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6 Attorneys for Gina Champion-Cain

7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 GINA CHAMPION-CAIN,

14 Defendants.

CASE NO. 3:20-CR-02115-001-LAB

DECLARATION OF ANGELA M. MACHALA IN SUPPORT OF DEFENDANT GINA CHAMPIONM-CAIN'S SENTENCING MEMORANDUM

Filed concurrently with Sentencing Memorandum; Exhibits

Hearing: March 31, 2021
Time: 9:00 a.m.

The Hon. Larry Alan Burns

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DECLARATION OF ANGELA M. MACHALA

I, Angela M. Machala, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a partner at Winston & Strawn LLP, attorneys of record for Ms. Champion-Cain, located at 333 South Grand Ave., Los Angeles, CA 90071. I have personal knowledge of the facts set forth herein, except for those stated on information and belief. If called as a witness, I could and would competently testify to the matters stated herein. I submit this declaration in support of Ms. Champion-Cain’s Sentencing Memorandum.

2. In December 2020, as part of her cooperation efforts, Ms. Champion-Cain agreed to stipulate that 30,000 shares of Endeavor Bank held in her name may be transferred to the Receivership estate. Ms. Champion-Cain voluntarily agreed to this transfer despite the fact she has credible arguments that the shares are her personal asset and were earned as a result of hundreds of hours she contributed to the start-up of that bank as a founding member—*i.e.* through efforts unrelated to the lending program.

3. Attached as **Exhibit 1** is a true and correct copy of a letter confirming Ms. Champion-Cain’s cooperation dated January 7, 2021 from Krista Freitag, court-appointed receiver.

4. Attached as **Exhibit 2** is a true and correct copy of a letter confirming Ms. Champion-Cain’s cooperation dated January 7, 2021 from William J. Caldarelli, Esq.

5. Attached as **Exhibit 3** is a true and correct copy of a letter confirming Ms. Champion-Cain’s cooperation dated March 24, 2021 from Benjamin Galdston, Esq.

6. Attached as **Exhibit 4** is a true and correct copy of the Plea Agreement filed in *United States v. Rollo Richard Norton II*, No. 3:07-cr-02260-H (Aug. 22, 2007) (Dkt. 7.)

1 7. Attached as **Exhibit 5** is a true and correct copy of the Sentencing
2 Hearing in *United States v. Rollo Richard Norton II*, (June 28, 2010) (Dkt. 51.)

3 8. Attached as **Exhibit 6** is a true and correct copy of the full written
4 statement, dated November 18, 2020, that Ms. Champion-Cain provided to the
5 United States Probation Office in connection with her interview with Senior U.S.
6 Probation Officer Alexandra Platas.

7 9. Attached as **Exhibit 7** is a true and correct copy of a letter in support of
8 Ms. Champion-Cain dated December 4, 2020, from Keith Solar, Esq.

9 10. Attached as **Exhibit 8** is a true and correct copy of a letter in support of
10 Ms. Champion-Cain dated December 13, 2020, from Dan Lawton, Esq.

11 11. Attached as **Exhibit 9** is a true and correct copy of a letter in support of
12 Ms. Champion-Cain dated November 18, 2020, from the Rev. Msrg. Daniel J.
13 Dillabough, S.T.D., J.C.L., Vice President for Mission and Ministry at the
14 University of San Diego.

15 12. Attached as **Exhibit 10** is a true and correct copy of a letter in support
16 of Ms. Champion-Cain dated November 30, 2020 from Steven R. Elzy.

17 13. Attached as **Exhibit 11** is a true and correct copy of a document
18 prepared in connection with the planned Initial Public Offering of the Patio
19 Marketplace company, an entity associated with American National Investments,
20 Inc. (“ANI”). On information and belief, this document was prepared by ANI
21 employees in consultation with the employees at J.P. Morgan Chase & Co.

22

23 I declare under penalty of perjury under the laws of the State of California
24 that the foregoing is true and correct.

25 Executed on this 24th day of March, 2021, in Los Angeles, California.

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ANGELA M. MACHALA

Ex. 1



January 7, 2021

Angela M. Machala
Scheper Kim & Harris LLP
800 West Sixth Street, 18th Floor
Los Angeles, CA 90017
amachala@scheperkim.com

(via Email)

Re: SEC v. Champion-Cain, et al.

Dear Ms. Machala,

Please allow this letter to serve as a response to your request regarding Ms. Champion-Cain's receivership estate cooperation efforts. As reflected in Ms. Champion-Cain's plea agreement regarding her conduct underlying the obstruction of justice charge, not all of Ms. Champion-Cain's actions were cooperative or helpful - for example, it was discovered that shortly before and shortly after my appointment as receiver, Ms. Champion-Cain made efforts to destroy/hide company documents and delete emails on company computer systems.

That said, overall, Ms. Champion-Cain and you, as her counsel, have been very responsive and cooperative when my counsel and I have reached out with various questions and concerns. Those efforts have been beneficial in efficiently obtaining helpful information and helping to avoid what could have been time-consuming and costly disputes over receivership assets. For example, Ms. Champion-Cain has agreed that certain assets held in her name or in the name of her personal trusts, including certain bank shares and real property, are properly part of the receivership estate. To be clear, we believe the accounting/tracing of funds would have resulted in the Court ordering that the assets in question are properly part of the receivership estate; nonetheless, Ms. Champion-Cain's consent to the turnover and/or the sale of such assets without disputing that the net sale proceeds properly belong to the receivership estate was helpful in terms of saving time and receivership resources.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Krista Freitag', written over a white background.

Krista Freitag
Court-Appointed Receiver

cc: Ted Fates, Esq.

Ex. 2



CALDARELLI  HEJMANOWSKI  PAGE  LEER

3398 CARMEL MOUNTAIN ROAD SUITE 250 | SAN DIEGO, CA 92121 | 858-720-8080 | WWW.CHPLLAW.COM

WILLIAM J. CALDARELLI
Direct: (858) 764-8105
wjc@chpllaw.com

January 7, 2021

VIA ELECTRONIC MAIL (AMACHALA@SCHEPERKIM.COM)

Angela M. Machala
Scheper Kim & Harris LLP
800 West Sixth Street, 18th Floor
Los Angeles, CA 90017

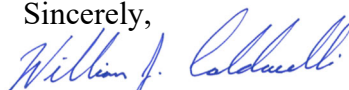
Re: SEC v. ANI/ Champion-Cain

Dear Ms. Machala:

This letter will confirm that you and your colleagues, on behalf of your client, Gina Champion-Cain, were very cooperative and helpful in providing information and documents to me concerning the ANI liquor license escrow loan program in which my clients – approximately 50 lenders – lost money in connection with the ANI program.

The information and materials you provided assisted us both in understanding the way the program operated and the roles different parties played in connection with the program. This information assisted us in procuring a settlement on behalf of our clients with the escrow company that ANI used in connection with the loan program.

Sincerely,


William J. Caldarelli

Ex. 3



BENJAMIN GALDSTON / OF COUNSEL

d 619.678.0187 m 619.489.0300 | bgaldston@bm.net

March 24, 2021

Hon. Larry A. Burns
James M. Carter and Judith N. Keep
United States Courthouse
333 West Broadway
Courtroom 14A
San Diego, CA 92101

Re: United States v. Gina Champion-Cain, No. 20-cr-02115-LAB (S.D. Cal.)

Dear Judge Burns:

The undersigned counsel represents the named plaintiffs and putative class in the action titled *Allred, et al. v. Chicago Title Company, et al.*, Case No. 37-2021-00007823-CV-BT-CTC, now pending the San Diego Superior Court.

We write regarding Ms. Champion-Cain's sentencing hearing in the above-referenced matter, currently scheduled for March 31, 2021. As the Court is aware, we originally filed a proposed class action on behalf of ANI investors in this Court on November 5, 2019, shortly after the SEC filed its civil complaint against Ms. Champion-Cain. See *Allred, et al. v. Chicago Title, et al.*, No. 19-cv-2129-LAB-AHG (S.D. Cal.). Our complaint filed in this Court, as well as the complaint filed in our current California state court action, are based upon a thorough investigation by counsel, which included interviews with former ANI personnel, former Chicago Title personnel, defrauded investors and others.

Ms. Champion-Cain, through her counsel, also provided critical assistance in our investigation. Importantly, Ms. Champion-Cain filled in certain informational gaps where documentation was lost, incomplete, or non-existent. Moreover, Ms. Champion-Cain provided key evidence to support investors' strong claims against Chicago Title, including the direct involvement of at least four Chicago Title escrow officers, as alleged in detail in our class action complaints. This evidence is particularly helpful given the co-conspirators' alleged efforts to avoid creating a "paper trail." For example, as alleged in our California state court complaint and based upon information provided by Ms. Champion-Cain, Chicago Title escrow officers directed Ms. Champion-Cain and her staff to create fictitious "third party escrow instructions" with forged investor signatures.

March 24, 2021
Page 2 of 2




These documents were then sent via courier at Chicago Title's expense to Chicago Title's downtown San Diego office, so those same escrow officers could show compliance with internal Chicago Title documentation requirements when non-parties to an escrow deposit funds.

In sum, Ms. Champion-Cain has provided valuable assistance in developing strong claims against Chicago Title and increasing the prospect that aggrieved investors may obtain a meaningful recovery.

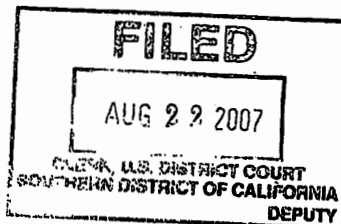
Respectfully submitted,


Michael Dell'Angelo
Managing Shareholder


Benjamin Galdston
Of Counsel

Ex. 4

1 KAREN P. HEWITT
 United States Attorney
 2 WILLIAM P. COLE
 California State Bar No. 186772
 3 Federal Office Building
 880 Front Street, Room 6293
 4 San Diego, California 92101-8893
 Telephone: (619) 557-7859



5 Attorneys for Plaintiff
 6 United States of America

7
 8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)

Criminal Case No. 07CR 2260-H

11 Plaintiff,)

12 v.)

PLEA AGREEMENT

13 ROLLO RICHARD NORTON II,)

14 Defendant.)
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16
 17 IT IS HEREBY AGREED between the Plaintiff, UNITED STATES OF AMERICA, through
 18 its counsel, Karen P. Hewitt, United States Attorney, and William P. Cole, Assistant United States
 19 Attorney, and Defendant, ROLLO RICHARD NORTON II, with the advice and consent of Thomas
 20 J. Warwick, counsel for Defendant, as follows:

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I

THE PLEA

Defendant Rollo Richard Norton II ("Defendant") agrees to waive indictment and to plead guilty to an Information charging defendant with one count of:

Mail Fraud, in violation of Title 18, United States Code, Sections 1341 and 2.

II

NATURE OF THE OFFENSE

A. **ELEMENTS EXPLAINED**

Defendant understands that the count to which Defendant is pleading guilty has the following elements:

1. That the defendant made up a material scheme or plan for obtaining money or property by making false promises or statements;
2. That the defendant knew that the promises or statements were false;
3. That the promises or statements were material, that is they would reasonably influence a person to part with money or property;
4. That the defendant acted with the intent to defraud;
5. That the defendant used, or caused to be used, the mails to carry out or attempt to carry out an essential part of the scheme;
6. That the scheme affected a financial institution.

B. **ELEMENTS UNDERSTOOD AND ADMITTED - FACTUAL BASIS**

Defendant has fully discussed the facts of this case with defense counsel. Defendant has committed each of the elements of the crimes, and admits that there is a factual basis for this guilty plea. The following facts are true and undisputed:

1. In or about 1999, an entity controlled by Defendant closed a purchase of an apartment complex located on Crown Point Drive in San Diego, California, with the intention of completing the conversion of the apartments to condominiums for sale. The complex is referred to hereafter as the "Crown Point condominiums."

Def. *R*

1 2. Defendant initially financed the acquisition and conversion of the Crown Point
2 condominiums by assuming existing loans with high rates of interest and other unfavorable terms,
3 and by raising funds from certain investors. Because of the unfavorable loan terms, Defendant's
4 mismanagement of the conversion project, insufficient rental income, unexpected delays, and other
5 problems, Defendant and the entities he controlled soon lacked sufficient funds to service the debt
6 on the Crown Point condominiums, to make promised payments to investors, and to complete the
7 condominium conversion project.


8 3. Beginning by at least October of 2001, within the Southern District of California,
9 and elsewhere, Defendant and others knowingly and intentionally devised a scheme to defraud as
10 to material matters and to obtain money by means of materially false and fraudulent pretenses,
11 representations and promises, and by intentional concealment and omission of material facts.

12 4. As part of the scheme, Defendant and others drew equity out of the Crown Point
13 condominiums through a series of sham purchase transactions and refinances involving numerous
14 escrows for the transfer, financing and refinancing of the individual condominium units. These
15 transactions were designed to fraudulently obtain loan proceeds from numerous financial institutions,
16 and such loan proceeds were largely distributed to parties other than the named sellers or owners.

17 5. To facilitate the sham purchase transactions and refinances, Defendant and others
18 knowingly and intentionally induced persons (hereafter "straw purchasers") to allow Defendant and
19 others to place condominium units in the straw purchasers' names by, among other things,
20 representing that although a condominium would be placed in the straw purchaser's name, Defendant
21 and his entities would obtain the financing and close the escrow, and by falsely representing that
22 Defendant and his entities would timely pay the mortgage, real estate taxes, homeowners association
23 fees, and other costs associated with owning the condominium.

24 6. To facilitate the sham purchase transactions and refinances, Defendant and others
25 also knowingly and intentionally placed condominium units in the names of other persons without
26 the knowledge of those other persons (the "unknowing purchasers").

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1 7. As part of the scheme, Defendant and others fraudulently obtained loan proceeds
2 from various financial institutions by knowingly and intentionally submitting materially false loan
3 applications in the names of straw purchasers without disclosing to the financial institutions the
4 agreements between Defendant and the straw purchasers, as described in paragraph 5 of this factual
5 basis.

6 8. As part of the scheme, Defendant and others fraudulently obtained loan proceeds
7 from various financial institutions by knowingly and intentionally submitting materially false loan
8 applications and escrow documents in the names of unknowing purchasers, including materially false
9 income verification documents.

10 9. As part of the scheme, Defendant and others signed the names of individual
11 investors on grant deeds and other escrow closing documents, and caused those signatures to be
12 notarized by notaries working in Defendant's office and elsewhere.

