE COURT:** Next I want to discuss with you the
12:16:35PM 15 forfeiture provisions. This indicates based upon the plea in
16 this case you're agreeing to forfeit certain property, which
17 means you're not going to contest forfeiture of the
18 abandonment of certain property or claim any interest or title
19 or right to that property.

12:16:55PM 20 Do you understand that?

21 **THE DEFENDANT:** Yes.

22 **THE COURT:** And that includes all right, title and
23 interest to the deed of trust recorded in Jackson County,
24 Missouri Clerk's Office regarding a particular property that
12:17:13PM 25 is described in Exhibit A attached to this plea agreement; is

1 that correct?

2 **THE DEFENDANT:** Yes.

3 **THE COURT:** And you agree that that property which
4 is described in attachment A to this plea agreement was
12:17:27PM 5 purchased with proceeds derived from the offenses in Counts 1
6 and 2 of this agreement?

7 **THE DEFENDANT:** Yes, sir.

8 **THE COURT:** Which is the conspiracy to commit mail
9 fraud and the mail fraud; is that correct?

12:17:41PM 10 **THE DEFENDANT:** Yes, sir.

11 **THE COURT:** In addition, that you're agreeing to
12 forfeit any interest to a 2013 BMW; is that right?

13 **THE DEFENDANT:** Yes, sir.

14 **THE COURT:** In addition, you're giving up any
12:17:53PM 15 interest in one SanDisk thumb drive Cruzer Glide 32 gigabyte
16 that was seized on June 19, 2018; is that correct?

17 **THE DEFENDANT:** Yes, sir.

18 **THE COURT:** Also property seized on December 6th,
19 2018, in a location in Salinas, California that includes 13
12:18:21PM 20 Dell desktop computers; is that correct?

21 **THE DEFENDANT:** Yes, sir.

22 **THE COURT:** And property that was seized on June 19,
23 2018, from 1100 Long Pond Road, that included a Verizon
24 Android device, one My Book Essential external hard drive, and
12:18:43PM 25 one Dell PowerEdge T320 computer tower; is that correct?

1 **THE DEFENDANT:** Yes, sir.

2 **THE COURT:** In addition, property seized on June 19,
3 2018 from 83 Derrick, which includes one Western Digital
4 external hard drive, a Verizon cell phone, a Sony laptop, a
12:19:06PM 5 memory card -- Toshiba memory card, an Optima memory card,
6 SanDisk memory card, and one SimpleTech memory card, an
7 additional memory card SanDisk, one SanDisk Cruzer 2 gigabyte
8 flash drive; is that correct?

9 **THE DEFENDANT:** Yes, sir.

12:19:32PM 10 **THE COURT:** And then property seized on June 19,
11 2018 from 54 Kensington Court in Rochester, which includes a
12 Samsung Galaxy Note 3, Toshiba laptop, one Western Digital My
13 Book, one Samsung tablet, and a second Samsung tablet; is that
14 correct?

12:19:56PM 15 **MR. NOBLES:** Judge, I don't believe my client's
16 familiar with that address. Let me find out from Mr. Field
17 what that is.

18 That's R.V.'s address, the employee who was
19 responsible for the banking matters. She had some computers,
12:20:11PM 20 business-related computers at her location, but according to
21 R.V. these belonged to the business which was owned by
22 Mr. Santillo and his partner.

23 **THE COURT:** Okay. Do you challenge any forfeiture
24 of that particular property?

12:20:24PM 25 **THE DEFENDANT:** I don't challenge a forfeiture. I

1 don't know what it is. She had decided she would part from
2 working with me and continued to work with my former partner.
3 I don't know what any of that is.

4 **THE COURT:** Okay.

12:20:33PM 5 **THE DEFENDANT:** I have no objection to it.

6 **THE COURT:** Thank you. You additionally agree there
7 would be a monetary judgment in the sum of \$70.7 million in
8 United States currency, a sum to be paid at the time of the
9 plea by certified or bank check; is that correct?

12:20:55PM 10 **THE DEFENDANT:** Yes.

11 **THE COURT:** And, again, if that sum is not paid it's
12 to be evidenced by a judgment issued; is that correct?

13 Do you understand that?

14 **THE DEFENDANT:** Yes, sir.

12:21:05PM 15 **THE COURT:** And do you understand that there's also
16 a Chase account. Why don't you explain that? In paragraph
17 (i).

18 **MR. NOBLES:** Would you like me to explain it?

19 **MR. FIELD:** Go ahead.

12:21:35PM 20 **MR. NOBLES:** Sure. Your Honor, this action was
21 initially commenced by an SEC action in the Southern District
22 of New York. Mr. Santillo had prior counsel that represented
23 him on a petition and order for him to be able to keep some
24 income that was unrelated to the alleged scheme.

