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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 18-80179-CR-COHN

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
-v-	)	
	)	
ANTHONY MICHAEL D'AMICO,	)	
	)	
Defendant.	)	Fort Lauderdale, Florida
	)	February 14, 2019
_____	)	8:53 a.m.

CORRECTED TRANSCRIPT OF PLEA PROCEEDINGS  
BEFORE THE HONORABLE JAMES I. COHN  
U.S. DISTRICT JUDGE

Appearances:

For the Government:	ROBERT JUMAN
	Assistant United States Attorney
	500 East Broward Boulevard
	Fort Lauderdale, Florida 33394

For the Defendant:	DIMOND KAPLAN & ROTHSTEIN, PA
	BY: BRIAN RAYMOND, ESQ.
	515 North Flagler Drive, P-300
	West Palm Beach, Florida 33401

Also Present: John Garcia

Reporter:	Karl Shires, RMR, FCRR
(954) 769-5496	Official Court Reporter
	299 East Broward Boulevard, # 203G
	Fort Lauderdale, Florida 33301

1 (Call to Order of the Court.)

2 THE COURT: Good morning. The matter before the Court  
3 is the United States of America versus Anthony Michael D'Amico.  
4 This is Case Number 18-80179-CR.

5 Mr. D'Amico present. He is represented by Brian  
6 Raymond and John Garcia. The government is represented by  
7 Assistant United States Attorney Robert Juman.

8 It is the Court's understanding that pursuant to a  
9 written plea agreement that Mr. D'Amico wishes to enter a  
10 guilty plea to Counts 1 through 5 of the indictment.

11 Is that correct, Mr. Raymond?

12 MR. RAYMOND: Yes.

13 THE COURT: Mr. D'Amico, I need to ask you some  
14 questions, sir. You may remain seated. Just make sure you  
15 speak into the microphone.

16 Would you kindly raise your right hand.

17 (The Defendant was duly sworn.)

18 THE COURT: Okay. You can put your hand down now.

19 Do you understand that you are now under oath and that  
20 if you answer any of my questions falsely, your answers may  
21 later be used against you in another prosecution for perjury or  
22 making a false statement?

23 THE DEFENDANT: Yes.

24 THE COURT: Would you state your full name, please.

25 THE DEFENDANT: Anthony Michael D'Amico.

1 THE COURT: How old are you?

2 THE DEFENDANT: 35.

3 THE COURT: And how far did you go in school?

4 THE DEFENDANT: Through college.

5 THE COURT: What college did you attend?

6 THE DEFENDANT: First Wagner, eventually Brooklyn  
7 College.

8 THE COURT: Okay. And in the last year, have you been  
9 treated for any type of mental illness or addiction to a  
10 narcotic drug of any kind?

11 THE DEFENDANT: No.

12 THE COURT: Have you taken or consumed any drugs,  
13 medication, or alcoholic beverage within the last 24 hours?

14 THE DEFENDANT: No.

15 THE COURT: Do you believe you have a mental condition  
16 or a physical condition which would prevent you from  
17 understanding what is taking place here in court this morning?

18 THE DEFENDANT: No.

19 THE COURT: Have you ever been found incompetent by a  
20 court of law?

21 THE DEFENDANT: No.

22 THE COURT: And Mr. Raymond, do you have any reason to  
23 believe that Mr. D'Amico is not competent to enter a plea?

24 MR. RAYMOND: I do not.

25 THE COURT: Mr. D'Amico, have you received a copy of

1 the indictment pending against you?

2 THE DEFENDANT: Yes.

3 THE COURT: And have you fully discussed the charges  
4 and the case in general with your attorneys Ms. Suskauer,  
5 Mr. Raymond, and Mr. Garcia?

6 THE DEFENDANT: Yes.

7 THE COURT: Are you satisfied with the representation  
8 and advice given to you by your attorneys?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that Counts 1 through 5  
11 of the indictment charge wire fraud?

12 THE DEFENDANT: Yes.

13 THE COURT: Do you understand that based upon your  
14 guilty plea the Court may impose a sentence of up to 20 years  
15 in prison, followed by a term of supervised release of up to  
16 three years, a fine of up to the greater of \$250,000 or twice  
17 the pecuniary gain or loss caused by the offense; in addition,  
18 the Court may order restitution, may order forfeiture of  
19 assets, and there is a special assessment of \$100 per count for  
20 a total of \$500, and those penalties could be imposed as to  
21 each count to be run consecutively?

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you have any questions regarding the  
25 possible penalties that could be imposed based upon your plea

1 of guilty as to Counts 1 through 5?

2 THE DEFENDANT: No.

3 THE COURT: Mr. Juman, would you kindly set forth the  
4 elements of wire fraud?

5 MR. JUMAN: Yes, Your Honor.

6 First, the defendant knowingly devised or participated  
7 in a scheme to defraud or to obtain money or property by using  
8 false pretenses, representations, or promises;

9 Second, the false pretenses, representations, or  
10 promises were about a material fact;

11 Third, the defendant acted with the intent to defraud;  
12 and

13 Fourth, the defendant transmitted or caused to be  
14 transmitted by wire some communication in interstate commerce  
15 to help carry out the scheme to defraud.

16 THE COURT: Mr. Raymond, are you in agreement that the  
17 elements were correctly stated?

18 MR. RAYMOND: Yes.

19 THE COURT: And what steps have you, Ms. Suskauer, and  
20 Mr. Garcia taken in order to familiarize Mr. D'Amico with those  
21 elements and the charges pending against him?

22 MR. RAYMOND: Well, I know that Mr. D'Amico has met  
23 extensively with Ms. Suskauer, Mr. Garcia, Ms. Suskauer's  
24 associate, to discuss the elements of the crime and the case  
25 and the facts of the case.