13 10. It was a further part of the scheme that, to prevent detection and to permit the
14 ongoing scheme to continue, Defendant and others would arrange to have the escrow documents,
15 mortgage bills, real estate tax bills and delinquency notices sent to Defendant's offices, rather than
16 to the straw purchasers, the unknowing purchasers and unknowing borrowers.

17 11. As part of the scheme, Defendant and others knowingly and intentionally induced
18 persons to invest funds with defendant and his entities by falsely representing that the Crown Point
19 condominiums project was a sound, safe investment that would provide investors with timely and
20 substantial periodic returns. Defendant intentionally concealed from, and failed to disclose to,
21 investors the following material facts, among others:

22 a. that Defendant and his entities had incurred unmanageable debt in relation
23 to the Crown Point condominium project, which could not be timely serviced due to insufficient
24 rental income, mismanagement, and other problems;

25 b. that Defendant and his entities did not maintain accurate books and records
26 of investor funds or project expenses;

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1 c. that Defendant, his entities and others would, and did, prejudice and
2 dissipate the investors' interests in the Crown Point condominium project by repeatedly refinancing
3 the condominiums with larger mortgages, and by directing and using the proceeds of those
4 mortgages to pay for debt service, make other real estate investments, and for the personal benefit
5 of Defendant and others, and to make payments to investors;

6 d. that Defendant and his entities would, and did, with the assistance of others,
7 transfer ownership of condominium units from investors without the knowledge of the investors; and

8 e. that Defendant and his entities would, and did, with the assistance of others,
9 increase the debt secured by condominium units without the knowledge of investors who owned the
10 condominium units.

11 12. On or about July 16, 2004, and for purposes of executing the aforesaid material
12 scheme, Defendant caused a default letter from HOMEQ Servicing to be delivered by the United
13 States Postal Service according to the direction thereon, that is, to Keith R. Holdaway and Joni V.
14 Holdaway, 1721 Main Street, Suite 110, Ramona, California.

15 **III**

16 **PENALTIES**

17 Defendant understands that the count to which defendant is pleading guilty carries the
18 following maximum penalties:

- 19 A. 30 years in prison;
20 B. a \$250,000 fine or, if any person derived pecuniary gain from the offense, or if the
21 offense resulted in pecuniary loss to a person other than the defendant, the
22 defendant may be fined not more than the greater of twice the gross gain or twice
23 the gross loss;
24 C. a mandatory special assessment of \$100.00;
25 D. a term of supervised release of 5 years. Defendant understands that failure to
26 comply with any of the conditions of supervised release may result in revocation
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of supervised release, requiring Defendant to serve in prison all or part of the term of supervised release; and

- E. an order from the court pursuant to Title 18, United States Code, Section 3663A that defendant make mandatory restitution to the victims of the offense of conviction, or the estates of the victims. Defendant understands that the court shall order, if agreed to by the parties in the plea agreement, restitution to persons other than the victims of the offense of conviction.

Defendant further understands that a sentence of probation is not authorized.

IV

DEFENDANT'S WAIVER OF TRIAL RIGHTS

Defendant understands that this guilty plea waives the right to:

- A. continue to plead not guilty and require the United States to prove the elements of the crime beyond a reasonable doubt;
- B. a speedy and public trial by jury;
- C. the assistance of counsel at all stages of trial;
- D. confront and cross-examine adverse witnesses;
- E. present evidence and to have witnesses testify on behalf of Defendant;
- F. not testify or have any adverse inferences drawn from the failure to testify; and
- G. indictment by a federal grand jury.

V

DEFENDANT ACKNOWLEDGES NO PRETRIAL RIGHT TO BE PROVIDED WITH IMPEACHMENT AND AFFIRMATIVE DEFENSE INFORMATION

The Government represents that any information establishing the factual innocence of Defendant known to the undersigned prosecutor in this case has been turned over to Defendant. The Government will continue to provide such information establishing the factual innocence of Defendant.

Def. *f*

1 Defendant understands that if this case proceeded to trial, the Government would be
 2 required to provide impeachment information relating to any informants or other witnesses. In
 3 addition, if Defendant raised an affirmative defense, the Government would be required to provide
 4 information in its possession that supports such a defense. Defendant acknowledges, however, that
 5 by pleading guilty Defendant will not be provided this information, if any, and Defendant also
 6 waives the right to this information. Finally, Defendant agrees not to attempt to withdraw the guilty
 7 plea or to file a collateral attack based on the existence of this information.

8 VI

9 **DEFENDANT'S REPRESENTATION THAT GUILTY**
10 **PLEA IS KNOWING AND VOLUNTARY**

11 Defendant represents that:

- 12 A. Defendant has had a full opportunity to discuss all the facts and circumstances of
13 this case with defense counsel, and has a clear understanding of the charges and the
consequences of this plea;
- 14 B. No one has made any promises or offered any rewards in return for this guilty plea,
15 other than those contained in this agreement or otherwise disclosed to the Court;
- 16 C. No one has threatened Defendant or Defendant's family to induce this guilty plea;
17 and
- 18 D. Defendant is pleading guilty because in truth and in fact defendant is guilty and for
19 no other reason.

20 VII

21 **AGREEMENT LIMITED TO U.S. ATTORNEY'S OFFICE**
22 **SOUTHERN DISTRICT OF CALIFORNIA**

23 This plea agreement is limited to the United States Attorney's Office for the Southern
 24 District of California, and cannot bind any other federal, state or local prosecuting, administrative,
 25 or regulatory authorities, although the United States will bring this plea agreement to the attention
 26 of other authorities if requested by Defendant.

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VIII

APPLICABILITY OF SENTENCING GUIDELINES

Defendant understands the sentence imposed will be based on the factors set forth in 18 U.S.C. § 3553(a). Defendant understands further that in imposing the sentence, the sentencing judge must consult the United States Sentencing Guidelines (Guidelines) and take them into account. Defendant has discussed the Guidelines with defense counsel and understands that the Guidelines are only advisory, not mandatory, and the court may impose a sentence more severe or less severe than otherwise applicable under the Guidelines, up to the maximum in the statute of conviction. Defendant understands further that the sentence cannot be determined until a presentence report has been prepared by the U.S. Probation Office and defense counsel and the Government have had an opportunity to review and challenge the presentence report. Nothing in this plea agreement shall be construed as limiting the Government's duty to provide complete and accurate facts to the district court and the U.S. Probation Office.

IX

SENTENCE IS WITHIN SOLE DISCRETION OF JUDGE

This plea agreement is made pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B). Defendant understands that the sentence is within the sole discretion of the sentencing judge. The Government has not made and will not make any representation as to what sentence defendant will receive. Defendant understands that the sentencing judge may impose the maximum sentence provided by statute, and is also aware that any estimate of the probable sentence by defense counsel is a prediction, not a promise, and is not binding on the Court. Likewise, the recommendation made by the Government is not binding on the Court, and it is uncertain at this time what defendant's sentence will be. Defendant also has been advised and understands that if the sentencing judge does not follow any of the parties' sentencing recommendations, defendant nevertheless has no right to withdraw the plea.

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PARTIES' SENTENCING RECOMMENDATIONS

A. SENTENCING GUIDELINE CALCULATIONS

Although the parties understand that the Guidelines are only advisory and just one of the factors the court will consider under 18 U.S.C. § 3553(a) in imposing a sentence, the parties will jointly recommend the following Base Offense Level, Specific Offense Characteristics, Adjustments and Departures (if applicable) under the November 2006 Guidelines:

- | | | |
|----|---|-----|
| 1. | Base Offense Level [USSG § 2B1.1(a)(1)] | 7 |
| 2. | Loss [USSG § 2B1.1(b)(1)(K)] | +20 |
| 3. | Number of victims [USSG § 2B1.1(b)(2)(A)] | +2 |
| 4. | Acceptance of Responsibility [USSG § 3E1.1] | -3 |

In addition, the Government will recommend a two-level upward adjustment under USSG § 3B1.1(c) (Aggravating Role), but Defendant will oppose this adjustment.

B. ACCEPTANCE OF RESPONSIBILITY

Notwithstanding paragraph A.4 above, the Government will not recommend any adjustment for Acceptance of Responsibility if Defendant:

1. Fails to admit a complete factual basis for the plea at the time it is entered, or
2. Denies involvement in the offense, gives conflicting statements about that involvement, or is untruthful with the Court or probation officer, or
3. Fails to appear before the Court, or
4. Engages in additional criminal conduct, or
5. Attempts to withdraw the plea, or
6. Refuses to abide by any lawful court order.

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1 C. ADJUSTMENTS AND DEPARTURES

2 The government will not seek any further upward adjustments or departures. Defendant
3 is free to seek additional downward adjustments and/or departures. The government reserves the
4 right to oppose any additional adjustments and/or departures that Defendant might seek.

5 D. NO AGREEMENT AS TO CRIMINAL HISTORY CATEGORY

6 There is no agreement as to Defendant's Criminal History Category.

7 E. "FACTUAL BASIS" AND "RELEVANT CONDUCT" INFORMATION

8 The parties agree that the facts in the "factual basis" paragraph of this agreement are true,
9 and may be considered as "relevant conduct" under USSG § 1B1.3 and as the nature and
10 circumstances of the offense under 18 U.S.C. § 3553(a)(1).

11 F. GOVERNMENT'S RECOMMENDATION REGARDING CUSTODY

12 The parties agree that the Government will recommend that Defendant be sentenced to the
13 low end of the advisory guideline range as calculated by the Government pursuant to this agreement.
14 However, if the Court adopts an offense level or downward adjustment or departure below the
15 Government's recommendations in this plea agreement, the Government will recommend a sentence
16 as near as possible to what the sentence would have been if the Government's recommendations had
17 been followed.

18 G. SPECIAL ASSESSMENT/FINE

19 The parties will jointly recommend that Defendant pay a special assessment in the amount
20 of \$100 to be paid forthwith at time of sentencing. The special assessment shall be paid through the
21 office of the Clerk of the District Court by bank or cashier's check or money order made payable to
22 the "Clerk, United States District Court." There is no agreement as to the fine, if any, that may be
23 imposed.

24 H. RESTITUTION

25 Defendant understands that the amount of restitution ordered by the court shall include
26 defendant's total offense conduct, and is not limited to the count of conviction.

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1 Restitution ordered by the court shall be paid through the Office of the Clerk of the District
2 Court by bank or cashier's check or money order made payable to the "Clerk, United States District
3 Court."

4 Defendant agrees that, before sentencing, defendant shall provide to the United States,
5 under penalty of perjury, a financial disclosure form listing all his/her assets and financial interests
6 valued at more than \$1,000. Defendant understands that these assets and financial interests include
7 all assets and financial interests in which defendant has an interest, direct or indirect, whether held
8 in defendant's own name or in the name of another, in any property, real or personal.

9 The parties will jointly recommend that as a condition of probation or supervised release,
10 defendant will notify the Collections Unit, United States Attorney's Office, of any interest in
11 property obtained, directly or indirectly, including any interest obtained under any other name, or
12 entity, including a trust, partnership or corporation after the execution of this plea agreement until
13 the fine or restitution is paid in full.

14 The parties also will jointly recommend that as a condition of probation or supervised
15 release, defendant will notify the Collections Unit, United States Attorney's Office, before defendant
16 transfers any interest in property owned directly or indirectly by defendant, including any interest
17 held or owned under any other name or entity, including trusts, partnerships and/or corporations.

18 **XI**

19 **DEFENDANT WAIVES APPEAL AND COLLATERAL ATTACK**

20 In exchange for the Government's concessions in this plea agreement, Defendant waives,
21 to the full extent of the law, any right to appeal or to collaterally attack the conviction and sentence,
22 including any restitution order, unless the court imposes a custodial sentence greater than the high
23 end of the guideline range (or statutory mandatory minimum term, if applicable) recommended by
24 the Government pursuant to this plea agreement at the time of sentencing. If the custodial sentence
25 is greater than the high end of that range, Defendant may appeal, but the Government will be free
26 to support on appeal the sentence actually imposed. If Defendant believes the Government's
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Def. ___

1 recommendation is not in accord with this plea agreement, Defendant will object at the time of
2 sentencing; otherwise the objection will be deemed waived.

3 **XII**

4 **CRIMES AFTER ARREST OR BREACH OF THE AGREEMENT WILL PERMIT THE**
5 **GOVERNMENT TO RECOMMEND A HIGHER SENTENCE**
6 **OR SET ASIDE THE PLEA**

7 This agreement is based on the understanding that Defendant has committed no criminal
8 conduct since Defendant's arrest on the present charges, and that Defendant will commit no
9 additional criminal conduct before sentencing. If Defendant has engaged in or engages in additional
10 criminal conduct during this period, or breaches any of the terms of this agreement, the Government
11 will not be bound by the recommendations in this agreement, and may recommend any lawful
12 sentence. In addition, at its option, the Government may move to set aside the plea.

13 **XIII**

14 **ENTIRE AGREEMENT**

15 This plea agreement embodies the entire agreement between the parties and supersedes any
16 other agreement, written or oral.

17 **XIV**

18 **MODIFICATION OF AGREEMENT MUST BE IN WRITING**

19 No modification of this plea agreement shall be effective unless in writing signed by all
20 parties.

21 **XV**

22 **DEFENDANT AND COUNSEL FULLY UNDERSTAND AGREEMENT**

23 By signing this agreement, Defendant certifies that defendant has read it. Defendant has
24 discussed the terms of this agreement with defense counsel and fully understands its meaning and
25 effect.

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Def. _

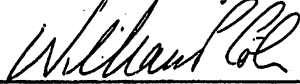
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XVI

DEFENDANT SATISFIED WITH COUNSEL

Defendant has consulted with counsel and is satisfied with counsel's representation.