12:21:52PM 25 As it was determined by that Court prior to my

1 representation, any money that came in on a monthly basis
2 Mr. Santillo would be able to keep 5% of that or use it for
3 business expenses, whatever the case might be.

4 The rest of it was to be held for future seizure,
12:22:06PM 5 restitution, whatever the case might be.

6 I had applied to the judge in that case, in the SEC
7 action in order to open a separate and distinct trust account
8 solely for Mr. Santillo from which we could accumulate that
9 money and do with whatever it was required by the Government,
12:22:22PM 10 minus the 5% monthly that he's entitled to.

11 That's exactly what we've done, Judge. And, in
12 fact, there was recently a check delivered to the
13 U.S. Marshals and I believe \$1,084,000, thereabouts
14 approximately. I don't know if there's exact number here in
12:22:39PM 15 this paragraph. I don't see one.

16 But there was recently a transfer of essentially
17 all of the assets of that account to the marshals. I can tell
18 you that as of today there's an additional \$51,000 in that
19 account, and essentially what it is is recurring revenue from
12:22:56PM 20 insurance premiums that Mr. Santillo had sold through a
21 different company that continues to pay on a monthly basis and
22 those accrue at approximately 50 to \$60,000 a month.

23 So we're continuing to collect that money, maintain
24 that money and deliver it to the marshals based on the
12:23:13PM 25 agreement that we've entered into.

1 If you have any questions, I'm happy to answer
2 them. That's basically the synopsis.

3 **THE COURT:** And what is this reference to the
4 \$500,000?

12:23:27PM 5 **MR. NOBLES:** So the agreement is going forward when
6 we reach an additional \$500,000, that would again be turned
7 over. So what we've agreed to is that I'll collect the money
8 until we get to \$500,000, I'll turn it over, we'll collect
9 money until it gets to another 500,000, turn it over in an
12:23:42PM 10 ongoing fashion like that.

11 **THE COURT:** Do you understand that, Mr. Santillo?

12 **THE DEFENDANT:** Yes, sir.

13 **THE COURT:** And you agree with that that's the case?

14 **THE DEFENDANT:** Yes, sir.

12:23:48PM 15 **MR. NOBLES:** As I said, Judge, over a million
16 dollars has already been deposited with the Marshal's Office.

17 **THE COURT:** You understand, Mr. Santillo, as part of
18 your guilty plea that ultimately the Court will issue a
19 preliminary Order of Forfeiture for the properties that we've
12:24:04PM 20 discussed?

21 Do you understand that?

22 **THE DEFENDANT:** Yes, sir.

23 **THE COURT:** And you're waiving any right to a notice
24 of that preliminary order or any challenge to that preliminary
12:24:13PM 25 order.

1 Do you understand that?

2 **THE DEFENDANT:** Yes, sir.

3 **THE COURT:** Ultimately the Court will issue a final
4 Order of Forfeiture as well.

12:24:18PM 5 Do you understand that?

6 **THE DEFENDANT:** Yes, sir.

7 **THE COURT:** Okay. Anything else, Mr. Field, you
8 think should be articulated regarding the forfeitures?

9 **MR. FIELD:** No, that's it, Judge. Thank you.

12:24:32PM 10 **THE COURT:** Mr. Santillo, anything about this
11 agreement you do not understand?

12 **THE DEFENDANT:** No, sir.

13 **THE COURT:** Anything you want to ask Mr. Nobles?

14 **THE DEFENDANT:** No, sir.

12:24:38PM 15 **THE COURT:** If you can then sign the agreement
16 acknowledging your understanding of it?

17 **MR. FIELD:** Your Honor, while he's doing that I
18 noticed one additional redaction that should be made, which is
19 in page 7, subparagraph (o). The Government inadvertently
12:25:00PM 20 identifies Mr. Santillo's partner by his last name. If we
21 could just redact that and change the name to the initials
22 C.P., before the document is publicly filed. The sentence
23 begins in May 2012 Santillo and....

24 **THE COURT:** I may have seen that in another
12:25:23PM 25 location, I'm not sure, but if it is located in any other

1 paragraphs that as well will be changed to C.P..

2 **MR. FIELD:** Thank you, Judge.

3 **THE COURT:** Thank you. The Court does have the plea
4 agreement which has been signed by Mr. Field on behalf of the
12:25:51PM 5 Government; by Mr. Nobles; and by Mr. Santillo.

6 Do you have the waiver down there? Do you want to
7 execute the waiver?

8 **MR. NOBLES:** Sure. I've already signed the waiver.
9 I don't know if you want to instruct my client or ask him any
12:26:03PM 10 questions before he signed it.

11 **THE COURT:** No, he can sign it, then I'll ask him.

12 **MR. NOBLES:** All right, sign right there.