1 THE COURT: Do you know whether Ms. Suskauer and  
2 Mr. Garcia discussed with Mr. D'Amico the application of the  
3 Federal Sentencing Guidelines?

4 THE DEFENDANT: Yes.

5 THE COURT: And Mr. D'Amico, is that your  
6 understanding as well, sir?

7 THE DEFENDANT: Yes.

8 THE COURT: Mr. D'Amico, do you understand that the  
9 Court is required to compute an advisory sentence under the  
10 Federal Sentencing Guidelines?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that the advisory  
13 sentence will be determined by the Court relying in part on a  
14 presentence investigation which is conducted by the US  
15 Probation Office?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you understand that under certain  
18 circumstances the Court may depart from the advisory sentencing  
19 guidelines range and may either raise or lower the advisory  
20 sentence?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that the Court is  
23 required to consider the advisory sentencing guideline range;  
24 however, the Court is not bound to impose a sentence within  
25 that range?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand the Court's sentence may  
3 be either more severe or less severe than the sentencing  
4 guidelines advisory range?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that the Court has the  
7 authority to impose any sentence up to the statutory maximum  
8 authorized by law?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you further understand that parole has  
11 been abolished and that if you are sentenced to a term of  
12 imprisonment, you would not be released on parole?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand if you're not a United  
15 States citizen, that this plea may result in your deportation?

16 THE DEFENDANT: Yes.

17 THE COURT: Are you a US citizen?

18 THE DEFENDANT: Yes, I am.

19 THE COURT: Now, Mr. D'Amico, did you read the written  
20 plea agreement before you signed it?

21 THE DEFENDANT: Yes.

22 THE COURT: And did you fully discuss with your  
23 attorneys the terms and conditions contained in the written  
24 plea agreement?

25 THE DEFENDANT: Yes.

1 THE COURT: Do you understand the terms of the plea  
2 agreement?

3 THE DEFENDANT: Yes.

4 THE COURT: Were there any promises made to you that  
5 are not contained in the written plea agreement?

6 THE DEFENDANT: No.

7 THE COURT: Did you sign the plea agreement?

8 THE DEFENDANT: Yes.

9 THE COURT: Did anyone force you or coerce you to sign  
10 the plea agreement?

11 THE DEFENDANT: No.

12 THE COURT: Is anyone forcing you to enter a guilty  
13 plea to Counts 1 through 5?

14 THE DEFENDANT: No.

15 THE COURT: Are you entering a guilty plea of your own  
16 free will?

17 THE DEFENDANT: Yes.

18 THE COURT: Now, Paragraph 19 of the plea agreement  
19 contains what is commonly referred to as an appellate waiver,  
20 and let me review with you the pertinent language contained in  
21 Paragraph 19 to make certain that you understand the right that  
22 you're giving up therein.

23 Do you understand that in exchange for certain  
24 promises made by the government that you are agreeing to waive,  
25 that means to give up, your right to appeal any sentence



1 imposed, including any forfeiture or restitution order, or to  
2 appeal the manner in which the sentence was imposed unless the  
3 sentence either exceeds the maximum permitted by statute or is  
4 the result of an upward departure and/or an upward variance  
5 from the guideline range that the Court establishes at  
6 sentencing?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand that should the  
9 government elect to appeal this Court's sentence, you would be  
10 released from that appellate waiver and under those  
11 circumstances you could appeal this Court's sentence?

12 THE DEFENDANT: Yes.

13 THE COURT: Have you fully discussed the appellate  
14 waiver with your attorneys?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you have any questions regarding the  
17 legal effect of the appellate waiver?

18 THE DEFENDANT: No.

19 THE COURT: Understanding the legal effect of the  
20 appellate waiver, is it still your desire to go forward with  
21 this plea agreement and to go forward with the entry of a  
22 guilty plea?

23 THE DEFENDANT: Yes.

24 THE COURT: The Court finds that the defendant,  
25 Anthony Michael D'Amico, knowingly, intelligently, and

1 voluntarily waives his right to appeal sentence in accord with  
2 the language contained in Paragraph 19 of the plea agreement.

3 Now, Mr. D'Amico, do you understand that you do  
4 maintain the right to plead not guilty to each offense charged  
5 and to persist in that plea of not guilty?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand you have the right to a  
8 trial by jury?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand at that trial you would  
11 be presumed innocent and the government would have the burden  
12 of proving through the production of evidence your guilt beyond  
13 a reasonable doubt as to each offense charged?

14 THE DEFENDANT: Yes.

15 THE COURT: Do you understand you have the right to  
16 the assistance of counsel at that trial and if you could not  
17 afford counsel, the Court would appoint counsel to represent  
18 you?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you understand you have the right to  
21 see and hear all of the witnesses and have them cross-examined  
22 in your defense?

23 THE DEFENDANT: Yes.

24 THE COURT: Do you understand you have the right to  
25 the issuance of subpoenas or compulsory process to compel the

1 attendance of witnesses at that trial?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand you have the right to  
4 decline to testify unless you voluntarily elect to do so?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you understand that should you decide  
7 not to testify or to present any evidence in your defense,  
8 those facts could not be used against you in any way?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you understand that by entering a  
11 guilty plea you are thereby waiving, that is, giving up your  
12 right to a trial?

13 THE DEFENDANT: Yes.

14 THE COURT: Now, did you also read the five-page  
15 document entitled "Stipulated Factual Proffer"?

16 THE DEFENDANT: Yes.

17 THE COURT: Do you agree that the facts contained in  
18 that five-page document are all true and correct?

19 THE DEFENDANT: Yes.

20 THE COURT: And did you sign and date Page 5 of the  
21 Stipulated Factual Proffer thus indicating your agreement as to  
22 the truthfulness of the facts contained therein?