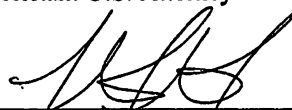
KAREN P. HEWITT
United States Attorney



WILLIAM P. COLE
Assistant U.S. Attorney

8-22-07

DATED



THOMAS J. WARWICK
Attorney for
ROLLO RICHARD NORTON


22 Aug 07

DATED

**IN ADDITION TO THE FOREGOING PROVISIONS TO WHICH I AGREE, I SWEAR
UNDER PENALTY OF PERJURY THAT THE FACTS IN THE "FACTUAL BASIS"
PARAGRAPH ABOVE ARE TRUE.**

08/22/07

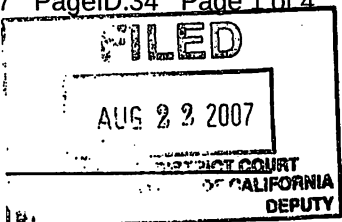
DATED



ROLLO RICHARD NORTON II
Defendant

Case 3:07-cr-02260-H Document 9 *SEALED* Filed 08/22/07 PageID.34 Page 1 of 4

1 THIS ADDENDUM IS ORDERED SEALED.



2
3 United States District Judge

Dated:

4 ADDENDUM TO PLEA AGREEMENT

5 (United States v. Rollo Richard Norton II, Crim. Case No. 07CR2260-H)

6
7 COOPERATION

8 Defendant understands and agrees that this addendum to the plea
9 agreement will be filed under seal with the Court at the same time as
10 the filing of the main plea agreement. The Court at the time of the
11 Fed. R. Crim. P. Rule 11 plea colloquy will have both the main plea
12 agreement and this addendum before the Court, and any reference during
13 the hearing to the "plea agreement" will be understood to be a
14 reference to the main plea agreement together with this addendum.
15 Both parties will ensure that the Court is aware of and is considering
16 both the plea agreement and this addendum at the Rule 11 hearing. If
17 this issue is not raised by either party at the Rule 11 hearing, any
18 objection relating to that issue will be considered waived.

19 I, the defendant, certify that I have read the preceding
20 paragraph (or it has been read to me in my native language), and that
21 I have discussed it with my counsel and fully understand its meaning
22 and effect. I am satisfied with counsel's representation.

23
24 08/22/07
Date

Rollo Richard Norton II
ROLLO RICHARD NORTON II
Defendant

25
26 Acknowledgment by defense counsel:

27
28 22 Aug 07
Date

Thomas J. Warwick
THOMAS J. WARWICK
Defense Counsel

R

Case 3:07-cr-02260-H Document 9 *SEALED* Filed 08/22/07 PageID.35 Page 2 of 4

1 A. Defendant has expressed a desire to provide substantial
2 assistance to the Government in the investigation and prosecution of
3 others, after entering his/her guilty plea. The Government has made
4 no evaluation whether the cooperation, if any, will be "substantial,"
5 or whether it will merit a downward departure from the Sentencing
6 Guidelines.

7 B. Defendant agrees to be interviewed by federal and state law
8 enforcement agents and attorneys and to tell everything defendant
9 knows about every person involved presently or in the past in the
10 operations of Safe Harbor Financial, Safe Harbor II, Cross Properties,
11 Norton Financial, and Chicago Title, as well as other violations of
12 law. Defendant also agrees to produce all documents and other
13 evidence in defendant's possession or control related to these
14 violations.

15 C. Defendant agrees not to do any undercover work or tape
16 record any conversations or gather evidence unless instructed by the
17 agent assigned to defendant. Defendant can be prosecuted for any
18 criminal activity undertaken without instructions.

19 D. Defendant agrees to provide statements under penalty of
20 perjury and to testify before any federal or state grand jury, and at
21 any pretrial, trial or post-trial proceedings. Defendant will provide
22 complete, truthful and accurate information and testimony. Defendant
23 agrees to submit to a polygraph examination to test the truthfulness
24 of defendant's statements, upon request by the Government.

25 E. The Government agrees that, if defendant fully complies with
26 this plea agreement, it will not make use of any statements made by
27 defendant during the period of post-plea cooperation in any further
28

Def. Initials K

Case 3:07-cr-02260-H Document 9 *SEALED* Filed 08/22/07 PageID.36 Page 3 of 4

1 prosecution of defendant for any offense, or in defendant's sentencing
2 as provided in Guideline § 1B1.8. If defendant does not fully comply
3 with this plea agreement, all statements made by defendant before,
4 during and after this plea agreement, and any leads or evidence
5 derived from such statements can be used against defendant and are
6 admissible in court.

7 F. Statements made by defendant pursuant to this plea agreement
8 are not statements "made in the course of any proceedings under Rule
9 11 of the Federal Rules of Criminal Procedure" and are not statements
10 "made in the course of plea discussions."

11 G. If the United States Attorney's Office decides that
12 defendant has provided substantial assistance, and has fully complied
13 with this plea agreement, it will file a motion for a downward
14 departure under 18 U.S.C. § 3553, or § 5K1.1 of the Sentencing
15 Guidelines. Defendant acknowledges that even if the Government makes
16 a motion, the Court may reject the Government's motion and
17 recommendation for departure and refuse to depart downward, and
18 defendant would not be allowed to withdraw his/her guilty plea.

19 H. If the United States Attorney's Office decides to make a
20 substantial assistance motion, it will inform the sentencing judge of:
21 (1) this plea agreement; (2) the nature and extent of defendant's
22 activities in this case; (3) the full nature and extent of defendant's
23 cooperation with the Government and the date when such cooperation
24 commenced; and (4) all information in the possession of the Government
25 relevant to sentencing.

26 I. If defendant provides materially false, incomplete, or
27 misleading testimony or information, or breaches this plea agreement

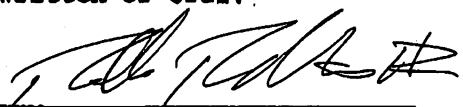
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Def. Initials


1 in any other way, the Government may prosecute defendant in connection
 2 with all federal criminal violations of which it is aware, including
 3 false statements, perjury and obstruction of justice, and defendant's
 4 sentencing guidelines may be adjusted for making false statements
 5 (e.g., § 3C1.1 and § 3E1.1). In addition, the Government may move to
 6 set aside this plea agreement, and prosecute defendant on all charges
 7 in the indictment in this case. However, if the Government elects not
 8 to set aside the plea agreement, defendant agrees that the Government
 9 may recommend any lawful sentence without restriction by this plea
 10 agreement. Any prosecution and sentence resulting from a breach of
 11 this plea agreement may be based on information provided by defendant.

12 The defendant understands that the main plea agreement and this
 13 addendum embody the entire plea agreement between the parties and
 14 supersedes any other plea agreement, written or oral.


15
 16 08/22/07
 17 Date


 18 **ROLLO RICHARD NORTON II**
 19 Defendant

18 Acknowledgment by defense counsel:
 19 22 Aug 07
 20 Date


 21 **THOMAS J. WARWICK**
 22 Defense Counsel

21 B-22-07
 22 Date


 23 **WILLIAM P. COLE**
 24 Assistant U.S. Attorney

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Ex. 5

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No. 07CR2260-H
)
Plaintiff,) San Diego, California
)
vs.) Monday,
) June 28, 2010
ROLLO RICHARD NORTON II,) 9:00 a.m.
)
Defendant.)
)

TRANSCRIPT OF SENTENCE WITH PRESENTENCE REPORT
BEFORE THE HONORABLE MARILYN L. HUFF
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: LAWRENCE A. CASPER, ESQ.
Assistant United States
Attorney
880 Front Street
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(619) 546-6961

For the Defendant: THOMAS J. WARWICK JR., ESQ.
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Transcript Ordered by: MIRANDA LIEVSAY, ESQ.

Court Recorder: Lynnette Lawrence
United States District Court
333 West Broadway
San Diego, California 92101

Proceedings recorded by electronic sound recording;
transcript produced by transcription service.

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1 SAN DIEGO, CALIFORNIA MONDAY, JUNE 28, 2010 9:00 A.M.

2 --oOo--

3 (Call to order of the Court.)

4 THE CLERK: Calling number one on calendar, Case
5 Number 07CR2260, United States of America versus Rollo Richard
6 Norton II, on for sentencing with PSR.

7 MR. WARWICK: Good morning, your Honor. Tom
8 Warwick on behalf of Mr Norton, who's present before the
9 Court.

10 THE COURT: Good morning.

11 MR. CASPER: And good morning, your Honor.
12 Lawrence Casper for the United States.

13 THE COURT: Have you reviewed the pre-sentence
14 report with your client?

15 MR. WARWICK: I have, your Honor.

16 THE COURT: Is he prepared to be sentenced today?

17 MR. WARWICK: Yes, your Honor.

18 THE COURT: Is the Government making a motion on
19 his behalf?

20 MR. CASPER: Yes, your Honor, we have, and we have
21 filed papers under seal with the Court in that regard.

22 THE COURT: Thank you. You may proceed.

23 MR. WARWICK: Your Honor, I think the Court
24 probably has a feel for what has happened in this case, but if
25 I could take a couple of minutes of your time just to kind of

1 see if I can clarify it.

2 My client was a long-time financial advisor that --
3 for a -- a large group of people, some of them as long as 30
4 years, and he would make investments on their behalf and would
5 get them a return on their investments during that period of
6 time.

7 Basically in 1999, he went into a very very
8 ambitious project where he acquired the Crown Point
9 Condominiums. They weren't condominiums at that time. They
10 were apartments. And he acquired them, and the idea was to
11 convert them to condominiums and to sell them off, which was
12 accomplished in the sense of the conversion was accomplished.
13 However, he employed his father and some other family members
14 to act as the agents for selling of the condos. That didn't
15 work out very well, and as a result of that, the \$13,000,000
16 balloon payment that he used to purchase the condos came due,
17 and he had to come up with a way to refinance the project
18 because it didn't sell in the time frame that he hoped it
19 would sell.

20 What happened is that he went to a person by the
21 name of Mr. Gainer who was with Chicago Title. At that
22 particular time Chicago Title -- he was with I believe Lawyers
23 Mutual, and then he moved over to Chicago Title.

24 In consulting with Mr. Gainer, a scheme, as the
25 Government describes it -- and I would agree with that -- was

1 arrived at whereby all of Mr. Norton's or a significant number
2 of Mr. Norton's investors would be placed as owners of the
3 company so they could obtain lower financing that you could
4 get on a jumbo loan. Jumbo loan had much higher interest
5 rates. The owner-occupied would get much lower interest
6 rates.

7 It started out with the -- a person -- a person
8 being brought up to Las Vegas, one of Mr. Norton's investors
9 being brought to Las Vegas and signing multiple financing --
10 financing documents and also loan applications where she was
11 listed as -- as the owner of about 17 condos as owner-
12 occupied, which was obviously not true. That was done by Mr.
13 -- with Mr. Gainer. Mr. Gainer actually brought them up to
14 Las Vegas, used -- I believe Fidelity was the company that was
15 involved in it. And, as a result of that, they were able to
16 obtain some financing in order to pay some of the loan off and
17 then eventually to try to pay the rest of the loan off.

18 This was done with -- when Mr. Gainer was, as I
19 said, initially with Lawyers, and then he moved on to Chicago.

20 What happened in addition was as -- over the years,
21 as many as 300 or more either purchases by controlled
22 investors as they were described or refinances by these
23 controlled investors in order to keep the project afloat.

24 In addition, there was another project that was
25 entered into around 2002, 2003 whereby they were buying and

1 Mr. Norton on behalf of his investors purchased some raw land
2 in Orem, Utah I believe it was, and they built a golf course.
3 The deal was they would build a golf course, and the city
4 would own the golf course. They would get 30 percent of the
5 proceeds. But, more importantly, they would get all the home
6 sites surrounding the golf course for purposes of development,
7 which was projected to be a very very beneficial real estate
8 deal.

9 The original condominium purchase, based upon
10 estimates that we've looked at, if it would have sold
11 promptly, would have netted as much as \$10,000,000 of profits
12 based upon the purchase price and the selling prices in the
13 Crown Point area at that particular time.

14 With regard to the project in Orem, Utah, about
15 \$9,000,000 was diverted out of the Crown Point investments
16 into Orem, Utah to get the golf course built which was
17 constructed, and the economy completely fell apart. So the
18 home sites in Utah, even though they are still available, are
19 not selling, and the condominiums did not sell as projected.

20 The -- to give you an idea of some of this, with
21 Mr. Gainer, in order to get in this lower financing, if you
22 will, down around the five or six percent rate as opposed to
23 the much higher rate on the jumbos, Mr. Gainer brought in an
24 individual by the name of Mr. Shoots (phonetic). Mr. Shoots
25 was essentially a hard money lender and made these loans at

1 much higher rates than you would get if you went through some
2 of the banks, although there were many banks that were
3 involved and many banks that were affected by this. Mr.
4 Shoots, it's my understanding, is currently indicted in
5 Federal Court here on about a -- it's my understanding is
6 about a \$20,000,000 fraud of his own that has nothing to do
7 with this.

8 So we have Mr. Norton who basically buys a project,
9 attempts to refinance it. Mr. Gainer comes up with the idea
10 that we'll put them all -- all of these condominiums in your
11 investors' names. That way we'll get much lower rates. That
12 was not true. They were not owner occupied. That was not
13 appropriate.

14 Once Mr. Norton -- and then he did the project in
15 Orem, Utah. The project actually did get completed in the
16 sense of the building of the golf course. However, there was
17 litigation over that, and it's still ongoing.

18 Once all of this happened, just to give you a
19 couple of other indications of this, there's a thing -- and
20 this has kind of become a term of art in this case called a
21 Loopy Loo or Loopty Do. What happened in this is when they
22 were doing these refinancing, Mr. Norton didn't have the money
23 to pay the down payment to the escrow company. And so what
24 was happening is is that they would take \$50,000 and send it
25 to the escrow company. They'd send it back immediately, send

1 it back to the escrow company for the next escrow, back and
2 forth. This was all done with the knowledge and consent of
3 Mr. Gainer and the people and the escrow company.

4 I would point out to the Court that there was an
5 extensive almost four-month civil trial in the State Court.
6 During the course of that preparation for that trial, Ms.
7 Nieto, who was the escrow officer, the person who did the
8 actual escrows, Mr. Gainer, who was her boss, Becky Trait
9 (phonetic), Ms. Nieto's husband, Ruben Nieto, and Terry
10 Gainer, who's the wife of Mr. Gainer all took the Fifth
11 Amendment and did not -- were not subject to deposition and
12 did not testify in the trial.

13 A couple of other things that happened is that
14 there was \$250,000 note secured by a deed of trust that was
15 missed on one of the properties by Chicago Title. In order to
16 get their \$250,000 back, they basically assessed all of the
17 other escrows that Mr. Norton was involved in and took the
18 money out of there until they got their 250 back for the
19 mistake that they made. As a result of that, there was
20 conversations with counsel at -- at Chicago Title, and people
21 at Chicago Title, Norton saying this isn't -- I don't have
22 authority to disgorge this money, and their response was,
23 "Well, we presume all the money is your money, and we're
24 dealing with it that way." Now, that occurred, and there was
25 a trial, a civil trial, and the jury did find clear and

1 convincing evidence and did find fraud on behalf of Chicago
2 Title.