13 **MR. FIELD:** Your Honor, my colleague from the Asset
14 Forfeiture Division wanted me to place on the record that
12:26:12PM 15 there's some language in there about a restoration request,
16 that that is not a guaranteed event, that that decision is not
17 within our control, but will be made by MLARS at Main Justice
18 in Washington, D.C.

19 **THE COURT:** Okay. I know that does become an issue
12:26:27PM 20 down the road at times, so why don't you explain that in more
21 detail so Mr. Santillo understands what that is.

22 **MR. FIELD:** Yes. So there's a concept of
23 restoration which basically provides that when there is
24 forfeiture of proceeds that are the same as restitution monies
12:26:42PM 25 that are paid, that money that's being forfeited will be

1 applied to the payment of victims as restitution rather than
2 as a separate forfeiture which benefits the United States.

3 And to effect that, a request needs to be made by
4 the U.S. Attorney's Office to do that. That request is made
12:27:02PM 5 to a unit that's referred to as MLARS, the money laundering
6 something or other unit in Washington, D.C., and an individual
7 there, a high ranking individual there, I can't remember if
8 it's the Associate Attorney General or someone similar, will
9 make the final decision about whether to approve that or not.

12:27:19PM 10 But the long and short of it is we will make the
11 request, but we're not guaranteeing that that request will be
12 granted. It may be granted, it may not be granted.

13 **MR. NOBLES:** Judge, can I have just have another
14 minute to explain that to my client?

12:27:32PM 15 **THE COURT:** Sure.

16 **THE DEFENDANT:** I understand.

17 **THE COURT:** Well, I want to explain it to you again
18 just to make sure you understand it. In this case we're
19 really looking at two pots of money. There's a forfeiture of
12:28:12PM 20 property that we went through, and there's also the order of
21 restitution to victims.

22 What Mr. Field is saying is that part of this
23 agreement they're agreeing that some of the forfeited -- they
24 will recommend that some of the forfeited property could be
12:28:25PM 25 utilized to pay restitution.

1 Correct?

2 **MR. FIELD:** That's correct.

3 **THE COURT:** However, that's simply a recommendation
4 by the United States Attorney here, and the ultimate decision
5 is up to officials in the Department of Justice to determine
6 whether or not any of the forfeited properties should be
7 applied to the restitution, and there's no guarantee of that.

8 Do you understand that?

9 **THE DEFENDANT:** Yes, I understand.

10 **THE COURT:** It's a complicated issue and I know
11 people don't always understand it, but I'm sure Mr. Nobles has
12 explained it. I just want to make sure you understand that as
13 well.

14 **THE DEFENDANT:** Thank you.

15 **THE COURT:** Mr. Santillo, did you just sign this
16 document called Waiver of Indictment?

17 **THE DEFENDANT:** Yes, I did.

18 **THE COURT:** Do you understand by signing that
19 document you're giving up your right to have the matter
20 presented to a grand jury?

21 **THE DEFENDANT:** Yes, I do.

22 **THE COURT:** And instead you're agreeing to be
23 prosecuted by an information filed by the United States
24 Attorney?

25 **THE DEFENDANT:** Yes, I do.

1 **THE COURT:** That information has the same force and
2 effect as an indictment filed by the grand jury?

3 **THE DEFENDANT:** Yes.

4 **THE COURT:** Okay. Do you have any questions about
12:29:15PM 5 the waiver process?

6 **THE DEFENDANT:** No, sir.

7 **THE COURT:** Based upon that the Court will approve
8 the Waiver of Indictment.

9 I know there were a number of changes to the plea
12:29:27PM 10 agreement. Were there any changes to the information as
11 provided to the Court?

12 **MR. FIELD:** No, not to my knowledge, Your Honor,
13 that should be the same. You should have a signed copy that I
14 signed earlier today.

15 **THE COURT:** I do. Is your client ready to proceed?

16 **MR. NOBLES:** Yes, Judge.

17 **THE COURT:** Mr. Santillo, I'm going to read to you
18 separately each of these three counts of the information and
19 at the end of each one I'll ask you how you plead to that
12:29:55PM 20 count, guilty or not guilty.

21 Count 1 charges you with conspiracy to commit mail
22 fraud. Indicates from in or about January 2008 to in or about
23 June 2018, in the Western District of New York and elsewhere,
24 that you the defendant, Perry Santillo, Jr., did knowingly,
12:30:19PM 25 willfully and unlawfully combine, conspire and agree with C.P.

1 and others to devise a scheme and artifice to defraud and to
2 obtain monies by means of false pretenses, representations and
3 promises, and for the purpose of executing such scheme and
4 artifice, to place in any post office or authorized depository
12:30:45PM 5 for mail matter any matter or thing whatever to be sent or
6 delivered by the Postal Service; to deposit and cause to be
7 deposited any matter or thing whatever to be sent or delivered
8 by any private or commercial interstate carrier; to take and
9 receive therefrom and such matter or thing; and to knowingly
12:31:12PM 10 cause to be delivered by mail or such carrier according to the
11 direction thereon.