23 THE DEFENDANT: Yes.

24 THE COURT: The Court will incorporate by reference  
25 herein the Stipulated Factual Proffer and it will be made a

1 part of the record of this plea colloquy.

2 Mr. Raymond, are you satisfied that Mr. D'Amico  
3 understands his rights, what he is giving up, and that there is  
4 a sufficient basis for his plea?

5 MR. RAYMOND: Yes.

6 THE COURT: Mr. D'Amico, do you have any questions  
7 that you would like to ask me?

8 THE DEFENDANT: No.

9 THE COURT: Having made your representation as to  
10 Counts 1 through 5 of this indictment, how do you plead as to  
11 each of those counts: Guilty or not guilty?

12 THE DEFENDANT: Guilty.

13 THE COURT: It is the find of this Court in Case  
14 Number 18-80179-CR, United States of America versus Anthony  
15 Michael D'Amico, that the defendant is fully competent and  
16 capable of entering an informed plea, that the defendant is  
17 aware of the nature of the charges and the consequences of his  
18 plea, and that his plea of guilty is a knowing and voluntary  
19 plea which is supported by an independent basis in fact  
20 containing each of the essential elements of the offenses  
21 charged in Counts 1 you through 5. Therefore, Mr. D'Amico's  
22 plea is hereby accepted, and the defendant, Anthony Michael  
23 D'Amico, is hereby adjudged guilty of Counts 1 through 5, each  
24 charging wire fraud, in violation of Title 18 United States  
25 Code §§ 1343 and 2.

1 Sentencing will be deferred until.

2 THE COURTROOM DEPUTY: April 24, 2019, at 9:00 a.m.

3 THE COURT: The Court will order a presentence  
4 investigation report returnable to this Court within the time  
5 parameters set forth by the local rules.

6 Mr. D'Amico, as I indicated earlier, the presentence  
7 report is prepared by US Probation in order to assist the Court  
8 in determining an appropriate sentence.

9 In that regard, it will be necessary for you to be  
10 interviewed by US Probation. The information that you provide  
11 in the interview will be used in the preparation of the report.  
12 Both you and your attorneys will have sufficient time in  
13 advance of the sentencing hearing to review that report and to  
14 file any objections that you deem appropriate. And then, of  
15 course, at the sentencing hearing both you and your attorneys  
16 will have an opportunity to personally address the Court with  
17 respect to mitigation of sentence.

18 Mr. Juman, what about Mr. D'Amico's release status?  
19 Is there an agreement?

20 MR. JUMAN: Yes, the government agrees the defendant  
21 can stay out on bond subject to the Court's approval.

22 THE COURT: Okay. The conditions of release set by  
23 the committing magistrate shall remain in full force and effect  
24 up until time of sentencing. You are hereby ordered to  
25 continue to comply with each of those conditions of your

1 release.

2 Any questions?

3 THE DEFENDANT: No.

4 THE COURT: Anything further?

5 MR. JUMAN: No, Your Honor. Thank you.

6 THE COURT: All right. Gentlemen, thank you very  
7 much.

8 Nice to meet you Mr. Raymond, Mr. Garcia.

9 MR. RAYMOND: Thank you, Judge.

10 MR. JUMAN: Thank you, Judge.

11 (Proceedings concluded at 9:08 a.m.)

12

13 C E R T I F I C A T E

14 I, Karl Shires, Registered Merit Reporter and Federal  
15 Certified Realtime Reporter, certify that the foregoing is a  
16 correct transcript from the record of proceedings in the  
17 above-entitled matter.

18 Dated this 5th day of June, 2019.

19

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21 \_\_\_\_\_  
22 Karl Shires, RMR FCRR