3 What happened with Mr. Norton, which is I think
4 most compelling to this particular Court, when he realized
5 that this was no longer sustainable, what he did is he went
6 and formed what is called -- now called a liquidating trust.
7 We've got Mr. Smaha (phonetic), who cannot be here today.
8 He's in trial in bankruptcy court, to be the Trustee, and we
9 took all the assets and placed them that we could marshal, and
10 there was actually another project in Arizona that was a
11 smaller project that was also placed in the -- in a
12 liquidating trust, got all the assets together and did our
13 best to marshal those assets and to try to preserve them for
14 the creditors.

15 Then the civil lawsuit got involved. Mr. Kirby is
16 here speaking on behalf of -- I believe he represented about
17 45 of the creditors, and he is also I think -- other people
18 have released their conditions because they've been made whole
19 and, as I said earlier, in most cases much more than whole.

20 So we've got a person now. It's some -- it's some
21 three years since we really started on this back in 2007. He
22 has been of substantial assistance to the Government. He has
23 been substantial assistance to the victims of what has
24 happened in this particular case by waiving his Fifth
25 Amendment rights whereas the Chicago Title people did not and

1 has participated in depositions, participated in a four-month
2 trial, testified in the proceedings, is now getting ready to
3 testify in the next set of proceedings of the Orem, Utah case
4 where Mr. Smaha feels that he is invaluable.

5 The other thing that I've asked Mr. Kirby to speak
6 to, but it's my understanding that in his testimony before the
7 civil case, that the civil -- that there was no substantial
8 impeachment of Mr. Norton and what he said and what happened.
9 All of the things that I've talked to you about, there's
10 documentation to show it actually happened, and it was
11 presented in the case, and there was found to be fraud by
12 Chicago Title as well, obviously, as Mr. Norton as far as
13 participating in it.

14 So, your Honor, in -- in totality, we have an
15 individual who tried to make money for his clients, got into a
16 deal that was over his head. The balloon payment was coming
17 due. Some other people suggested the -- putting his
18 investors' names as owners of the property in order to save
19 money. That got started. We wound up with 300 or so of those
20 types of escrows, and some of them were actual sales, but 300
21 of those escrows.

22 The only people that made money out of this were
23 the people who were providing the service, the escrow and the
24 title insurance. Mr. Norton lost everything. All of the
25 other people, to the largest extent possible, have been made

1 whole and much more than whole.

2 So Mr. Norton has some more work to do with regard
3 to depositions in Utah, and he probably will have to testify
4 in Utah at that particular proceeding. He has had -- he's got
5 nothing left. One of the things that you look at with frauds
6 if you follow the money, and the money did not go to Mr.
7 Norton. The money went to a lot of other people and a lot of
8 other things to keep the Crown Point alive and also to keep
9 Orem, Utah alive, and we have -- now have a person who's
10 destitute. He is -- he is before this Court humbled by the
11 fact that he was wrong in what he did. He participated clearly
12 in something that was wrong. When he came to his senses in
13 the matter, he immediately went to law enforcement and has
14 cooperated fully for the past three years, cooperated fully in
15 civil matters and has done an enormous amount to make whole
16 those that were impacted. In fact, several of the investors
17 have indicated that their return was so substantial that they
18 would -- they would like to invest with him again based upon
19 how much they were able to acquire as a result of Mr. Norton's
20 activities in the civil case and obviously Mr. Kirby and
21 others who pursued the civil case on their behalf.

22 I'd like, if the Court would, for a moment allow
23 Mr. Kirby to address the Court on behalf of -- of the victims,
24 your Honor.

25 THE COURT: Let me first hear from Mr. Casper.

1 MR. WARWICK: Thank you.

2 MR. CASPER: Thank you, your Honor.

3 Your Honor --

4 THE COURT: I have read your request. So you do
5 agree that he has cooperated with the Government?

6 MR. CASPER: We do, your Honor, and we've outlined
7 that fully in the papers, and I'm not going to dwell on --

8 THE COURT: You do months rather than levels under
9 the law. The Court can -- if I factor that in, it's
10 approximately five levels.

11 MR. CASPER: That is approximately correct, your
12 Honor.

13 THE COURT: Depends on the high end and the low
14 end, and you're doing months, as appropriate.

15 MR. CASPER: Thank you, your Honor.

16 Your Honor, with respect to the scheme itself, the
17 Defendant here was a primary architect, if not the primary
18 architect of this fraud scheme. The parties have agreed that
19 the loss here was the \$7,000,000 up to \$20,000,000 in loss
20 figure. The facts are laid out in our papers, both in our
21 papers filed under seal and our sentencing memorandum, which I
22 hope the Court also had an opportunity to review.

23 THE COURT: Yes.

24 MR. CASPER: The fact is that this fraud could not
25 have taken place without this Defendant. And, more

1 importantly, the clients of his, the clients who trusted him,
2 entrusted in many instances their life savings with him over a
3 long period of time. He brought those with him to the table
4 in this fraud.

5 The Defense has asked that the Court not impose an
6 aggravating role, and let me begin by addressing that. The
7 Defendant -- and it's uncontested in this case that the
8 Defendant was the supervisor and the mentor for two
9 assistants, two of his associates, Mr. Greer and Mr. Johnson,
10 both of whom subsequently entered guilty pleas in this case,
11 both of whom clearly looked up to Mr. Norton as a senior of
12 theirs and as a mentor, someone that in some ways they really
13 trusted and really thought highly of and respected. And he
14 let them down. But, more importantly, he supervised them. He
15 had a significant role in managing their activities. And, as
16 such, the two-level bump for aggravating role that the
17 Government recommends and I believe Probation also recommends
18 in this case is certainly warranted. We've cited in our
19 papers several cases from the Ninth Circuit which clearly show
20 that that aggravating role does apply and should be utilized
21 by the Court in this case.

22 To the Defendant's credit, he did take
23 responsibility early in this case, but at the time he took
24 responsibility, the FBI already did have an investigation
25 outstanding. I believe that subpoenas had already been

1 served, and the FBI was hot on Mr. Norton's trail. So that
2 should be taken into account by the Court as well, but
3 ultimately the fact here remains that this scheme cost the
4 investors, the clients of Mr. Norton significantly not only
5 financially but emotionally and every other way imaginable.
6 As -- as the Government has looked at the victim impact
7 statements that were provided -- and we quoted some of those
8 in our papers -- it's clear the devastating impact that this
9 fraud had on retirement savings of individuals, on the life
10 savings and the life's work of many of these individuals.

11 Now, ultimately, through litigation, some of these
12 victims, many of these victims have ultimately been
13 compensated. However, that does not change the devastating
14 emotional impact and the work and the concern and the
15 frustration that these people had to undergo for years in
16 order to be compensated when they were -- when this fraud was
17 committed against them, and ultimately they paid the price
18 emotionally and in other ways, whether ultimately they
19 received financial compensation or not.

20 THE COURT: Now, you said some did not?

21 MR. CASPER: That is our understanding, your Honor.
22 Some -- there are some individuals who in this latest trial,
23 Chicago Title was not adjudged to be liable for their -- what
24 we believe -- the Government believes is their loss. In
25 addition, even though Chicago Title may have been found liable

1 in this trial, obviously Chicago Title still has its appellate
2 rights, and ultimately we don't know and can't say for certain
3 whether those individuals will ultimately receive the
4 compensation that the Court has determined or the jury in that
5 case has determined they will be paid. There were, however, a
6 number of settlements prior to this trial with other victims,
7 and there have been numerous victims identified in this case,
8 but the Government has provided the Court with a motion for
9 restitution on behalf of those victims that the United States
10 does not believe have yet been compensated, and that amount is
11 still up at around \$2.6 million. That does include some of
12 the individuals who were involved in this latest trial and
13 have not yet been compensated. And, quite frankly, we don't
14 know whether they will or won't ultimately be compensated.

15 THE COURT: So you're saying the \$20,000,000 is --
16 the 7 to 20 million is now down to about \$2,000,000?

17 MR. CASPER: About two -- approximately \$2.6
18 million based on our calculations. Now, we filed our motion
19 for restitution, and the Defense has not yet had an
20 opportunity to respond to that, and I don't know whether they
21 agree or disagree with that figure, but that's certainly the
22 Government's loss figure, and we believe that that figure is
23 correctly calculated.

24 THE COURT: Thank you.

25 MR. WARWICK: Your Honor, in that regard, the

1 people that were in the trial, they were represented by Mr.
2 Kirby. Some of them resolved the case in mutual dismissals
3 and it did not proceed. The rest of the people, I believe
4 there's six of them, a jury after a hearing three and a half
5 months of evidence, concluded that they weren't entitled to
6 anything.

7 THE COURT: Were not?

8 MR. WARWICK: Were not, by a preponderance.

9 THE COURT: So --

10 MR. WARWICK: So on that, I understand that -- that
11 they may make a claim, but we'd have at least a pretty good
12 benchmark based upon three and a half weeks -- or three and a
13 half months of trial that a jury concluded that they were not
14 entitled to compensation, that they had been -- all of their
15 money had been fully returned prior to the trial, your Honor.

16 THE COURT: Thank you.

17 MR. CASPER: Well, and, your Honor, if I may
18 continue. The impact here was staggering on Norton's clients
19 and, as well, the real estate market in and at this
20 condominium complex, as the sales and refinancings by Mr.
21 Norton were causing artificial inflation of the property
22 values before ultimately the entire scheme came to a crashing
23 halt. So this changed the real estate market in that area.
24 It had a significant impact on the -- on the victims. With
25 regard to the compensation issues, the Government stands by

1 its restitution figures, and we would note that obviously the
2 information that the Government has may be somewhat different
3 from the evidence that was ultimately presented in a separate
4 civil trial, but, having said that, we do stand by our
5 restitution figures.

6 THE COURT: Would you say knowing what -- knowing
7 the scope of the civil litigation that the civil litigation
8 information is more updated than your initial information from
9 the FBI when the investigation started?

10 MR. CASPER: Well, it's hard to say, your Honor,
11 whether it's -- it certainly was an extremely lengthy trial.
12 I have not had the opportunity to review every page of the --
13 of the transcripts nor to study all of the evidence that was
14 presented at trial. I would say that it's probably more
15 comprehensive than what the Government had at the earliest
16 stages of its investigation. Whether it is substantially
17 different from what we have now, I could not -- I could not,
18 would not address at this point in time.

19 THE COURT: But you're saying the loss amount you
20 think is 2.6?

21 MR. CASPER: Well, I'm saying, your Honor, that the
22 restitution figure is 2.6. It's undisputed by the parties
23 that the loss amount is \$7,000,000 plus. That was the
24 agreement contained in the plea agreement negotiated by the
25 parties. That's the agreement that the Defense stands by and

1 the Government stands by at this time. The -- and, though,
2 simply because at the end of the day there has been
3 compensation paid because civil lawyers were aggressive in
4 pursuing these claims on behalf of Plaintiffs does not change
5 the fact that the amount of loss that this Defendant
6 engendered was in excess of \$7,000,000.

7 THE COURT: Sure. And the parties have agreed to
8 that. But then, as a practical matter, I've had several of
9 these, and they're very -- very very frustrating for the
10 victims because they get revictimized and have to go through a
11 very lengthy process of lawyers, and it's very complicated,
12 but it is helpful that rather than them walking away with
13 nothing, at least to some of them they got some money back.

14 MR. CASPER: Well, certainly, and the Government
15 certainly understands and recognizes and appreciates that at
16 least some of the victims have ultimately received
17 compensation, but I don't think this Court should view it as
18 -- as a huge credit to the Defendant in this case, and we have
19 -- we have certainly accounted for the assistance he provided
20 in our recommendation, and we surely would trust that.

21 THE COURT: You found it, and the Defense disagrees
22 with that.

23 MR. CASPER: It may disagree, but it -- but there
24 can be no -- but in terms of the way the Government perceives
25 this and, frankly, the way it occurred, Mr. Norton was at the

1 heart of this fraud, and he is the -- certainly one of, if not
2 the primary cause, of all of this. So to say he helped pick
3 up the pieces a little bit of something that he created in the
4 first place I think begs -- ultimately begs the question a
5 little bit, and the Court ought to come back and look at this
6 in terms of the activities engaged in by this Defendant and
7 what -- what he robbed, if you will.

8 With respect, your Honor, to the -- the issue of
9 the Defense's motion -- request for downward departure in the
10 area of combination of factors, the Government does not
11 believe that any of the items that the Defense has identified
12 here really fall outside of the heartland.

13 With the -- this issue of the victims being
14 compensated for their loss, again, that's largely the work of
15 aggressive and creative and -- and strong lawyering on the
16 part of civil attorneys who have pursued these claims.

17 THE COURT: But started by Mr. Warwick, right? I
18 mean, it is fairly extraordinary that -- maybe not started but
19 fairly extraordinary that they waived attorney-client
20 privilege and he agreed to be deposed and that his client in
21 the face of criminal investigation agreed to be deposed.

22 MR. CASPER: Well, his client had already entered
23 his guilty plea. His client had already -- was already teed
24 up essentially for his sentencing, and --

25 THE COURT: Right. But ask Federal Defenders.

1 That's quite often -- quite -- it's probably more likely than
2 not that people do not speak, even after a guilty plea, more
3 common. And that's recognized in your motion.

4 MR. CASPER: And it is, your Honor, and that comes
5 back to -- to the fact that we've really accounted for and
6 looked at these things in a separate way from a separate, if
7 you will, 353(a) or combination of factors type analysis.
8 We've accounted for the cooperation in terms of -- in those
9 terms, which is where it properly belongs in the analytical
10 analysis.

11 THE COURT: Thank you. Thank you. I think we've
12 got to move on.

13 And does Mr. Kirby want to make some brief
14 comments?

15 MR. KIRBY: I do, your Honor. Thank you.

16 Good morning, your Honor.

17 THE COURT: It's a little unusual. Any objection
18 by the Government?

19 MR. CASPER: Your Honor, the Government does not
20 have any objection to Mr. Kirby speaking, no.

21 THE COURT: Thank you.

22 MR. KIRBY: Thank you, your Honor. This is a first
23 for me. It's not usually my role.

24 Your Honor, my firm has been involved in this
25 litigation starting back in December of 2005. Over the course

1 of the -- and there were really two waves of litigation. My
2 firm represented 45 different investors, your Honor. I'm also
3 authorized to speak on behalf of Debra Hurst, who's luckily
4 in Hawaii, but she had over a dozen investors.

5 Your Honor, you asked a question this morning, did
6 Mr. Norton assist in these cases, and a couple of things I
7 just want to say to the Court. Mr. Norton agreed to testify
8 in July of 2007. He had not yet entered his guilty plea.
9 Everyone else was taking the Fifth Amendment. He sat I
10 believe in that case for nine days of depositions.