12 I'll ask you how you plead to that charge of
13 conspiracy to commit mail fraud, guilty or not guilty?

14 **THE DEFENDANT:** Guilty, Your Honor.

12:31:25PM 15 **MR. FIELD:** I assume the defendant waives a full
16 reading of that charge, Your Honor.

17 **MR. NOBLES:** We would, Your Honor.

18 **THE COURT:** You waive -- this does articulate the
19 means by which the object of the conspiracy was accomplished,
12:31:43PM 20 as well as details of that.

21 Do you waive a further reading of that ?

22 **THE DEFENDANT:** Yes, sir.

23 **THE COURT:** Count 2 charges you with mail fraud.
24 Indicates from in or about January 2008 to in or about June
12:31:58PM 25 2018, within the Western District of New York and elsewhere,

1 that you the defendant, Perry Santillo, Jr., did devise a
2 scheme and artifice to defraud and to obtain money by means of
3 false pretenses, representations and promises, that is, the
4 Ponzi scheme that was described in the conspiracy to commit
12:32:21PM 5 mail fraud count.

6 For the purpose of executing such scheme and
7 artifice and attempting to do so on or about May 19, 2017,
8 that you the defendant, Perry Santillo, did knowingly cause to
9 be delivered by commercial interstate carrier according to the
12:32:44PM 10 direction thereon, that is, by Federal Express to
11 Lucian Development in Rochester, New York, a check from victim
12 4 in the amount of \$282,310.57.

13 I'll ask you how you plead to that count of mail
14 fraud, guilty or not guilty?

12:33:08PM 15 **THE DEFENDANT:** Guilty, sir.

16 **THE COURT:** Finally the charge of money laundering
17 conspiracy. Indicates from in or about January 2008 to in or
18 about June 2018, in the Western District of New York and
19 elsewhere, that you the defendant, Perry Santillo, Jr., did
12:33:31PM 20 knowingly, willfully and unlawfully combine, conspire and
21 agree with C.P. and with others to conduct financial
22 transactions which involved the proceeds of a specified
23 unlawful activity, that is, mail fraud and wire fraud, knowing
24 that the transactions were designed in whole or in part to
12:33:56PM 25 conceal and disguise the nature, the location, the source, the

1 ownership and the control of the proceeds of said specified
2 unlawful activity, and knowing that the property involved in
3 the financial transaction represented the proceeds of some
4 form of unlawful activity.

12:34:19PM 5 Again, do you waive a full reading of that count as
6 well?

7 **THE DEFENDANT:** Yes, I do.

8 **THE COURT:** How do you plead --

9 **THE DEFENDANT:** Guilty.

12:34:26PM 10 **THE COURT:** -- to that charge of money laundering
11 conspiracy, guilty or not guilty?

12 **THE DEFENDANT:** Guilty.

13 **THE COURT:** The Court's had an opportunity to speak
14 with the defendant for a significant period of time. He's 39
12:34:47PM 15 years of age. Is a college graduate. Indicated that nobody's
16 forcing him, coercing him or threatening him to enter a plea
17 of guilty.

18 That he's not taking any medications or drugs. Has
19 no health or medical condition affecting his ability to
12:35:02PM 20 understand these proceedings.

21 That he's had an opportunity to review this matter
22 with his attorney Mr. Nobles. Is satisfied with his
23 representations. Understands that he has a right to counsel
24 throughout these proceedings right through the time of
12:35:17PM 25 sentencing.

1 He understands he has a right to continue his plea
2 of not guilty. However, when he does plead guilty he gives up
3 certain rights, including his right to have a trial by jury or
4 judge; his right to allow his attorney to cross-examine
12:35:30PM 5 witnesses on his behalf; his right to have the Government
6 prove the case against him beyond a reasonable doubt.

7 If the matter did go to trial, he would have the
8 right to testify, present evidence, and subpoena witnesses for
9 trial. However, he cannot be compelled to do any of that
12:35:49PM 10 because he has a presumption of innocence, and the burden of
11 proof rests on the Government.

12 He's agreeing to waive indictment, giving up his
13 right to have this matter presented to a grand jury. Instead,
14 agreeing to plead guilty to a three count information filed by
12:36:04PM 15 the United States Attorney which has the same force and effect
16 as an indictment filed by the grand jury.

17 Count 1, charging you with conspiracy to commit
18 mail fraud, carries a maximum sentence of 20 years
19 imprisonment, fine up to \$250,000, a special assessment of
12:36:21PM 20 \$100, and term of supervised release of three years.