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<p><b>MR. JUMAN:</b> [4] 5/4 13/19 14/4 14/9</p> <p><b>MR. RAYMOND:</b> [6] 2/11 3/23 5/17 5/21 12/4 14/8</p> <p><b>THE COURT:</b> [65]</p> <p><b>THE COURTROOM DEPUTY:</b> [1] 13/1</p> <p><b>THE DEFENDANT:</b> [54]</p> <p><b>\$</b></p> <p><b>\$100</b> [1] 4/19</p> <p><b>\$250,000</b> [1] 4/16</p> <p><b>\$500</b> [1] 4/20</p> <p>-</p> <p><b>-v</b> [1] 1/6</p> <p><b>1</b></p> <p><b>1343</b> [1] 12/25</p> <p><b>14</b> [1] 1/8</p> <p><b>18</b> [1] 12/24</p> <p><b>18-80179-CR</b> [2] 2/4 12/14</p> <p><b>18-80179-CR-COHN</b> [1] 1/2</p> <p><b>19</b> [3] 8/18 8/21 10/2</p> <p><b>2</b></p> <p><b>20</b> [1] 4/14</p> <p><b>2019</b> [3] 1/8 13/2 14/18</p> <p><b>203G</b> [1] 1/24</p> <p><b>24</b> [2] 3/13 13/2</p> <p><b>299</b> [1] 1/24</p> <p><b>3</b></p> <p><b>300</b> [1] 1/21</p> <p><b>33301</b> [1] 1/25</p> <p><b>33394</b> [1] 1/19</p> <p><b>33401</b> [1] 1/21</p> <p><b>35</b> [1] 3/2</p> <p><b>5</b></p> <p><b>500</b> [1] 1/18</p> <p><b>515</b> [1] 1/21</p> <p><b>5496</b> [1] 1/24</p> <p><b>5th</b> [1] 14/18</p> <p><b>7</b></p> <p><b>769-5496</b> [1] 1/24</p> <p><b>8</b></p> <p><b>8:53</b> [1] 1/9</p> <p><b>9</b></p> <p><b>954</b> [1] 1/24</p> <p><b>9:00 a.m</b> [1] 13/2</p> <p><b>9:08</b> [1] 14/11</p> <p><b>A</b></p> <p><b>a.m</b> [3] 1/9 13/2 14/11</p> <p><b>abolished</b> [1] 7/11</p> <p><b>above-entitled</b> [1] 14/17</p>	<p><b>accepted</b> [1] 12/22</p> <p><b>accord</b> [1] 10/1</p> <p><b>acted</b> [1] 5/11</p> <p><b>addiction</b> [1] 3/9</p> <p><b>addition</b> [1] 4/17</p> <p><b>address</b> [1] 13/16</p> <p><b>adjudged</b> [1] 12/23</p> <p><b>advance</b> [1] 13/13</p> <p><b>advice</b> [1] 4/8</p> <p><b>advisory</b> [6] 6/9 6/12 6/18 6/19 6/23 7/4</p> <p><b>afford</b> [1] 10/17</p> <p><b>agree</b> [1] 11/17</p> <p><b>agreeing</b> [1] 8/24</p> <p><b>agreement</b> [13] 2/9 5/16 7/20 7/24 8/2 8/5 8/7 8/10 8/18 9/21 10/2 11/21 13/19</p> <p><b>agrees</b> [1] 13/20</p> <p><b>alcoholic</b> [1] 3/13</p> <p><b>AMERICA</b> [3] 1/4 2/3 12/14</p> <p><b>and/or</b> [1] 9/4</p> <p><b>answer</b> [1] 2/20</p> <p><b>answers</b> [1] 2/20</p> <p><b>ANTHONY</b> [6] 1/7 2/3 2/25 9/25 12/14 12/22</p> <p><b>appeal</b> [5] 8/25 9/2 9/9 9/11 10/1</p> <p><b>Appearances</b> [1] 1/16</p> <p><b>appellate</b> [5] 8/19 9/10 9/13 9/17 9/20</p> <p><b>application</b> [1] 6/2</p> <p><b>appoint</b> [1] 10/17</p> <p><b>appropriate</b> [2] 13/8 13/14</p> <p><b>approval</b> [1] 13/21</p> <p><b>April</b> [1] 13/2</p> <p><b>April 24</b> [1] 13/2</p> <p><b>assessment</b> [1] 4/19</p> <p><b>assets</b> [1] 4/19</p> <p><b>assist</b> [1] 13/7</p> <p><b>assistance</b> [1] 10/16</p> <p><b>Assistant</b> [2] 1/18 2/7</p> <p><b>associate</b> [1] 5/24</p> <p><b>attend</b> [1] 3/5</p> <p><b>attendance</b> [1] 11/1</p> <p><b>Attorney</b> [2] 1/18 2/7</p> <p><b>attorneys</b> [6] 4/4 4/8 7/23 9/14 13/12 13/15</p> <p><b>authority</b> [1] 7/7</p> <p><b>authorized</b> [1] 7/8</p> <p><b>aware</b> [1] 12/17</p> <p><b>B</b></p> <p><b>based</b> [2] 4/13 4/25</p> <p><b>basis</b> [2] 12/4 12/19</p> <p><b>Beach</b> [1] 1/21</p> <p><b>believe</b> [2] 3/15 3/23</p> <p><b>beverage</b> [1] 3/13</p> <p><b>beyond</b> [1] 10/12</p> <p><b>bond</b> [1] 13/21</p> <p><b>Boulevard</b> [2] 1/18 1/24</p> <p><b>bound</b> [1] 6/24</p> <p><b>BRIAN</b> [2] 1/20 2/5</p>	<p><b>Brooklyn</b> [1] 3/6</p> <p><b>Broward</b> [2] 1/18 1/24</p> <p><b>burden</b> [1] 10/11</p> <p><b>C</b></p> <p><b>Call</b> [1] 2/1</p> <p><b>capable</b> [1] 12/16</p> <p><b>carry</b> [1] 5/15</p> <p><b>case</b> [6] 1/2 2/4 4/4 5/24 5/25 12/13</p> <p><b>caused</b> [2] 4/17 5/13</p> <p><b>certain</b> [3] 6/17 8/21 8/23</p> <p><b>Certified</b> [1] 14/15</p> <p><b>certify</b> [1] 14/15</p> <p><b>charge</b> [1] 4/11</p> <p><b>charged</b> [3] 10/4 10/13 12/21</p> <p><b>charges</b> [3] 4/3 5/21 12/17</p> <p><b>charging</b> [1] 12/24</p> <p><b>circumstances</b> [2] 6/18 9/11</p> <p><b>citizen</b> [2] 7/15 7/17</p> <p><b>Code</b> [1] 12/25</p> <p><b>coerce</b> [1] 8/9</p> <p><b>COHN</b> [2] 1/2 1/13</p> <p><b>college</b> [3] 3/4 3/5 3/7</p> <p><b>colloquy</b> [1] 12/1</p> <p><b>commerce</b> [1] 5/14</p> <p><b>committing</b> [1] 13/23</p> <p><b>commonly</b> [1] 8/19</p> <p><b>communication</b> [1] 5/14</p> <p><b>compel</b> [1] 