11 THE COURT: So is Mr. Casper wrong?

12 MR. KIRBY: Well, I think, your Honor, I don't know
13 where they were in terms of having reached an agreement in
14 principle, but I think if you look at the actual date that he
15 pleaded guilty and the date when he first testified in his
16 deposition, I'm pretty confident he testified before he came
17 in and did his guilty plea. Again, I don't know where -- that
18 may have been a ministerial fact. They may have had an
19 agreement in principle, but he did come in and testify, and he
20 had not yet pleaded guilty to his charges.

21 And, your Honor, to have someone come in and
22 testify under oath where everyone else involved in this -- and
23 we were pursuing it on a conspiracy theory and aiding and
24 abetting -- has invoked the Fifth Amendment, do I think we
25 would have prevailed on behalf of the number of these

1 Plaintiffs if Mr. Norton had never testified? For some,
2 maybe. But, your Honor, the assistance of having Mr. Norton
3 come in and be willing to testify under oath was enormous, and
4 the best evidence of that, your Honor, is that within four
5 months or less of Mr. Norton testifying, every single one of
6 those civil cases were resolved, and the settlements, your
7 Honor, were all and remain confidential except I was
8 authorized by a lawyer for Chicago Title, Rich Carlson, every
9 time one of my Plaintiffs testified, it was authorized that I
10 could now notify the U.S. Attorney that while the amount of
11 the settlement was confidential, those clients had no claim
12 restitution whatsoever.

13 Your Honor, the second wave of cases came, and it's
14 been alluded to that there was a long trial and a jury burden.
15 A number of those Plaintiffs --

16 THE COURT: There are some of -- there are some
17 defense lawyers over on this side?

18 MR. KIRBY: Yes. They're all down here, your
19 Honor, Mr. Weaver, Mr. Wright. In that case, some of the
20 Plaintiffs prevailed. You asked a question about is it
21 collectible. There's no question, your Honor, that those
22 Plaintiffs who've prevailed it's collectible. Some of the
23 Plaintiffs, as have been mentioned, received nothing from the
24 jury. There was a reference -- and, in fairness, Mr. Casper
25 wouldn't know this, the appellate rights -- all Plaintiffs who

1 just went through this trial have resolved their claim now,
2 your Honor. So that case is completely over in terms of all
3 those investors. There are, your Honor, by my count seven
4 Plaintiffs who received zero over there, and by my account, if
5 you take their claims or economic loss claims, that's probably
6 in the range below a million and a quarter. It's a million --
7 in my estimate, doing these numbers --

8 THE COURT: You mean if you take the --

9 MR. KIRBY: Those Plaintiffs who did not recover
10 money, their total loss, your Honor, is in the range of
11 \$1,000,000 -- economic loss, which I'm told for restitution
12 doesn't take interest, you don't take emotional distress,
13 those sort of things. It's in the range of \$1,000,000, your
14 Honor. So -- and I think three of the Plaintiffs who've
15 received zero, there had been advances made, your Honor, to
16 them, which in our view, from talking to jurors, contributed
17 heavily to those results.

18 Your Honor, the great majority of these people have
19 been compensated. Mr. Norton told the truth. As I saw it,
20 your Honor, he came in and accepted responsibility, and I'd
21 like, if I could, to share one anecdote because early on in
22 this case in the civil case, a key dispute was whether or not
23 Mr. Norton had signed other people's names and whether or not
24 the people at Chicago Title were aware of it.

25 I told Mr. Warwick, who I've known for a long time,

1 I would like to find this out because I'm being challenged in
2 the Superior Court that this never happened. Could I have a
3 conversation with you, Mr. Warwick, with your client on the
4 line? I want to just ask him that question because I've been
5 told that by others, by I'm pleading -- I want to make another
6 amended pleading. I want to know -- we had a conference call,
7 your Honor, the three of us. I asked him that question, and I
8 asked him a question in a way that I knew if he told the
9 truth, in my opinion, as a civil lawyer, he would be
10 incriminating himself.

11 When the question was asked, Mr. Norton said, "Tom,
12 should I answer the question?" Mr. Warwick said, "Rick, tell
13 him the truth. Just answer his question truthfully." He did,
14 your Honor, and I pleaded it, and the evidence on that
15 specific issue, your Honor, he was telling the truth. So,
16 your Honor, he did provide assistance, and I think, your
17 Honor, and I'm here to say that he's a good man, that he's
18 done no wrong. I am here to say that I canvassed my clients,
19 your Honor. They urge the Court to obviously do what is
20 appropriate but that they do not seek to see Mr. Norton
21 harshly punished or incarcerated. In fact, I know one of my
22 clients early on had sent a letter, Ms. Coleman. She asked me
23 to specifically ask the Court to not even incarcerate Mr.
24 Norton. I said I don't think that that's my call. But, your
25 Honor, these people have forgiven Mr. Norton. I think they

1 recognize that had he not accepted responsibility, had he not
2 come forward and testified early on when he did, their civil
3 cases would have been a lot more difficult.

4 So, your Honor, that's the extent of my -- if the
5 Court has any questions, but that's the extent of my comments
6 on Mr. Norton, but I do think that there was significant
7 benefit by him accepting responsibility.

8 Your Honor, he stood up in front of the jury, and
9 he looked at the Plaintiffs and said "I'm sorry. I betrayed
10 your trust." So I do think that we -- we got assistance, your
11 Honor, and I think he told the truth.

12 Thank you.

13 THE COURT: Thank you.

14 Could we hear from the victim if hie wishes to
15 speak? Did you wish to speak? Ad come forward.

16 Good morning. State your name.

17 MR. LILLY: My name is Steve Lilly, and I represent
18 the Lilly family, who had a significant investment with Mr.
19 Norton. I don't have a prepared statement here, but I just
20 want to -- we need kind of a human perspective here from
21 someone that's actually been victimized, okay.

22 THE COURT: It was said that his case is an
23 extraordinary --

24 MR. LILLY: Yes.

25 THE COURT: -- for the victims because it's just a

1 lengthy process and you feel revictimized and revictimized in
2 my estimation.

3 MR. LILLY: Absolutely, but let me just say we were
4 probably in the top two or three percent of -- we had the most
5 money at stake here I'm going to say with our condominiums
6 over at Crown Point as they're referred to now, and I was
7 deeply involved in the day-to-day operations at Crown Point.
8 I was actually the general contractor who did the
9 refurbishment of the said project, okay. And I had constant
10 contact with Norton, Greer, and Johnson throughout the whole
11 -- the term of the -- the development of the project.

12 But I'd really like to say that, you know, for me,
13 the deception is the -- the worst part of all this. I mean, I
14 was there every day, 12 hours a day, and had absolutely no
15 idea that any of this -- these shenanigans were going on, no
16 idea. And Mr. Norton would look me in the face every day with
17 a smile. Trust me, this man has no heart whatsoever. It was
18 all about him making money at any -- at any cost, no matter
19 who he hurt. I had a lot of respect for this guy. I grew up
20 with him. I went to grade school with him. I had the
21 ultimate trust in him. I brought in my family members who had
22 a lot of money and entrusted it with Mr. Norton, and he -- and
23 it was -- it was like -- it's like being betrayed by your
24 brother. And throughout the whole thing, like I say, not one
25 inkling of what really was going on. I mean, that's what

1 really hurts, and I told him, I came and I asked him point
2 blank, you know, what's going on because toward the end
3 obviously things were not going as planned, but even then he
4 would not tell me what was going on.

5 So, of course, then it all blew up and it had
6 repercussions on me in Arizona because I'm also a developer of
7 a project there that Mr. Warwick referred to. I was the
8 developer of the Oak Park Springs Project. So that, of
9 course, was left in a lurch too because the moneys that were
10 supposed to come there, of course, were tied up in his other
11 disasters.

12 But that for me is the worst part of this. I mean,
13 the betrayal. I mean, money, of course, factors in also but
14 just the trust that I had in this man. I mean, I called him
15 big brother. He called me little brother. I mean, and to be
16 sitting here even having to have this conversation, your
17 Honor, I mean, I have goose bumps on me. I don't even know
18 how to describe it, but from a human toll -- and the only
19 reason that we were made whole is because of the overwhelming
20 evidence against him and Chicago Title, and, of course,
21 Chicago Title, I will say, did come to the plate, and we were
22 made whole and then some, but --

23 THE COURT: But they are not going to jail.

24 MR. LILLY: Pardon me?

25 THE COURT: Chicago Title.

1 MR. LILLY: Well --

2 THE COURT: They haven't been criminally indicted.

3 MR. LILLY: I really don't know the status of --
4 yeah, the -- but, like I say, just the deception for me is
5 what's -- and my family. I mean, my mother and my aunt both
6 put in significant amounts. They're elderly, and for a good
7 three years, we were all destitute, your Honor, I mean
8 destitute.

9 THE COURT: But now you have received your money
10 back?

11 MR. LILLY: Correct, yes.

12 THE COURT: All right.

13 MR. LILLY: So while I do give Mr. Norton credit
14 for stepping forth and accepting the responsibility in all
15 this, it was to save his own skin, and --

16 THE COURT: I think that that --

17 MR. LILLY: -- like I said, he just -- I looked in
18 his eyes every day, and I know this man very well -- or at
19 least I thought I did, of course. And all those years it was
20 all just one big lie. That's all I have to say.

21 THE COURT: Thank you.

22 MR. CASPER: Your Honor, I just want to very
23 quickly address two issues that were raised by Mr. Kirby.
24 First, the issue of restitution. I would urge the Court at
25 this juncture on the restitution issue to allow us to have an

1 opportunity to consult with Mr. Kirby and with Plaintiffs'
2 counsel to try and see if we can reach a --

3 THE COURT: Has there been a preliminary order of
4 restitution? Has there been a preliminary order?

5 MR. CASPER: We have not yet submitted one. We did
6 submit our motion with what we believed at the time to be the
7 correct amounts.

8 THE COURT: And so this needs to go in the
9 judgment. So you're suggesting that you and Mr. Warwick and
10 Mr. Kirby get together and try to come up with something?

11 MR. CASPER: That's correct, your Honor.

12 THE COURT: And that then that --

13 MR. CASPER: That we will submit the order.

14 THE COURT: Submit that to the Court, and then does
15 Mr. Norton waive his presence?

16 MR. WARWICK: So waived, your Honor.

17 MR. CASPER: Thank you, your Honor. And, your
18 Honor, with respect to the issue of the timing of the waiver
19 by Mr. Norton on the Fifth Amendment, I do want to indicate to
20 the Court there were not certain -- and we certainly -- we
21 probably would not have been privy to the exact moment that
22 Mr. Norton waived or indicated his willingness to the
23 Plaintiffs' counsel to waive the privilege as to the timing of
24 the deposition.

25 THE COURT: Is it correct that his Rule 11 was

1 after he'd already --

2 MR. CASPER: We're not --

3 THE COURT: -- testified?

4 MR. CASPER: We're not certain of that as we stand
5 here today, your Honor, whether -- but certainly something
6 that's easily checked. We're not disputing that it may well
7 have taken place beforehand.

8 THE COURT: That he --

9 MR. CASPER: That he may --

10 THE COURT: -- waived before the Rule 11?

11 MR. CASPER: Before the actually Rule 11 this was
12 issued. Correct, your Honor.

13 MR. WARWICK: Your Honor, I can verify that because
14 I was present. The -- the plea agreement I think was August
15 22nd of '07, and we had had conversations prior to that time
16 with Mr. Kirby relevant to Mr. Norton's involvement, also with
17 Ms. Hurst, and Mr. Fox who represented some other Plaintiffs.
18 There was extensive discussions. You have to remember that we
19 took all the assets and put them in a liquidating trust, and
20 we were trying our best to make sure that everybody got their
21 money back, either through a liquidating trust or by
22 litigation against Chicago Title.

23 THE COURT: Well, you can see the emotion because
24 on these cases, typically the victims are very very very upset
25 over the process, and then -- then it becomes a very tough

1 issue for the Court. The two sides have different views,
2 maybe not so different in this one because the Government does
3 agree that your client did come forward. The real question is
4 then what does the Court do.

5 So I'd like to hear -- give Mr. Norton an
6 opportunity to do his allocution. Would you like to say
7 anything to the Court before the Court imposes sentence on
8 you?

9 THE DEFENDANT: Yes, your Honor. I would just tell
10 the Court I am truly sorry for my participation in this. I
11 did everything possible. One of the reasons was -- Mr. Lilly
12 talked about that I didn't talk to people about what was going
13 on was because I was trying to get all those assets into the
14 trust before other civil litigation started. So it wasn't
15 like I was trying to hide this. I was trying to protect my
16 clients. But I'd just been three and a half to four months in
17 the civil trial pro per. I did at that time twice address the
18 clients that were there in front of the jury and sincerely
19 told them how sorry I was for my participation in this, and I
20 truly am.

21 Then, again, I'd like to state to the Court that I
22 apologize for my actions and tell my clients I'm sorry. Thank
23 you.

24 THE COURT: Submit to the Court, Mr. Warwick?

25 MR. WARWICK: Just one last comment, your Honor.

1 The -- it appears that the only person who really lost
2 everything in this is Mr. Norton as far as the finances of it.
3 Fortunately, through the great lawyering of the people
4 involved that I've already cited, the people have been
5 restored and in most cases enhanced in their positions, and I
6 would submit it based on that, your Honor.

7 MR. CASPER: And, your Honor, I would submit based
8 on the fact that this Defendant is the one who caused all of
9 these people to be in this situation and all of us to be here
10 today, and it was his actions, and you heard from the victim,
11 Mr. Lilly, who indicated that this Defendant looked him in the
12 eye every day and lied to him and betrayed that trust. And
13 so, with that, your Honor, the Government would submit.

14 THE COURT: Thank you.

15 Now, this process the Court begins with the
16 consideration of the advisory guidelines under the law, and
17 then each of the 3553(a) factors. The mandate of the Court is
18 to do a sentence that is sufficient but not greater than
19 necessary to achieve the purposes of sentencing.

20 We begin with a base offense level of seven under
21 2B1.1a1. And then under the agreement of the parties, there's
22 plus 20 for losses greater than \$7,000,000 under sentencing
23 guideline 2B1.1b1k.

24 And then on the issue of role, the Court does
25 believe that an aggravating role adjustment is appropriate

1 under the circumstances. There's the commentary in the
2 guidelines manual about when to do an aggravating role. I
3 think that the comments here do persuade the Court that it
4 should give consideration to an extraordinary acceptance of
5 responsibility, and obviously the Government agrees on the
6 5K1.1 motion.