21 Count 2, mail fraud, which also calls for a term of
22 imprisonment -- maximum term of 20 years, a fine up to
23 \$250,000, a mandatory \$100 special assessment, and a term of
24 supervised release of three years.

12:36:40PM 25 That third count charges you with conspiracy to

1 launder money. That carries a maximum sentence of 20 years
2 imprisonment, a fine up to \$500,000, a mandatory \$100 special
3 assessment, and a term of supervised release of three years.

4 He understands if he's sentenced to a period of
12:37:01PM 5 supervised release and violates the conditions of supervised
6 release that he could receive a sentence up to six years
7 imprisonment without receiving credit for the time he served
8 on supervised release.

9 He indicates he understood the elements of each of
12:37:15PM 10 these charges: Conspiracy to commit mail fraud, mail fraud
11 and conspiracy to launder money.

12 In addition, he did articulate a factual basis, a
13 number of the facts were articulated by Mr. Field, and
14 Mr. Santillo agreed that what Mr. Field said was accurate. In
12:37:36PM 15 addition, he did articulate a number of factors on his own
16 behalf regarding the scheme, his understanding of the scheme,
17 his knowing involvement.

18 **MR. FIELD:** Your Honor, if I just may briefly
19 interrupt and ask the Court to just confirm with Mr. Santillo
12:37:55PM 20 that with respect to the entirety of the factual basis that's
21 set forth in the plea agreement, that he agrees with it or at
22 a minimum has no grounds to dispute what's in it to the extent
23 it does not involve personal conduct by him.

24 **THE COURT:** Mr. Santillo, there's -- obviously we
12:38:10PM 25 went through the factual basis and you gave some personally

1 and Mr. Field summarized it. It's articulated in great detail
2 over a number of pages of the agreement, from pages 3 through
3 and including pages 14.

4 Do you dispute any of those facts in there?

12:38:29PM 5 **THE DEFENDANT:** No, sir.

6 **THE COURT:** Okay. You did indicate some of the
7 information not all known to you personally, but overall the
8 facts as articulated in there are accurate and you agree with
9 those?

12:38:39PM 10 **THE DEFENDANT:** Overall the facts are accurate.

11 **THE COURT:** Next I want to discuss the sentencing
12 guidelines. The defendant did indicate he understood the
13 calculation of the sentencing guidelines.

14 This charge carries a base offense level of 48.

12:38:52PM 15 There are a number of additions to that, including -- did I
16 say 48 again? I meant 43. 43. Calculated by an initial
17 fraud base level of 7.

18 Based upon the loss, a 24 offense level increase.

19 Based upon the hardship to 25 or more persons, a
12:39:24PM 20 six offense level increase.

21 Based upon the scheme involving a sophisticated
22 means, a two offense level.

23 Based upon it being a violation of securities law,
24 a four offense level.

12:39:37PM 25 Based upon a conviction under Title 18, United

1 States Code, Section 1956, a two offense level increase.

2 Based upon the fact that the defendant was a leader
3 of a criminal activity, a four offense level increase.

4 Based upon the fact the defendant knew or should
12:39:55PM 5 have known that a victim of the offense was a vulnerable
6 victim, a two level increase, resulting in a total offense
7 level of -- excuse me, an adjusted offense level of 51.

8 There's a three level downward adjustment for his
9 acceptance of responsibility, which results in a total offense
12:40:10PM 10 level of 48. Based upon the fact that the maximum level under
11 the guidelines is a level 43, the total offense level would be
12 43.

13 When that's combined with his criminal history
14 category of I, results in a term of imprisonment under the
12:40:26PM 15 guidelines of 60 years; a fine of twice the pecuniary loss,
16 that is \$141.4 million; and a period of supervised release of
17 three years. Nevertheless, the defendant understands he's
18 subject to the maximum penalties as previously discussed.

19 Both parties have reserved the right to recommend a
12:40:53PM 20 sentence outside the guidelines.

21 In addition, the defendant's anticipated to enter a
22 plea of guilty in the Middle District of Pennsylvania to a one
23 count information. The sentence for the instant offense is
24 recommended to be imposed concurrent to any sentence that may
12:41:15PM 25 be imposed in the Middle District of Pennsylvania.

1 If this plea is withdrawn, vacated or set aside,
2 the original charges would be refiled and the defendant waives
3 his right to advance the statute of limitations defense or the
4 time limit for refiling those charges.

12:41:31PM 5 He indicates he is a citizen of the United States.
6 However, if for some reason it's deemed he is not, he
7 understands he could be removed from the United States, denied
8 citizenship or denied admission to the United States based
9 upon a conviction of this offense.

12:41:45PM 10 The Government reserves their right to provide
11 Probation and the Court with information regarding this charge
12 as well as the defendant's background, character and
13 involvement in the offense.