10/25</p> <p><b>competent</b> [2] 3/23 12/15</p> <p><b>comply</b> [1] 13/25</p> <p><b>compulsory</b> [1] 10/25</p> <p><b>compute</b> [1] 6/9</p> <p><b>concluded</b> [1] 14/11</p> <p><b>condition</b> [2] 3/15 3/16</p> <p><b>conditions</b> [3] 7/23 13/22 13/25</p> <p><b>conducted</b> [1] 6/14</p> <p><b>consecutively</b> [1] 4/21</p> <p><b>consequences</b> [1] 12/17</p> <p><b>consider</b> [1] 6/23</p> <p><b>consumed</b> [1] 3/12</p> <p><b>contained</b> [6] 7/23 8/5 8/20 10/2 11/17 11/22</p> <p><b>containing</b> [1] 12/20</p> <p><b>contains</b> [1] 8/19</p> <p><b>continue</b> [1] 13/25</p> <p><b>copy</b> [1] 3/25</p> <p><b>correct</b> [3] 2/11 11/18 14/16</p> <p><b>CORRECTED</b> [1] 1/12</p> <p><b>correctly</b> [1] 5/17</p> <p><b>counsel</b> [3] 10/16 10/17 10/17</p> <p><b>count</b> [2] 4/19 4/21</p> <p><b>counts</b> [8] 2/10 4/10</p>	<p><b>course</b> [1] 13/15</p> <p><b>court</b> [23]</p> <p><b>Court's</b> [5] 2/8 7/2 9/9 9/11 13/21</p> <p><b>CR</b> [3] 1/2 2/4 12/14</p> <p><b>crime</b> [1] 5/24</p> <p><b>cross</b> [1] 10/21</p> <p><b>cross-examined</b> [1] 10/21</p> <p><b>D</b></p> <p><b>D'AMICO</b> [21]</p> <p><b>D'Amico's</b> [2] 12/21 13/18</p> <p><b>date</b> [1] 11/20</p> <p><b>Dated</b> [1] 14/18</p> <p><b>day</b> [1] 14/18</p> <p><b>decide</b> [1] 11/6</p> <p><b>decline</b> [1] 11/4</p> <p><b>deem</b> [1] 13/14</p> <p><b>defendant</b> [11] 1/8 1/20 2/17 5/6 5/11 5/13 9/24 12/15 12/16 12/22 13/20</p> <p><b>defense</b> [2] 10/22 11/7</p> <p><b>deferred</b> [1] 13/1</p> <p><b>defraud</b> [3] 5/7 5/11 5/15</p> <p><b>depart</b> [1] 6/18</p> <p><b>departure</b> [1] 9/4</p> <p><b>deportation</b> [1] 7/15</p> <p><b>desire</b> [1] 9/20</p> <p><b>determined</b> [1] 6/13</p> <p><b>determining</b> [1] 13/8</p> <p><b>devised</b> [1] 5/6</p> <p><b>DIMOND</b> [1] 1/20</p> <p><b>discuss</b> [2] 5/24 7/22</p> <p><b>discussed</b> [3] 4/3 6/2 9/13</p> <p><b>DISTRICT</b> [3] 1/1 1/1 1/14</p> <p><b>document</b> [2] 11/15 11/18</p> <p><b>doubt</b> [1] 10/13</p> <p><b>Drive</b> [1] 1/21</p> <p><b>drug</b> [1] 3/10</p> <p><b>drugs</b> [1] 3/12</p> <p><b>duly</b> [1] 2/17</p> <p><b>E</b></p> <p><b>earlier</b> [1] 13/6</p> <p><b>East</b> [2] 1/18 1/24</p> <p><b>effect</b> [3] 9/17 9/19 13/23</p> <p><b>either</b> [3] 6/19 7/3 9/3</p> <p><b>elect</b> [2] 9/9 11/4</p> <p><b>elements</b> [5] 5/4 5/17 5/21 5/24 12/20</p> <p><b>enter</b> [3] 2/9 3/23 8/12</p> <p><b>entering</b> [3] 8/15 11/10 12/16</p> <p><b>entitled</b> [2] 11/15 14/17</p>	<p><b>entry</b> [2]</p> <p><b>ESQ</b> [1] 1/20</p> <p><b>essential</b> [1] 12/20</p> <p><b>establishes</b> [1] 9/5</p> <p><b>eventually</b> [1] 3/6</p> <p><b>evidence</b> [2] 10/12 11/7</p> <p><b>examined</b> [1] 10/21</p> <p><b>exceeds</b> [1] 9/3</p> <p><b>exchange</b> [1] 8/23</p> <p><b>extensively</b> [1] 5/23</p> <p><b>F</b></p> <p><b>fact</b> [2] 5/10 12/19</p> <p><b>facts</b> [4] 5/25 11/8 11/17 11/22</p> <p><b>Factual</b> [3] 11/15 11/21 11/25</p> <p><b>false</b> [3] 2/22 5/8 5/9</p> <p><b>falsely</b> [1] 2/20</p> <p><b>familiarize</b> [1] 5/20</p> <p><b>far</b> [1] 3/3</p> <p><b>FCRR</b> [2] 1/23 14/20</p> <p><b>February</b> [1] 1/8</p> <p><b>Federal</b> [3] 6/3 6/10 14/14</p> <p><b>file</b> [1] 13/14</p> <p><b>find</b> [1] 12/13</p> <p><b>finds</b> [1] 9/24</p> <p><b>fine</b> [1] 4/16</p> <p><b>First</b> [2] 3/6 5/6</p> <p><b>five</b> [2] 11/14 11/18</p> <p><b>five-page</b> [2] 11/14 11/18</p> <p><b>Flagler</b> [1] 1/21</p> <p><b>FLORIDA</b> [5] 1/1 1/8 1/19 1/21 1/25</p> <p><b>followed</b> [1] 4/15</p> <p><b>force</b> [2] 8/9 13/23</p> <p><b>forcing</b> [1] 8/12</p> <p><b>foregoing</b> [1] 14/15</p> <p><b>forfeiture</b> [2] 4/18 9/1</p> <p><b>Fort</b> [3] 1/8 1/19 1/25</p> <p><b>forth</b> [2] 5/3 13/5</p> <p><b>forward</b> [2] 9/20 9/21</p> <p><b>found</b> [1] 3/19</p> <p><b>Fourth</b> [1] 5/13</p> <p><b>fraud</b> [3] 4/11 5/4 12/24</p> <p><b>free</b> [1] 8/16</p> <p><b>full</b> [2] 2/24 13/23</p> <p><b>fully</b> [4] 4/3 7/22 9/13 12/15</p> <p><b>further</b> [2] 7/10 14/4</p> <p><b>G</b></p> <p><b>gain</b> [1] 4/17</p> <p><b>Garcia</b> [7] 1/22 2/6 4/5 5/20 5/23 6/2 14/8</p> <p><b>general</b> [1] 4/4</p> <p><b>Gentlemen</b> [1] 14/6</p> <p><b>give</b> [1] 8/25</p> <p><b>given</b> [1] 4/8</p> <p><b>giving</b> [3] 8/22 11/11 12/3</p> <p><b>go</b> [3] 3/3 9/20 9/21</p>