7 The -- as to the loss as well, while it's plus 20
8 for more than \$7,000,000, a lot of that money has then been
9 recovered. I do agree it's not apples and oranges, but we do
10 a loss amount based upon what he did, not what on recovery is
11 factored in, but the Court can consider that the loss amount
12 is perhaps overstated if the investors are getting, in
13 essence, their money back as well. So that's more on a
14 departure analysis of 3553 factors rather than on the strict
15 guideline analysis.

16 The Government is making a motion for the third
17 level of acceptance of responsibility, and the Court will
18 grant that.

19 MR. CASPER: Your Honor, I just want to mention the
20 -- your Honor has not addressed this --

21 THE COURT: Plus two number of victims.

22 MR. CASPER: Thank you, your Honor.

23 THE COURT: Thank you. And plus two number of
24 victims. According to the Government's calculation, that
25 begins with then we're at an offense Level 28. Is that right?

1 MR. CASPER: That is correct, your Honor.

2 THE COURT: Then so the Government is moving for 32
3 months, which approximately equates to about a five-level
4 reduction. Once the Government makes the motion, the Court
5 can consider additional information.

6 Here, the Court commends the Government and the FBI
7 for its investigation. I think it's fair to say that their
8 investigation set this in motion and that perhaps without
9 setting it in motion by the investigation, then perhaps all of
10 the other things that came into place to at least recover some
11 money back for the investors may or may not have occurred.

12 So I do commend the Government and the FBI and its
13 investigative efforts.

14 Here, unlike other cases that I've had, the
15 fortunate thing is many of the victims have actually received
16 money back. I recently had one where the victims were living
17 in their trucks and cars and have lost virtually everything,
18 and unlike this instance, there's probably very little hope
19 for any recovery whatsoever, and so here you have victims that
20 have just completely lost everything.

21 In contrast, at least in this instance, while
22 painful, extremely upsetting to the victims as -- as we heard,
23 at least there has been some financial recovery and partially
24 in the big picture the system kind of worked, where you do
25 have a liquidating trust. You do have the effect of the

1 market because for -- timing is everything. Some of these
2 things, had they happened just a little bit different, they
3 would all be golden. We all -- when real estate was just
4 going up, everybody was making a whole lot, and you could just
5 -- you could do anything, and it would turn to gold.

6 Well, you can't have straw men kiting checks, fake
7 escrows. You can't have any of that, and the timing of this
8 one goes back to '99 and then continued on through several
9 different projects, and at the same time, you have the
10 participation of others.

11 So while I didn't do the plus two for aggravating
12 role, I do think that there were other participants in this
13 scheme that contributed to the circumstance. And, as Mr.
14 Kirby said, all the rest took the Fifth, and here's Mr. Norton
15 who -- and perhaps it was to save himself, but at least he was
16 willing to step up and be questioned and be examined and
17 participate in the process, and that the process at least
18 resulted in some recovery.

19 So in the way the Court takes a look at that, these
20 are all by analogies because they don't quite fit, but we add
21 20 levels for more than \$7,000,000. If the loss amount on
22 restitution is either \$1,000,000, then it's four levels off.
23 If it's more than \$2500, which the Government claims on
24 restitution, it's two levels off. As I said, I recognize that
25 it's not quite the same because the loss amount is different

1 from any restitution. But, as a practical matter, dollars are
2 dollars too. And so the way the Court sees it, I think those
3 additional efforts amount to approximately, in the Court's
4 analysis, four levels of -- so if I take the -- so and we
5 don't -- the Government's not doing levels because you don't
6 do levels under the law, but at least the way I'm looking at
7 it, if you do a four-level kind of extraordinary acceptance of
8 responsibility with the five levels, where we had a Level 78,
9 Level 28, down to a Level 23, and four more -- down to a Level
10 19. That leaves an adjusted offense level of 30 to 37 months.

11 In my view, I don't think he can walk away from it.
12 I don't think that just giving him a free pass is really
13 appropriate. The next thing the Court does is consider each
14 of the -- your other departures for extraordinary efforts
15 under Cook and Koon. I think I've already factored those in
16 on his assistance, and I can't see that there is anything
17 really else. His health you mentioned, but that's not outside
18 of the heartland of -- of matters, and so to the -- to the
19 Court, I think that's it on the issue of departures.

20 Next the Court does each of the 3553a factors. As
21 far as months, you would have to take the 78 and then go down
22 to a Level 19 of 30, and you could do the math on that. But
23 it's more significant than the Government was asking for.

24 Then on the 3553a factors, the Court considers the
25 history and characteristics of the Defendant. Fortunately for

1 him, his Criminal History I, he had a traffic -- traffic
2 related matter but no other -- failure to appear and
3 registration infraction. So not -- and zero criminal history
4 points. So he start -- he hasn't had any other criminal
5 history problems.

6 And then the Court considers the nature and
7 circumstances of the offense. It's complicated here. You
8 heard the Government's point of view. You hear the victims'
9 point of view. You hear the civil attorney representing some
10 of the victims' point of view, and so it's a mixed picture
11 here.

12 Next the Court considers the other factors on
13 3553a. The sentence is to reflect the seriousness of the
14 offense to promote respect for the law and provide just
15 punishment for the offense, to afford adequate deterrence to
16 criminal conduct, to protect the public from future crimes of
17 the Defendant, to provide the Defendant with needed
18 educational or vocational training, medical care or
19 correctional treatment in the most effective manner, to avoid
20 unwanted sentencing disparities among Defendants and to
21 provide restitution to any victims of the offense.

22 And, after due consideration of all of the relevant
23 information, the extraordinary nature of the Defendant's
24 actions, the Court will then do a sentence of 24 months. So I
25 have factored in the 3553a factors. I do think he should go

1 to prison because of the actions that started this occurring.
2 And then plus the Court will impose a term of supervised
3 release.

4 Did the parties have any agreement as to your
5 supervised release? It's up to five years. I was thinking
6 three years. Is that within what you had contemplated?

7 MR. WARWICK: Acceptable to the Defense, your
8 Honor.

9 THE COURT: Mr. Casper?

10 MR. CASPER: Your Honor, just checking the plea
11 agreement to be certain as to whether there was any agreement.

12 MR. WARWICK: Let's see.

13 MR. CASPER: It does not appear, your Honor, that
14 the plea agreement addresses the -- the period. Three years
15 is -- the Government would not oppose three years.

16 THE COURT: Thank you.

17 The Court orders you to abide by the standard
18 conditions of supervised release. This includes the condition
19 that you violate no federal, state or local law and that you
20 abide by special conditions of supervised release. These are
21 listed in your pre-sentence report at page 15.

22 One, you're to submit to a search of person,
23 property, residence, abode or vehicle at a time and in a
24 reasonable manner as indicated more fully in the written
25 conditions of supervised release.

1 Two, you're to provide a complete disclosure of
2 personal and business and financial records to the probation
3 officer as requested.

4 Three, you're prohibited from opening checking
5 accounts or incurring new credit charges or opening additional
6 lines of credit without approval of the probation officer as
7 long as the restitution order is in effect.

8 So once the restitution has been paid in full or we
9 agree on that, then that can be eliminated.

10 Next, you're not to engage in the employment of any
11 profession involving fiduciary responsibilities, the
12 solicitation of funds from investors or financial institutions
13 or as a financial planner.

14 And, finally, you're to report all vehicles owned
15 or operated or in which you have an interest to the probation
16 officer.

17 MR. CASPER: Your Honor, paragraph 10 of the
18 parties' plea agreement, the parties are jointly recommending
19 that as a condition of supervised release that Defendant will
20 notify the Collections Unit, U.S. Attorney's Office of any
21 interest in property obtained directly or indirectly --

22 THE COURT: Can you say that slowly?

23 MR. CASPER: Certainly. I'm happy to just hand
24 this to your clerk if that -- or your courtroom deputy if that
25 will assist.

1 THE COURT: Yes, but can you read it again?

2 MR. CASPER: Certainly. The parties will jointly
3 recommend that as a condition of supervised release, the
4 Defendant is to notify the Collections Unit, U.S. Attorney's
5 Office of any interest in property obtained directly or
6 indirectly, including any interest obtained under any other
7 name or entity, including a trust, partnership, or corporation
8 after the execution of this plea agreement until the fine or
9 restitution is paid in full.

10 There's a second recommendation as well, your
11 Honor, which is that as a condition of supervised release,
12 Defendant will notify the Collection's Unit, U.S. Attorney's
13 Office before Defendant transfers any interest in property
14 owned directly or indirectly by Defendant, including any
15 interest held or owned under any other name or entity,
16 including trusts, partnerships, and/or corporations. And I'll
17 hand this to your courtroom deputy.

18 THE COURT: Thank you. The Court imposes those two
19 amounts -- those two conditions.

20 Now, he's going to testify in the Utah matter.
21 What about a self-surrender date?

22 MR. WARWICK: Your Honor, the depositions are going
23 forward the 6th, 7th, and 8th of next week, and there may be
24 some more. I'm asking for a surrender date in September if
25 the Court would allow that.

1 THE COURT: Any objection?

2 MR. CASPER: Your Honor, the Government does
3 object. This Defendant has been out of custody and has not
4 yet served his sentence obviously for some --

5 THE COURT: Okay. But it takes six weeks at a
6 minimum to just even get him designated. So six weeks from
7 today would put us into mid August, and he's asking for
8 September. Does that make a difference?

9 MR. CASPER: We'll defer to the Court, your Honor.

10 THE COURT: Do you agree that it would be helpful
11 to try to get something resolved in Utah?

12 MR. CASPER: Your Honor, I don't -- I don't know
13 when this is going to end essentially because we've been
14 hearing now for, you know, two years almost, yeah, we're
15 almost there, we're almost there, we're almost there.

16 THE COURT: Well, didn't some get some --

17 MR. CASPER: So my concern is --

18 THE COURT: -- money back?

19 MR. CASPER: Yes. In fairness, there was.

20 THE COURT: Didn't the Chicago trial -- I mean,
21 that was a four-month trial. Didn't that just finish?

22 MR. CASPER: Yes, your Honor.

23 THE COURT: So -- and isn't there a pending Utah
24 litigation?

25 MR. CASPER: If the Court is inclined to do

1 September, your Honor, the Government won't oppose that.

2 THE COURT: I don't have any doubt that he's going
3 to flee. So I think to give some time to wrap it all up is
4 probably helpful to the victims.

5 MR. CASPER: And we would encourage the Court to
6 consider enhancing the bond given the current status and the
7 fact that the Court has already imposed sentence.

8 THE COURT: Has that been filed as a written
9 motion?

10 MR. CASPER: No, your Honor.

11 THE COURT: No. So I don't -- do you really think
12 he's going to flee?

13 MR. CASPER: Your Honor, we don't anticipate that.
14 We don't know that to be the case, but obviously the Defendant
15 is now in a different posture than he was --

16 THE COURT: You know what? Here's my thought on
17 this. You've got a victim that's very upset here. And so now
18 you're saying, oh, well, he -- when was he indicted? He came
19 in to the U.S. Government before indictment and you're making
20 a motion for substantial assistance, and now you're saying he
21 can't self-surrender when our -- it takes not only six weeks,
22 it often takes more to be designated. So you're putting it on
23 the Court to say that I'm acting in some way that's not
24 considerate of the situation. We've got marshals that are
25 very busy. So here he gets to self-surrender to a designated

1 facility. The marshals don't have to then spend their time
2 moving him from place to place. That frees up a bed space for
3 somebody else. I don't have any sense that he's going to flee
4 the jurisdiction. If he does, then he's facing an estate
5 charge, which on top of the sentence the Court imposes would
6 be exceptionally significant.

7 So I just think that perhaps the Government should
8 reflect back on the fact that you've already written a letter
9 to the Court saying that he's been very cooperative, and you
10 have extraordinary interest of lawyers for the victims who've
11 come in and said that but for his actions, they wouldn't have
12 gotten a lot of the money. So I think that we're talking
13 about two weeks of difference or some short amount of
14 difference in the big scheme of things.

15 He has no control over the litigation schedule of
16 all of the lawyers in the other matter, and it's the
17 summertime. So I just don't think that it's a real
18 significant matter to say that he can self-surrender in
19 September. I do agree he's got to go to prison, and he's
20 never been in prison before. It will be quite a shock for
21 him, but I do think it's appropriate due to the crimes that
22 he's committed.

23 So, with that -- those comments, do you want to
24 amend your comments?

25 MR. CASPER: Well, your Honor, thank you, your

1 Honor. Your Honor, the Government's concern is simply -- is
2 not for one victim, but it's for the totality of victims in
3 this case, and --

4 THE COURT: Okay. Well, what about the fact that
5 the Government hasn't figured out the restitution? That's
6 supposed to be done today.

7 MR. CASPER: And, your Honor, we appreciate that.
8 And, as Mr. Kirby indicated, we were not privy to the
9 settlement information that he had. Otherwise, we -- we did
10 believe that we had calculated the proper restitution for
11 today.

12 THE COURT: Okay. But now that you know that
13 there's some additional matters, we still need to take that up
14 and while he's waived his presence, he does have a due process
15 right to be present if the victim can't come to an agreement.

16 MR. CASPER: And as the Court has indicated it's
17 inclination, the Government will not oppose a surrender date
18 in September.

19 THE COURT: And then how long do you think you'll
20 take for the restitution?

21 MR. CASPER: I think that can be done fairly
22 expeditiously. I think we can probably do that within two
23 weeks.

24 THE COURT: Okay. So why don't we set it on
25 calendar. It will be for our next available date.

1 MR. WARWICK: Your Honor, with regard to
2 restitution, might I suggest that we set it out a little
3 further. Mr. Casper --

4 THE COURT: Yes. Our next available date is --

5 MR. WARWICK: Mr. Casper and I can meet, and we can
6 hopefully agree. If we can't agree, then we can come back
7 here and do the four-month trial again over here.

8 THE CLERK: September 20.

9 THE COURT: Our next available date is September
10 20.

11 MR. WARWICK: That's fine, your Honor.

12 MR. CASPER: That's fine, your Honor.

13 MR. WARWICK: One second, your Honor.

14 (Pause.)

15 MR. WARWICK: That's funny. I'm supposed to start
16 a trial that day in State Court, but I'll ask them to delay it
17 one day, your Honor. I don't think that will be a problem.
18 September 20 is it?

19 THE COURT: September 20 at 9:00 o'clock for
20 restitution.

21 Now, if the parties have a joint order of
22 restitution ahead of time, if you want to submit that in
23 writing, you may, with the joint agreement of the parties.
24 But Mr. Norton needs to acknowledge that he's received a -- he
25 either needs to sign something -- he said he waives his

1 presence, but then he also has to -- if he's not going to be
2 here for the restitution, he needs to have a copy of it. So
3 he would need to sign off on that.