14 They can respond at the time of sentencing to
15 statements made by the defendant or made on his behalf.

16 The Government may oppose an application for a
17 downward departure.

18 He understands the Court must order restitution in
19 an amount determined to be paid to the victims as part of any
12:42:14PM 20 sentence in this case, and the Government estimates that the
21 restitution in this matter will total \$70.7 million, but notes
22 new victims and additional losses may be discovered prior to
23 sentencing and, therefore, this amount may increase.

24 The defendant agrees to disclose fully and
12:42:34PM 25 completely any assets that may be within his control that

1 could be utilized to collect on any restitution or unpaid
2 financial obligations, including fines and assessments.

3 That he will provide information to Probation which
4 in turn may be disclosed to the United States Attorney's
12:42:52PM 5 Office for the collection of such unpaid financial
6 obligations.

7 That the defendant is limiting his right to appeal
8 the sentence in this case. If, in fact, the Court imposed a
9 sentence in accordance with this agreement or less than the
12:43:07PM 10 guidelines as articulated, that he's waiving or giving up his
11 right to appeal that sentence.

12 In addition, he agrees not to appeal a restitution
13 order which does not exceed \$70.7 million.

14 There's provisions under Section 8(a), which the
12:43:31PM 15 defendant indicated he has discussed completely with his
16 counsel and understands those. That goes pages 22(a) through
17 22(e). He understands whether or not he receives any
18 consideration will first be determined by a recommendation
19 from the United States Attorney, ultimately it would be up to
12:43:50PM 20 the Court whether or not he should receive any consideration.

21 If the Government does move to depart pursuant to
22 this agreement by at least five levels, which would reduce the
23 total offense level to 38, when combined with a criminal
24 history category I would result in a sentencing range of 235
12:44:11PM 25 months to 293 months of imprisonment.

1 In addition, the defendant understood he's
2 forfeiting certain property which is articulated on pages 23,
3 24 of this agreement, which means he gives up any claim or
4 interest to that particular property, and will also execute
12:44:39PM 5 any documents to allow that forfeiture to occur.

6 The defendant did indicate he understood the
7 agreement in its entirety, signed the agreement acknowledging
8 that.

9 Based upon all that the Court finds that the plea
12:45:02PM 10 to the three count information charging the defendant with
11 conspiracy to commit mail fraud in the first count, mail fraud
12 in the second count, and money laundering conspiracy in the
13 third count is in all respects knowing and voluntary. The
14 Court does accept the plea of guilty.

12:45:24PM 15 The defendant's release status?

16 **MR. NOBLES:** Yes, Judge.

17 **MR. FIELD:** So this is the defendant's first
18 appearance in court. The Government has received a copy of a
19 bail report that was prepared by the Probation Department.

12:45:36PM 20 The Government is not asking that Mr. Santillo be detained at
21 this point, but is prepared to recommend -- join Probation in
22 recommending that Mr. Santillo be released on the conditions
23 that are specified in the bail report.

24 **THE COURT:** Probation, do you want to be heard on
12:45:52PM 25 that at all?

1 **MS. WHITCOMB:** No, Your Honor, unless you have any
2 questions.

3 **THE COURT:** Okay. The Court does have the
4 Pretrial Services report which contains an extensive interview
12:46:02PM 5 of the defendant along with his background, including his
6 history, residence, family ties, employment history, financial
7 resources. He has no prior criminal history. No indication
8 he would not return to court as directed. There is some
9 history of alcohol or substance abuse in the past.

12:46:34PM 10 Probation is recommending based upon their
11 interview and investigation that he be released on personal
12 recognizance with a number of conditions. The Court finds
13 that that is appropriate.

14 Did you want to be heard at all, Mr. Nobles?

12:46:49PM 15 **MR. NOBLES:** Judge, if I could just briefly?

16 **THE COURT:** Sure.

17 **MR. NOBLES:** I think Probation did a thorough job
18 here. My client and I met with the probation officer and
19 provided all of this information, as you know.

12:46:59PM 20 What's not included here, Judge, is that my client
21 retained me over a year ago. The provisions of the plea
22 agreement contained on pages 22(a) through (e) have been going
23 on since that time and we've had a number of meetings to
24 forward that.

12:47:17PM 25 In addition, to the recurring revenue that's been

1 turned over to the Government, Mr. Santillo came to me with a
2 piece of property that was owned by FNS and we effectuated its
3 sale with the permission of the SEC which funded \$150,000 of
4 that approximately million dollars that was turned over to the
5 Government. He has been in every way cooperative, Judge.

12:47:33PM

6 I don't have any issues with the terms and
7 conditions of release with the exception of I would like to
8 discuss with you recommendation (i). My client continues to
9 work, Judge, to try to provide for his family responsibilities
10 as well as paying for his legal fees, quite frankly, and he
11 has been -- and the Government is aware -- been working as
12 essentially a sales trainer/consultant.