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<p><b>G</b></p> <p><b>Good [1]</b> 2/2</p> <p><b>government [6]</b> 1/17 2/6 8/24 9/9 10/11 13/20</p> <p><b>greater [1]</b> 4/16</p> <p><b>guideline [2]</b> 6/23 9/5</p> <p><b>guidelines [4]</b> 6/3 6/10 6/19 7/4</p> <p><b>guilt [1]</b> 10/12</p> <p><b>guilty [14]</b> 2/10 4/14 5/1 8/12 8/15 9/22 10/4 10/5 11/11 12/11 12/11 12/12 12/18 12/23</p>	<p><b>K</b></p> <p><b>KAPLAN [1]</b> 1/20</p> <p><b>kind [1]</b> 3/10</p> <p><b>kindly [2]</b> 2/16 5/3</p> <p><b>know [2]</b> 5/22 6/1</p> <p><b>knowing [1]</b> 12/18</p> <p><b>knowingly [2]</b> 5/6 9/25</p>	<p><b>O</b></p> <p><b>oath [1]</b> 2/19</p> <p><b>objections [1]</b> 13/14</p> <p><b>obtain [1]</b> 5/7</p> <p><b>offense [3]</b> 4/17 10/4 10/13</p> <p><b>offenses [1]</b> 12/20</p> <p><b>Office [1]</b> 6/15</p> <p><b>Official [1]</b> 1/24</p> <p><b>Okay [3]</b> 2/18 3/8 13/22</p> <p><b>old [1]</b> 3/1</p> <p><b>opportunity [1]</b> 13/16</p> <p><b>order [7]</b> 2/1 4/18 4/18 5/20 9/1 13/3 13/7</p> <p><b>ordered [1]</b> 13/24</p>	<p><b>P</b></p> <p><b>P-300 [1]</b> 1/21</p> <p><b>PA [1]</b> 1/20</p> <p><b>page [3]</b> 11/14 11/18 11/20</p> <p><b>Page 5 [1]</b> 11/20</p> <p><b>Palm [1]</b> 1/21</p> <p><b>Paragraph [3]</b> 8/18 8/21 10/2</p> <p><b>Paragraph 19 [3]</b> 8/18 8/21 10/2</p> <p><b>parameters [1]</b> 13/5</p> <p><b>parole [2]</b> 7/10 7/12</p> <p><b>part [2]</b> 6/13 12/1</p> <p><b>participated [1]</b> 5/6</p> <p><b>pecuniary [1]</b> 4/17</p> <p><b>penalties [2]</b> 4/20 4/25</p> <p><b>pending [2]</b> 4/1 5/21</p> <p><b>perjury [1]</b> 2/21</p> <p><b>permitted [1]</b> 9/3</p> <p><b>persist [1]</b> 10/5</p> <p><b>personally [1]</b> 13/16</p> <p><b>pertinent [1]</b> 8/20</p> <p><b>physical [1]</b> 3/16</p> <p><b>place [1]</b> 3/17</p> <p><b>Plaintiff [1]</b> 1/5</p> <p><b>plea [28]</b></p> <p><b>plead [2]</b> 10/4 12/10</p> <p><b>please [1]</b> 2/24</p> <p><b>possible [1]</b> 4/25</p> <p><b>preparation [1]</b> 13/11</p> <p><b>prepared [1]</b> 13/7</p> <p><b>present [3]</b> 1/22 2/5 11/7</p> <p><b>presentence [3]</b> 6/14 13/3 13/6</p> <p><b>presumed [1]</b> 10/11</p> <p><b>pretenses [2]</b> 5/8 5/9</p> <p><b>prevent [1]</b> 3/16</p> <p><b>prison [1]</b> 4/15</p> <p><b>Probation [3]</b> 6/15 13/7 13/10</p> <p><b>proceedings [3]</b> 1/12 14/11 14/16</p> <p><b>process [1]</b> 10/25</p> <p><b>production [1]</b> 10/12</p>	<p><b>promises [4]</b> 5/8 5/10 8/4 8/24</p> <p><b>property [1]</b> 5/7</p> <p><b>prosecution [1]</b> 2/21</p> <p><b>provide [1]</b> 13/10</p> <p><b>proving [1]</b> 10/12</p> <p><b>pursuant [1]</b> 2/8</p> <p><b>put [1]</b> 2/18</p>	<p><b>rules [3]</b> 1/16 11/21 11/25</p> <p><b>run [1]</b> 4/21</p>
<p><b>H</b></p> <p><b>hand [2]</b> 2/16 2/18</p> <p><b>hear [1]</b> 10/21</p> <p><b>hearing [2]</b> 13/13 13/15</p> <p><b>help [1]</b> 5/15</p> <p><b>Honor [2]</b> 5/5 14/5</p> <p><b>HONORABLE [1]</b> 1/13</p> <p><b>hours [1]</b> 3/13</p>	<p><b>L</b></p> <p><b>language [2]</b> 8/20 10/2</p> <p><b>Lauderdale [3]</b> 1/8 1/19 1/25</p> <p><b>law [2]</b> 3/20 7/8</p> <p><b>legal [2]</b> 9/17 9/19</p> <p><b>local [1]</b> 13/5</p> <p><b>loss [1]</b> 4/17</p> <p><b>lower [1]</b> 6/19</p>	<p><b>R</b></p> <p><b>raise [2]</b> 2/16 6/19</p> <p><b>range [5]</b> 6/19 6/23 6/25 7/4 9/5</p> <p><b>RAYMOND [8]</b> 1/20 2/6 2/11 3/22 4/5 5/16 12/2 14/8</p> <p><b>read [2]</b> 7/19 11/14</p> <p><b>Realtime [1]</b> 14/15</p> <p><b>reason [1]</b> 3/22</p> <p><b>reasonable [1]</b> 10/13</p> <p><b>received [1]</b> 3/25</p> <p><b>record [2]</b> 12/1 14/16</p> <p><b>reference [1]</b> 11/24</p> <p><b>referred [1]</b> 8/19</p> <p><b>regard [1]</b> 13/9</p> <p><b>regarding [2]</b> 4/24 9/16</p> <p><b>Registered [1]</b> 14/14</p> <p><b>release [4]</b> 4/15 13/18 13/22 14/1</p> <p><b>released [2]</b> 7/12 9/10</p> <p><b>relying [1]</b> 6/13</p> <p><b>remain [2]</b> 2/14 13/23</p> <p><b>report [4]</b> 13/4 13/7 13/11 13/13</p> <p><b>Reporter [4]</b> 1/23 1/24 14/14 14/15</p> <p><b>represent [1]</b> 10/17</p> <p><b>representation [2]</b> 4/7 12/9</p> <p><b>representations [2]</b> 5/8 5/9</p> <p><b>represented [2]</b> 2/5 2/6</p> <p><b>required [2]</b> 6/9 6/23</p> <p><b>respect [1]</b> 13/17</p> <p><b>restitution [2]</b> 4/18 9/1</p> <p><b>result [2]</b> 