4 MR. WARWICK: Thank you.

5 THE COURT: The -- it's supposed to -- we'll issue
6 -- the clerk has a good question. We'll issue a judgment and
7 then do an amended judgment with restitution.

8 Is that acceptable to the parties?

9 MR. WARWICK: So stipulated, your Honor.

10 MR. CASPER: It is, your Honor, and we'll try to
11 submit that order as expeditiously as possible.

12 THE COURT: If you do agree, as long as then Mr.
13 Norton also signs an acknowledgment of receipt of the amended
14 judgment, we need to do that.

15 We've also prepared the standard and special
16 conditions of supervised release in writing for him.

17 MR. CASPER: May I approach, your Honor?

18 THE COURT: You may.

19 MR. CASPER: Thank you.

20 THE COURT: And that includes the two additional
21 conditions. Thank you.

22 Do you want to hand those to your client?

23 MR. WARWICK: You gave me the --

24 THE CLERK: Yes, that's a copy of the plea
25 agreement portion with all the special conditions.

1 MR. WARWICK: I thought you wanted to keep that.
2 That's fine with my client. Thank you.

3 THE COURT: Do you have that in writing?

4 (Pause to confer with the clerk.)

5 THE COURT: She has a copy from the Court's file.

6 MR. WARWICK: Yes, your Honor.

7 THE COURT: Do you acknowledge receipt of the
8 standard and special conditions of supervised release, Mr.
9 Norton?

10 THE DEFENDANT: Yes.

11 THE COURT: Are the parties seeking a fine because
12 of the restitution amount?

13 MR. CASPER: We are not. The Government is not
14 seeking a fine, your Honor.

15 THE COURT: And was that part of the plea
16 agreement?

17 MR. CASPER: It was not part of the plea agreement
18 I don't believe, and I know that Probation also did not
19 recommend a fine in light of the restitution situation.

20 THE COURT: All right. The Court will then defer
21 the issue of restitution for an amended judgment, and the
22 Court will not impose a fine in favor of restitution because
23 of the Defendant's inability to pay a fine, and Probation and
24 the Government are not seeking a fine. In closing, let me say
25 these cases are exceptionally difficult for everybody

1 involved. It's kind of like the house of cards falling down,
2 and there's no winners in these matters, but it kind of goes
3 back to the criminal behavior.

4 What started it was a complete disregard for the
5 law, when people wanted to make money by cutting corners and
6 ignoring requirements of the law and the charge you pled to
7 was mail fraud, a violation of Title 18 United States Code
8 Section 1341.

9 The Defense was asking for the Court really not to
10 put him in jail. I disagree with that. I think that the
11 sentence the Court has done in this very lengthy sentencing
12 procedure reflects the Court's view that under the law the
13 Court is required to impose a sentence that is sufficient but
14 not greater than necessary to achieve the purposes of
15 sentencing.

16 By doing the sentence the Court did, the Court
17 wishes to encourage other people who engage in criminal acts
18 to come forward and extraordinarily accept responsibility to
19 try to make things right. The law recognizes the victim has
20 said that nothing can really ever make things right for
21 anybody involved. In this way, by his cooperative efforts,
22 he's at least attempted to set the record back to where it
23 was. While we can't put everything back together the way it
24 was, at least in this instance some of the victims are going
25 to recover some money, and so the Court's sentence has

1 recognized that that is preferable to then a lengthy time in
2 jail with nobody getting anything back. And so it reflects a
3 mixed view. Perhaps nobody's satisfied with the Court's
4 sentencing, but that's what the Court is here to do, and the
5 Court concludes that the sentence is fair and just under the
6 circumstances.

7 The Court notifies the Defendant that you have 14
8 days from today's date to file an appeal as to any issue that
9 you preserve for appellate review. It's a little more
10 complicated because we still haven't settled the issue of
11 restitution, but based on the plea agreement of the parties,
12 has appeal been waived?

13 MR. CASPER: It has, your Honor.

14 MR. WARWICK: Yes, your Honor.

15 THE COURT: Is that correct, Mr. Norton?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Then we will set a self-surrender date.
18 Since we're doing the restitution February 20 -- I mean
19 September 20, let's do the self-surrender for the Friday
20 after.

21 THE CLERK: Friday, September 24th.

22 THE COURT: Friday, September 24th by noon, and
23 then we'll have a hearing on bond exoneration for Monday --
24 the next Monday?

25 THE CLERK: September 28th.

1 THE COURT: September 28th at 2:00 p.m. If you
2 surrender to the designated institution, then you don't need
3 to appear for that.

4 MR. WARWICK: Thank you very much, your Honor.

5 THE COURT: Anything further from the Government?

6 MR. CASPER: No, your Honor. Thank you very much
7 for your patience.

8 THE COURT: Anything further from the Defense?

9 MR. WARWICK: Thank you for your patience, your
10 Honor. Appreciate it.

11 THE CLERK: Bond exoneration the 27th?

12 THE COURT: Monday -- I'm sorry. The Monday date
13 for the hearing on bond exoneration is Monday, September 27 at
14 2:00 p.m.

15 PROBATION: Your Honor, on behalf of Probation.
16 I'm not sure that you ordered the special assessment. So I'd
17 just --

18 THE COURT: Oh, thank you very much. The Court
19 will also impose a penalty assessment of \$100. That's due and
20 payable forthwith or through the Inmate Financial
21 Responsibility Program at the greater, the rate of 50 percent
22 of the Defendant's income or \$25 per quarter, with the balance
23 remaining thereafter to be collected by the United States in
24 accordance with the law.

25 Now, based on the Court's sentence and the special

1 assessment, has appeal been waived?

2 MR. WARWICK: Yes, your Honor.

3 THE COURT: Is that correct, Mr. Norton?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Anything further?

6 MR. WARWICK: No. Thank you, your Honor.

7 THE COURT: Thank you very much.

8 (Proceedings concluded.)

9

10 I certify that the foregoing is a correct
11 transcript from the electronic sound recording of the
12 proceedings in the above-entitled matter.

13

14 /s/Jordan Keilty 1/15/20
15 Transcriber Date

16 FEDERALLY CERTIFIED TRANSCRIPT AUTHENTICATED BY:

17 /s/L.L. Francisco
18 L.L. Francisco, President
19 Echo Reporting, Inc.

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Ex. 6

Statement of Gina Champion-Cain to Probation Officer Alex Platas

November 18, 2020

Officer Platas, as you know, I have pled guilty to three felonies in connection with a fraudulent Ponzi scheme that I orchestrated in which I convinced lenders to loan me money so that I could use it to, in turn, make loans to individuals attempting to purchase California liquor licenses.

My true intent for the lending program was always for folks participating in it to make a lot of money. It started as a legitimate lending program, which is why I set up all my deals as loans to me through my company, ANI Development, LLC ("ANI"), which had a California Financial Lending License that was bonded and insured. The lending program quickly grew out of control and I started "making up" deals, still always setting them up as loans to ANI with me as the guarantor. I always told myself that I would be able to pay these Notes back someday with the massive growth of the empire I was trying to build. I intended to grow an empire not just for my personal enrichment, but to (1) give back to my community, (2) employ hundreds of people, (3) provide charitable donations, (4) help people in need, and (5) generate wealth for folks.

As the lies and fraud increased exponentially over the years, I knew what I was doing was wrong, I just was not courageous enough to put a stop to it. It was as though I was seduced and addicted to the appearance that I was enhancing peoples' lives; I loved creating 800+ jobs in my restaurants and other businesses, I loved the feeling of paying the lenders/investors large returns on their loans/investments and seeing how happy that made them, I loved making large charitable donations to support causes I believed in, I loved being asked to participate in community activities such as serving on Boards of Directors. I now know that it was all an illusion, a make believe world. But I kept thinking that once I finally sufficiently monetized one of my business ideas through an IPO, I would have enough money to pay everyone back with profit, and I would stop the fraud once and for all, leaving everyone happy and no one harmed by what I had done.

I have never been in trouble with the law before, and am ashamed that at the age of 55, I find myself in this situation due to my poor choices. I know that I must work the rest of my life to make things right. I have let so many people down through my poor decisions. I am devastated that my crimes define me.

With hopes that you will temper justice with mercy, I'd like you to consider my life in its entirety, and not only the criminal choices I made, as you deliberate over the appropriate sentence for my crimes.

From as early as I can remember, I have always either (1) been in school full time or (2) had a full time job or (3) been both in school and working full time. Never have I taken significant time off, or really traveled for fun, or not worked seven days a week, 15 hour days.

Ever since I was a little girl my Mom has told me that all I ever wanted was to take care of people. To be "Mama Gina." To make a real difference in people's lives. And now, things are different. For the first time in my life, I am not working around the clock, and just have to take care of myself. Not sure I am good at that. But I do take comfort in caring for my dogs....being there to cook daily for my husband....connecting with people who have reached out to me in order to care for me...while I await the next phase of my Journey.

I know that what I did was wrong, and I deeply regret my actions. From my first interaction with the FBI and the U.S. Attorney's Office in this matter, I have admitted my role in the scheme and sought to cooperate with their investigation. I have also been working tirelessly to help victims recover their funds.

My goals now are to clean up this mess as best as I can and help my victims recover as much of their money as possible. My wound will heal....there will always be a scar, but if it won't impede what I do best, which is helping people, I can achieve atonement in this next phase of my life.

Where do I go from here? How do I make up for what I have done? How do I turn immoral actions into something that can help others, since that is what I clearly love to do? I need to atone. I need forgiveness, but I also need to help others find full recovery of the money that they lost due to my actions. That is my number one goal: help everyone recover their funds and then use what I have done to help others in life (like helping stop other fraudsters or helping people secure their money).

I am deeply ashamed of what I did and the harm I caused to so many people. Although I would love to go back and change my life, I know that the past is gone. Instead, I must work to influence a better future.

Once I reach the other side of my punishment, I will work to help to educate students, lawyers, and the business community about issues related to

financial fraud. I want to continue to contribute to society by teaching others how to conduct themselves in business the proper way, as well as to reconcile by offering community and nonprofit volunteer work, such as with my current and long standing volunteer work with the San Diego Brain Tumor Foundation.

I wish to convey in the strongest possible terms that I take full responsibility for my actions and my crimes. I look forward to the sentencing hearing so I can face the Judge, apologize for what I did, and accept my sentence, with the hope that one day I can move on with my life and put this chapter behind me.

- Gina Champion-Cain

Ex. 7

PARKS & SOLAR_{LLP}

Keith R. Solar
(619) 501-2301 (d)
ksolar@parksandsolar.com

December 4, 2020

The Hon. Larry Alan Burns
Chief United States District Judge
U.S. District Court
Southern District of California
333 West Broadway
San Diego, CA 92101

Re: **United States v. Champion-Cain, Case No. 20CR02115-LAB**

Dear Judge Burns:

I am an attorney licensed to practice law in the State of California. I have practiced my entire 35+ year career in San Diego. I am voluntarily writing this character reference on behalf of Gina Champion-Cain. I have represented Gina, on and off, in various matters (unrelated to the case at bar) and have been her friend for about 30 years. I know her to be a good person, with a huge heart who is loyal to a fault.

Gina called me when she was on her way back from her lawyer's office to tell me, generally but without providing too much detail, that she would be stipulating to appointment of a receiver, in favor of the SEC, for her businesses. She said she wanted me to hear this from her, first, before reading about it or hearing it on the street. She immediately expressed remorse for her actions, and I understand she has worked tirelessly with the SEC and the court-appointed receiver since then to help make this as right as it can be.

I have witnessed Gina as a hardworking contributor to San Diego since we first met around 1990. When I began representing her, she was a fledgling real estate developer who, at best, could be described as nothing more than a person, a desk and a dream, and yet, I saw firsthand how she worked doggedly to successfully bring the House of Blues to sleepy San Diego. I watched as she was appointed to the board of the San Diego Centre City Development Corporation, where she assisted in the then-nascent redevelopment of her beloved downtown core. And I admired the beginnings of her restaurant empire. She has acted with good faith and integrity in the scores of matters in which I have represented her.

To paraphrase W. Bruce Cameron, the author of *A Dog's Journey*, you usually can tell that a person is good if she has a dog who loves her. In Gina's case, during the time I have known her, she has had at least five beautiful, rambunctious, loving Golder Retrievers, whose love she paid

Hon. Larry Alan Burns
December 4, 2020
Page 2

forward by developing pet friendly vacation rentals (before it was fashionable), to allow families to take their pets on vacation rather than cause them separation anxiety when boarded in kennels or other facilities away from their humans.

In addition to, and more importantly than, her work efforts, I have known Gina to be a good person for over three decades. I know that even when she was a struggling developer, when she could not afford to keep employees on payroll, she still paid for some employees health care insurance (again, before that was fashionable or legally required) until they could get back on their feet. I've seen her take an interest in mentoring young women, short of role models at the time, to help them start their business careers, and in assisting young entrepreneurs, who had great ideas but who just needed someone to believe in them and help them get started. I also know she often paid legal bills for her employees who were going through tough, personal times, such as divorce, and who could not otherwise afford competent representation.

I have kept in touch with Gina since her situation came to light. Over these many months, she has continued to express deep regret to me about what she did and the repercussions, not with any criminal or civil liability for her, but instead for those who placed their trust in her – her investors, employees, friends and family.

For decades now, I have known Gina, I have represented Gina and Gina has been, and always will be, my friend. I truly believe that Gina is a good person who knows she did a bad thing. In all of this time, she has never once made any excuses for her actions. I am confident she will never be a repeat offender.

Thank you, your honor, for considering my character reference as you weigh the appropriate sentence for Gina. I'm happy to provide any further information, should you think additional thoughts from me would be helpful.

Sincerely,



Keith R. Solar,
of Parks & Solar, LLP

Ex. 8

December 13, 2020

VIA FIRST CLASS MAIL

Hon. Larry Alan Burns
United States District Judge
UNITED STATES DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF CALIFORNIA
James M. Carter and Judith N. Keep
United States Courthouse
333 West Broadway
San Diego, CA 92101

Re: ***United States of America v. Gina Champion-Cain***
case no. 20cr02115-LAB

Your Honor:

I write this letter concerning Gina Champion-Cain, whom I understand is to be sentenced in your Court pursuant to a guilty plea on January 19, 2021. Through reading of her case in the press I have become familiar with her guilty plea and the facts underlying it. I have also spoken privately to Gina about the case.