12:47:51PM

13 The recurring revenue that comes in is from life
14 insurance sales. He owned a company called Advice on Life out
15 of Florida, and essentially that's recurring revenue from
16 previous insurance policies that had been told.

12:48:06PM

17 He no longer has any licenses, but he is working
18 with former colleagues in other businesses, essentially
19 training their individuals how to sell products. And he does
20 that -- there is no use for that here in Rochester, New York
21 because no one here does that in the same way that that was
22 done in south Florida and some other areas of the country
23 where this is common.

12:48:23PM

24 So he's been working for the last month in Florida;
25 he has worked during the last year in Tennessee, Texas, a

12:48:36PM

1 variety of other places.

2 So, Judge, I would first and foremost ask that we
3 not have to ask your permission for him to travel for work
4 purposes, but I would also ask, Judge, if there isn't
12:48:48PM 5 something less restrictive for Probation and my client to
6 effectuate his continued cooperation with them and
7 communication with them, but perhaps not having to ask for
8 permission every time he needs to go on a business trip.

9 He does not have the resources to fly, so he is
12:49:02PM 10 often driving to these locations, which obviously means he
11 travels through a number of different districts of different
12 states in different parts of the country in order to get to
13 the places where he's employed.

14 So, Judge, if there's a way we could do that that
12:49:15PM 15 would be less onerous on my client and less onerous on
16 Probation, I would suggest that maybe weekly contact or
17 check-ins or -- giving them his schedule or something along
18 those lines.

19 I just feel having to obtain permission to leave
12:49:27PM 20 the Western District from the Court certainly would be onerous
21 on Your Honor, we don't want to do, and also potentially
22 Probation.

23 I don't think he's a flight risk in any way. I've
24 outlined what he's done since he's engaged me over a year ago.
12:49:38PM 25 I think that Mr. Field did tell you that he's put forth

1 significant efforts to work in the pages that I previously
2 outlined, 22(a) through (e), and I don't believe they feel
3 he's a flight risk either at this time point.

4 **THE COURT:** How often does this travel occur?

12:49:52PM

5 **MR. NOBLES:** All the time, Judge. He may come home
6 for a weekend or a week; he works somewhere for two or three
7 weeks, comes home for a week, goes somewhere else, or maybe
8 back to the same location for two or three weeks at a time.

12:50:04PM

9 **THE COURT:** But he would know some time in advance
10 that he's going?

11 **MR. NOBLES:** Absolutely, yeah. He can certainly
12 give a schedule, there's no problem with that.

12:50:16PM

13 **THE COURT:** Okay. Do you see any problem with
14 changing that restriction to restrict travel to the Western
15 District unless the defendant provides advanced notice to
16 Probation that would be in a different location?

17 **MS. WHITCOMB:** Your Honor, that's essentially what
18 that condition is.

12:50:32PM

19 **THE COURT:** This says permission, which would seem
20 to indicate he would have to get permission before he leaves
21 each time.

12:50:46PM

22 **MS. WHITCOMB:** Your Honor, I think given the fact
23 that he's pled guilty at this point, I think that it's an
24 appropriate condition given the amount of time that he's
25 facing and being on pretrial supervision, I think it's

1 appropriate, but we'll defer to Your Honor.

2 **MR. NOBLES:** Judge, one other issue. I have his
3 passport here with me today. I tried to turn it in before
4 Court, but they said we had to do it after court. So we'll
5 take care of that momentarily.

12:51:01PM

6 **THE COURT:** No problem. Mr. Field, do you have a
7 position on that?

8 **MR. FIELD:** I really don't. I understand the
9 logistics involved of these repeated requests might be a
10 burden on Probation. If Probation is willing to take that
11 burden, I see no reason why we should change it, but I mean, I
12 think it's as simple as having Mr. Santillo tell Probation I'm
13 gonna be, you know, planning to be here, here and here in two
14 weeks and then just confirm that, you know, he's allowed to
15 go; or maybe we could change the condition to say that he's
16 required to provide at least two weeks advanced notice and is
17 entitled to go unless he hears otherwise that he can't go
18 or --

12:51:36PM

19 **MR. NOBLES:** That would be fine, Judge. We can
20 certainly give notice of where he's going to be and when if
21 there's an issue, Probation can let him know. I just don't
22 want to have to come back to the Court or Probation on a
23 regular basis to deal with it.

12:51:48PM

24 **THE COURT:** Okay. All right. We'll come up with
25 some language.

12:52:00PM

1 Mr. Santillo, I am going to grant your release on
2 your own personal recognizance with a number of conditions,
3 including that you report to the Pretrial Services within 24
4 hours today.

12:52:15PM 5 That you surrender any passport or passport card to
6 the Clerk of the Court. That you not obtain a passport or
7 other international travel document.