7/15 9/4</p> <p><b>returnable [1]</b> 13/4</p> <p><b>review [2]</b> 8/20 13/13</p> <p><b>right [12]</b> 2/16 8/21 8/25 10/1 10/4 10/7 10/15 10/20 10/24 11/3 11/12 14/6</p> <p><b>rights [1]</b> 12/3</p> <p><b>RMR [2]</b> 1/23 14/20</p> <p><b>ROBERT [2]</b> 1/17 2/7</p> <p><b>ROTHSTEIN [1]</b> 1/20</p>	<p><b>S</b></p> <p><b>satisfied [2]</b> 4/7 12/2</p> <p><b>scheme [2]</b> 5/7 5/15</p> <p><b>school [1]</b> 3/3</p> <p><b>seated [1]</b> 2/14</p> <p><b>Second [1]</b> 5/9</p> <p><b>see [1]</b> 10/21</p> <p><b>sentence [15]</b></p> <p><b>sentenced [1]</b> 7/11</p> <p><b>sentencing [10]</b> 6/3 6/10 6/18 6/23 7/3 9/6 13/1 13/13 13/15 13/24</p> <p><b>set [3]</b> 5/3 13/5 13/22</p> <p><b>severe [2]</b> 7/3 7/3</p> <p><b>sign [3]</b> 8/7 8/9 11/20</p> <p><b>signed [1]</b> 7/20</p> <p><b>sir [2]</b> 2/14 6/6</p> <p><b>SOUTHERN [1]</b> 1/1</p> <p><b>speak [1]</b> 2/15</p> <p><b>special [1]</b> 4/19</p> <p><b>state [1]</b> 2/24</p> <p><b>stated [1]</b> 5/17</p> <p><b>statement [1]</b> 2/22</p> <p><b>STATES [8]</b> 1/1 1/4 1/18 2/3 2/7 7/15 12/14 12/24</p> <p><b>status [1]</b> 13/18</p> <p><b>statute [1]</b> 9/3</p> <p><b>statutory [1]</b> 7/7</p> <p><b>stay [1]</b> 13/21</p> <p><b>steps [1]</b> 5/19</p> <p><b>Stipulated [3]</b> 11/15 11/21 11/25</p> <p><b>subject [1]</b> 13/21</p> <p><b>subpoenas [1]</b> 10/25</p> <p><b>sufficient [2]</b> 12/4 13/12</p> <p><b>supervised [1]</b> 4/15</p> <p><b>supported [1]</b> 12/19</p> <p><b>sure [1]</b> 2/14</p> <p><b>Suskauer [4]</b> 4/4 5/19 5/23 6/1</p> <p><b>Suskauer's [1]</b> 5/23</p> <p><b>sworn [1]</b> 2/17</p>		
<p><b>I</b></p> <p><b>illness [1]</b> 3/9</p> <p><b>impose [3]</b> 4/14 6/24 7/7</p> <p><b>imposed [4]</b> 4/20 4/25 9/1 9/2</p> <p><b>imprisonment [1]</b> 7/12</p> <p><b>including [1]</b> 9/1</p> <p><b>incompetent [1]</b> 3/19</p> <p><b>incorporate [1]</b> 11/24</p> <p><b>independent [1]</b> 12/19</p> <p><b>indicated [1]</b> 13/6</p> <p><b>indicating [1]</b> 11/21</p> <p><b>indictment [4]</b> 2/10 4/1 4/11 12/10</p> <p><b>information [1]</b> 13/10</p> <p><b>informed [1]</b> 12/16</p> <p><b>innocent [1]</b> 10/11</p> <p><b>intelligently [1]</b> 9/25</p> <p><b>intent [1]</b> 5/11</p> <p><b>interstate [1]</b> 5/14</p> <p><b>interview [1]</b> 13/11</p> <p><b>interviewed [1]</b> 13/10</p> <p><b>investigation [2]</b> 6/14 13/4</p> <p><b>issuance [1]</b> 10/25</p>	<p><b>M</b></p> <p><b>magistrate [1]</b> 13/23</p> <p><b>maintain [1]</b> 10/4</p> <p><b>making [1]</b> 2/22</p> <p><b>manner [1]</b> 9/2</p> <p><b>material [1]</b> 5/10</p> <p><b>matter [2]</b> 2/2 14/17</p> <p><b>maximum [2]</b> 7/7 9/3</p> <p><b>means [1]</b> 8/25</p> <p><b>medication [1]</b> 3/13</p> <p><b>meet [1]</b> 14/8</p> <p><b>mental [2]</b> 3/9 3/15</p> <p><b>Merit [1]</b> 14/14</p> <p><b>met [1]</b> 5/22</p> <p><b>MICHAEL [6]</b> 1/7 2/3 2/25 9/25 12/15 12/22</p> <p><b>microphone [1]</b> 2/15</p> <p><b>mitigation [1]</b> 13/17</p> <p><b>money [1]</b> 5/7</p> <p><b>morning [2]</b> 2/2 3/17</p> <p><b>Mr [5]</b> 2/11 3/22 5/16 12/2 14/8</p> <p><b>Mr. [25]</b></p> <p><b>Mr. D'Amico [15]</b></p> <p><b>Mr. D'Amico's [2]</b> 12/21 13/18</p> <p><b>Mr. Garcia [5]</b> 4/5 5/20 5/23 6/2 14/8</p> <p><b>Mr. Juman [2]</b> 5/3 13/18</p> <p><b>Mr. Raymond [1]</b> 4/5</p> <p><b>Ms. [5]</b> 4/4 5/19 5/23 5/23 6/1</p> <p><b>Ms. Suskauer [4]</b> 4/4 5/19 5/23 6/1</p> <p><b>Ms. Suskauer's [1]</b> 5/23</p>	<p><b>N</b></p> <p><b>name [1]</b> 2/24</p> <p><b>narcotic [1]</b> 3/10</p> <p><b>nature [1]</b> 12/17</p> <p><b>necessary [1]</b> 13/9</p> <p><b>need [1]</b> 2/13</p> <p><b>Nice [1]</b> 14/8</p> <p><b>North [1]</b> 1/21</p>	<p><b>T</b></p> <p><b>taken [2]</b> 3/12 5/20</p> <p><b>term [2]</b> 4/15 7/11</p> <p><b>terms [2]</b> 7/23 8/1</p> <p><b>testify [2]</b> 11/4 11/7</p> <p><b>thank [4]</b> 14/5 14/6 14/9 14/10</p> <p><b>Third [1]</b> 5/11</p> <p><b>three [1]</b> 4/16</p> <p><b>time [3]</b> 13/4 13/12 13/24</p> <p><b>Title [1]</b> 12/24</p> <p><b>total [1]</b> 4/20</p> <p><b>transcript [2]</b> 1/12 14/16</p> <p><b>transmitted [2]</b> 5/13 5/14</p>		
<p><b>J</b></p> <p><b>JAMES [1]</b> 1/13</p> <p><b>John [2]</b> 1/22 2/6</p> <p><b>JUDGE [3]</b> 1/14 14/9 14/10</p> <p><b>JUMAN [4]</b> 1/17 2/7 5/3 13/18</p> <p><b>June [1]</b> 14/18</p> <p><b>jury [1]</b> 10/8</p>					