8 That you refrain from possessing a firearm,
9 destructive device or other dangerous weapon. And all
12:52:32PM 10 firearms must be removed from your home within 24 hours.

11 Refrain from the excessive use of alcohol.

12 Refrain from any use or unlawful possession of any
13 narcotic drug or other controlled substances unless prescribed
14 by a licensed medical practitioner or any other mind-altering
12:52:53PM 15 substances.

16 Submit to any method of testing required by the
17 Pretrial Service Office or supervising officer for determining
18 whether or not you have been using a prohibited substance.
19 Such methods include that may be used random frequency and
12:53:11PM 20 include urine testing, the wearing of a sweat patch or remote
21 alcohol testing system, and any form of prohibited substance
22 screening or testing including co-payment.

23 Participate in a program of inpatient or outpatient
24 substance abuse therapy and counseling only if recommended
12:53:32PM 25 subsequent to any testing and evaluation. And if that's the

1 case, I believe it would require the defendant's consent or
2 the Court's permission and order of the Court that any
3 inpatient services be provided. The defendant shall
4 contribute to any cost of any services rendered.

12:53:54PM 5 You must refrain from obstructing or attempting to
6 obstruct or tamper with the accuracy of any prohibited
7 substance testing.

8 And report within 72 hours to Pretrial any contact
9 with law enforcement personnel including, but not limited to,
10 any arrest, questioning, or traffic stop.

11 Regarding the travel, travel is restricted to the
12 Western District of New York unless advanced notice is
13 provided to the United States Probation Office or the Court,
14 and permission is granted for such travel. I'm not going to
15 give a particular date. I don't know how soon you need to do
16 that, okay?

17 **MR. NOBLES:** Judge, I didn't understand what your
18 order is.

19 **THE COURT:** He must give advanced notice and seek
12:54:44PM 20 permission by the United States Probation Office and/or the
21 Court of any travel outside the Western District.

22 **MR. NOBLES:** He does have to get permission to
23 travel outside the district?

24 **THE COURT:** If it becomes onerous, come back and
12:54:55PM 25 we'll change that condition.

1 **MR. NOBLES:** To be clear, he's got a trip planned
2 where he's leaving Saturday to go to Florida for three to four
3 weeks of work already.

4 **THE COURT:** This coming --

12:55:03PM 5 **MR. NOBLES:** -- he came back here solely to take the
6 plea today, and is certainly planning that travel already. I
7 wanted to make sure at least we can agree that's okay.

8 **THE COURT:** I think you just gave notice of that and
9 that would be permitted, yes.

12:55:16PM 10 **MR. NOBLES:** Okay, great.

11 **THE COURT:** Okay. Anything further?

12 **MR. NOBLES:** I don't think so.

13 **MR. FIELD:** There's some standard conditions that
14 aren't covered in these conditions that Mr. Santillo should be
12:55:26PM 15 advised about, including the requirement that he not commit
16 any crime while he's on release, as well as maybe not possess
17 a dangerous firearm or other dangerous weapon.

18 **MR. NOBLES:** I think that's included in (p).

19 **MR. FIELD:** Has that been covered? I apologize if
12:55:44PM 20 that's been covered.

21 **THE COURT:** Do you understand, Mr. Santillo, as well
22 it says you shall not commit any offense in violation of
23 federal, state or local law while on release in this case?

24 You must cooperate in the collection of a DNA
12:55:54PM 25 sample.

1 Advise the Court through Probation of any change of
2 address or telephone number.

3 Do you understand that as well?

4 **THE DEFENDANT:** Yes, sir.

12:56:12PM 5 **THE COURT:** I think that completes it.

6 **MR. FIELD:** Thank you, Judge.

7 **THE COURT:** All right. We need a date for
8 sentencing.

9 **MR. FIELD:** At this point, Your Honor, I'd ask that
12:56:28PM 10 a provisional date be scheduled, but maybe make it six months
11 in advance at this point, Your Honor, if that's okay with the
12 defendant.

13 **MR. NOBLES:** That should be fine.

14 **THE COURT:** Put the matter then on for March 6th,
12:57:00PM 15 9:30 --

16 **MR. NOBLES:** That's fine.

17 **THE COURT:** -- for sentencing, but understanding
18 that it's very likely that date will be changed. So okay,
19 thank you.

12:57:12PM 20 **MR. FIELD:** Thank you, Judge.

21 (**WHEREUPON**, proceedings adjourned at 12:57 p.m.)

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CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I certify that these original notes are a true and correct record of proceedings in the United States District Court for the Western District of New York before the Honorable Frank P. Geraci, Jr. on October 2nd, 2019.

S/ Christi A. Macri

Christi A. Macri, FAPR-CRR
Official Court Reporter