**q**  
**treated [1]** 3/9  
**trial [5]** 10/8 10/10  
 10/16 11/1 11/12  
**true [1]** 11/18  
**truthfulness [1]** 11/22  
**twice [1]** 4/16  
**type [1]** 3/9

## U

**U.S [1]** 1/14  
**understand [25]**  
**understanding [4]** 2/8  
 3/17 6/6 9/19  
**understands [1]** 12/3  
**UNITED [8]** 1/1 1/4  
 1/18 2/3 2/7 7/14  
 12/14 12/24  
**upward [2]** 9/4 9/4

## V

**variance [1]** 9/4  
**versus [2]** 2/3 12/14  
**violation [1]** 12/24  
**voluntarily [2]** 10/1  
 11/4  
**voluntary [1]** 12/18

## W

**Wagner [1]** 3/6  
**waive [1]** 8/24  
**waiver [5]** 8/19 9/10  
 9/14 9/17 9/20  
**waives [1]** 10/1  
**waiving [1]** 11/11  
**way [1]** 11/8  
**well [2]** 5/22 6/6  
**West [1]** 1/21  
**wire [4]** 4/11 5/4 5/14  
 12/24  
**wishes [1]** 2/9  
**witnesses [2]** 10/21  
 11/1  
**written [4]** 2/9 7/19  
 7/23 8/5

## Y

**year [1]** 3/8  
**years [2]** 4/14 4/16