I have known Gina Champion-Cain since 2000. Since then I had regular contact with Gina socially. I feel that, during that time, I got to know Gina well. Based on all of this I think I have ample basis for the observations which I make in this letter. I am an attorney but I have never represented her or been engaged to counsel her concerning any legal matter.

After 33 years in private law practice in San Diego, I have known a few persons accused of having committed crimes. Some of them have pled guilty. Others have defended. In my experience, none of them cooperated

immediately, as Gina did in her case. My observation has been that, since day one, Gina's primary focus has been not on her own defense but instead on restoring money to the investors who entrusted Gina with their cash. I believe this cooperation is a large factor in the Chicago Title settlement, which I understand will allow the victims in that case to recoup nearly 65% of their losses. In so many cases involving Ponzi schemes, it seems that the government and victims never achieve what ought to be the number-one goal: recoupment of money lost by the defendant. My guess is that the common element in those cases is the decision of the defendant to deny, fight, and devote cash to the cost of doing so. That element is missing from this case. The reason it is missing is Gina's cooperation.

That cooperation, I am sure, was both hard and humiliating for Gina, who for years enjoyed a reputation for acumen and prowess in local business community. Since the day she was charged, I have witnessed the number of hours and amount of effort she has devoted to aiding the FBI and SEC in trying to recover millions of dollars for the victims of her actions. In circumstances in which many other people would have thrown up their hands in despair or reflexively denied and defended, Gina did the right thing. She is deeply remorseful and has expressed this to me multiple times since the inception of the case. She has never tried to excuse or justify what she did, though she has had many opportunities during our private conversations.

I never invested any money with Gina nor did I ever know anything about her business. I did learn of her leadership in restoring an abandoned Woolworths building and bringing about its reopening as a House of Blues in the Gaslamp Quarter. I don't know whether Gina made or lost money in the venture. But I do know that the Gaslamp Quarter is the better for the project and that it could not have happened without Gina. That was and is a contribution to our community. I was deeply shocked to learn of the SEC's case (and, later, this case). The allegations were and are completely out of character for the Gina that I have always known.

Your Honor, I can't write in this letter that you shouldn't punish Gina for the crimes she has admitted. Nothing I write could ever make any of her victims feel any better about the losses which they suffered. What I ask is that you look at Gina as a human being of good character. I have seen her acts of kindness and caring for her elderly parents, the other members of her family, and her beloved dogs.

As I have gotten older I have tried to limit my circle of friends to people

whom I trust and who I believe have good character. Gina is one of those people and always will be. She has always shown me nothing but kindness. I count her as a loyal friend. I will remain a friend and source of support for her for the rest of her life. I have committed to visiting her during her anticipated incarceration.

In the wake of Gina's sentencing, I know that she will commit the rest of her professional life to repairing the harm she has admitted to causing.

I hope you will take this into account in sentencing Gina.

Thank you for your kind attention to this matter.

Respectfully submitted,

Dan Lawton

DL

Ex. 9



November 18, 2020

The Honorable Larry Alan Burns,
Chief United States District Judge
U.S. District Court
Southern District of California

RE: US. V. Champion-Cain, Case Number 20CR02115-LAB

Dear Judge Burns,

I am writing to express my support for Gina Champion-Cain asking for consideration as you deliberate on her upcoming sentencing. My friendship with Gina and her husband extends over 30 years. I can truly say I have counted Gina as a good friend over these years as we have enjoyed not only social time together but professional experiences as well.

My first memories and experience with Gina was serving on a committee rewriting the Mission Statement of the University of San Diego. I always felt Gina was an ally in upholding the values of our faith based educational institution. She not only was always dependable and engaged, she was also enthusiastic in helping us plan for the future. Her involvement over the years in many aspects of support for our students and programs was exemplary. In recent times she was also designated to serve as a trustee with highest recommendations and support from her peers. Gina always brought an energy and passion and personal involvement to her charitable and community work throughout the region.

On the personal level, I have always considered Gina a person who looked out for others and tried to raise up others as she became successful. While I was saddened by recent events in her life which she has stepped up to remedy, I know that the person I have known as her friend and as her priest is a good person and will use these times and her mistakes to become even better and to help others to learn from her actions.

Thank you, Your Honor, for taking my reflections into your consideration as you deliberate on the appropriate sentence for Gina. I am prepared to offer further support if needed.

Respectfully,

Rev. Msgr. Daniel J. Dillabough, S.T.D., J.C.L.
Vice President for Mission and Ministry

Ex. 10

Steven R. Elzy
100 Royal Saint Georges Way
Rancho Mirage, CA 92270

November 30, 2020

The Honorable Larry Alan Burns
Chief United States District Judge
U.S. District Court
Southern District of California

RE: US. V. Champion-Cain, Case Number 20CR02115-LAB

Dear Judge Burns:

My name is Steve Elzy. I am grateful for this opportunity to share some of my thoughts and feelings about Gina Champion-Cain. I have had the great pleasure of knowing Gina since 2014, soon after I moved to San Diego. My friendship with Gina and her husband Steve began quite objectively when we met while happening to sit next to each other while dining at the bar of a restaurant in Bankers Hill, San Diego. I think we initially connected over discussion of our Golden Retrievers, our shared midwestern roots, and our love of sports. Over time, our friendship has grown to where it is today. Gina and her family are family to me. She is a kind, generous, and loving soul who has the willingness and amazing ability to share her blessings with those in her life who are in need or less fortunate.

Of course the revelation of Gina's misguided actions in the course of her business, which have brought me to writing this letter, shocked and saddened me. I understand the seriousness of this, and I understand that several people were harmed. I fully honor and respect the legal process that has taken place and realize that penalties must be paid for the lapse in judgement and poor decisions made by Gina. More importantly, I know that Gina does too. In the time that I have spent with her since the revelation, I have found her to be genuinely consumed with remorse for her actions and devastated by the consequences of hardships for all affected, especially for the direct victims of her actions.

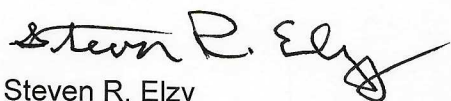
I choose my friends sparingly, largely based on moral character and caring about others. I firmly believe that the crimes committed by Gina are completely out of her core character. Her flaws have resulted in great pain. Over the course of my life, pain has played a transformative role in helping me to be a better person and to find great purpose in life. I strongly sense that this is what has already taken place and will continue to work with Gina. She will emerge from this experience as an even better person. I am committed to helping her and will be with her all the way.

Gina was an incredibly talented entrepreneur and business person. She created jobs for hundreds and perhaps thousands of people. She treated these employees quite well. She is

an asset to the world that we live in which will be missed while she is serving her sentence. I know Gina. She will emerge from this experience hungry to put her talent and energy to work again in one way or another to help people and to be a good citizen. I have never worked with Gina in the past, but I would welcome working with her through this process and into the future to help make this happen.

I am praying for Gina, the victims of her misguided actions, and for you as you make important decisions in judgement of all of the facts. I hope that my humbly genuine words here help in at least a small way to add to your process. Gina is a good person. I forgive her for what she has done as she faces the consequences. My hopes are that Gina can become a functional member of society again as soon as possible. I believe in her. She will be missed. I pray that I might be able to help through this difficult period in any way possible.

Yours truly,

A handwritten signature in black ink that reads "Steven R. Elzy". The signature is written in a cursive style with a long, sweeping underline.

Steven R. Elzy

Ex. 11



**THE
PATIO
GROUP™**





TABLE OF CONTENTS

1. EXECUTIVE SUMMARY
2. RISK FACTORS
3. COMPANY DESCRIPTION AND MANAGEMENT TEAM
4. BUSINESS PLAN
5. FINANCIAL PROJECTIONS
6. USE OF PROCEEDS





EXECUTIVE SUMMARY: THE PATIO GROUP

Relax. Enjoy. Share.

Welcome to the neighborhood. The Patio Group develops and operates dynamic and magnetic community gathering places. Like a great friend, we're always there and there's always something to talk about.

Although themes and locations vary for each Patio Group restaurant, the hallmarks of our hospitality remain the same: sourcing quality ingredients, cooking them with care and providing a welcoming environment with stellar service by smart, attentive staff.



EXECUTIVE SUMMARY: PROBLEM

In order to attract and retain tenants, our real estate development customers need to offer world-class hospitality amenities in their development projects. The amenities serve a critical purpose—get better tenants faster, charge higher rents, retain tenants longer—ultimately creating more value for the asset. The challenge comes in finding a hospitality partner who can speak their language, who understands what’s at stake and has the ability to deliver a product that truly makes a difference. In the contemporary office property development world, the hospitality amenity component moved from an afterthought, to one of the key activation pieces overnight. Many are struggling to catch up and need help.



EXECUTIVE SUMMARY: PROBLEM

Where have all the great local, neighborhood restaurants gone?

A place where the food is always good, you feel a sense of belonging and people know your name? Even better they know what you drink.

As restaurant industry margins tighten and rents soar, local independent “Mom & Pops” are an endangered species. But their tried and true formula for success, genuine hospitality, is exactly the right model for today’s consumer.



EXECUTIVE SUMMARY: SOLUTION

Enter The Patio Marketplace. We understand how to create places people want to be. We've pulled from our expertise in developing and operating neighborhood-centric restaurants and cafes, creating a real sense of community in non-traditional corporate environments, with large, diverse populations. Our advantage is found in leveraging our vast, multi-disciplinary expertise, to handle both the design and development as well as operation of the hospitality amenities. Having a partner who can lead, collaborate and deliver on their vision for the property makes all the difference in a fast paced/ high stakes world, where great ideas and flawless execution create tremendous value.



EXECUTIVE SUMMARY: SOLUTION

A truly great neighborhood restaurant has a feeling when you walk in the front door.

Enter The Patio Group. We understand how to create places people want to be. Our inspiration comes straight from the heart, it's all we know. We have built our reputation on being neighborhood centric, it's baked right into our ethos.

From thoughtful design, to attentive service and inspired offerings - we love to perform and create value.



EXECUTIVE SUMMARY: WHY

A Sense of Urgency

There are very few others in the space and several of the existing players are aging out. There is exponential growth underway in California; further expanding up the west coast and across the country. Many of our current partners have a national footprint, so it is a natural part of our expansion plan to extend our relationships to other major US markets. California is a clear leader in this new amenity driven approach, meaning our continued intellectual property accumulation can drive real and valuable change as the rest of the country and smaller markets evolve.



EXECUTIVE SUMMARY: WHY

Just like the perfect dish, our recipe is simple and the perfect execution is critical.

1. We operate in densely populated neighborhoods—most guests can walk to our establishments
2. Pillars of the community—we use and support local artisans and purveyors
3. We're affordable—leading to greater and sustainable frequency of the customer
4. Our spaces are comfortable and casual—the bar holds a prominent place and is vibrant & engaging
5. Our offerings are approachable—but adventurous enough for a sophisticated palate



RISK FACTORS

Restaurant Risks

The restaurant industry is highly competitive, and the risk of failure is extremely high. The Patio Restaurant Group will compete directly with a wide variety of hospitality companies including regional and national chains as well as local entities. In addition to the risks that apply to all investments, restaurant investments are subject to additional risks such as general economic conditions in the restaurant industry, area restaurant saturation, operational cost risk and competition risk.

The success of The Patio Group will be dependent on, among other things, market acceptance for the restaurant concepts, negotiation of acceptable lease terms, timely development, construction and renovation of the leased space, hiring of skilled management and other personnel, general ability to successfully manage growth (including controlling costs and maintaining effective quality controls) and the availability of adequate financing.



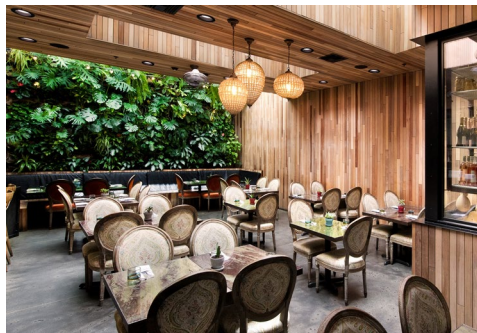
RISK FACTORS

Restaurant Risks

- Competition for guests from other restaurants based upon brand affiliations, customer service, location and the condition and upkeep of each restaurant in general and in relation to other restaurants in the local market .
- Specific competition from well-established operators of competing restaurants which have greater financial resources and economies of scale.
- Dependence on demand from business and leisure customers specifically in office building environments, which may fluctuate and be seasonal.
- Increases in operating costs attributable to inflation and other factors .
- The development, ownership and operation of the restaurant will be subject to various federal, state and local laws, regulations and administrative practices affecting the industry and the business. Difficulties in timely obtaining the necessary permits and licenses or complying with applicable rules and regulations could delay the acquisition or opening of the restaurant, increase our projected costs, or materially adversely affect operations .



INCEPTION AND TIMELINE



● OPERATING

AVENTINE, San Diego: Opened January 2017

AXIOM, San Diego: Opened January 2018

SPECTRUM, Irvine: Opened February 2019

INTERSECT, Irvine: Opened April 2019

● IN DEVELOPMENT

FOX PLAZA, Los Angeles: Opening September 2019

WATERIDGE, San Diego: Opening October 2019

CNT, San Diego: Opening November 2019

INNOVATION PARK, Irvine: Opening January 2021

● IN DISCUSSION

SAN DIEGO: 3 future locations

ORANGE COUNTY: 2 future locations

LOS ANGELES: 3 future locations

COLUMBUS OHIO: 1 future location



FOUNDER AND MANAGEMENT TEAM

EXECUTIVE LEADERS



FOUNDER

Gina Champion Cain

Founder and CEO

- 35+ years experience
- Commercial and residential real estate development and leasing, lifestyle/apparel branding and merchandising, restaurant and hospitality operations, and wellness and skin care product development



Brian LaGrange

Executive Vice President

- 30+ years experience
- Award winning master planned golf community and real estate development, luxury resort development and management, restaurant and hospitality operations



Lucas Reeve

*Vice President,
Brand Development*

- 18+ years experience
- Restaurant and hospitality



Eric Bauer

Vice President, Operations

- 20+ years experience
- Hospitality & restaurant operations, food manufacturing, restaurant & kitchen design



Jarrod Moiles

Corporate Executive Chef

- 20+ years experience
- Hotel and restaurants, menu development and engineering. Team mentorship, budgets and cost controls



FIRESIDE BY THE PATIO GROUP

FIRESIDE

Fireside by The Patio is tucked into San Diego's historic neighborhood of Liberty Station and offers an outdoor, wood-fired BBQ dining experience. Fireside brings the community a gathering place with an eclectic menu of contemporary backyard BBQ and Baja Americana flavors embracing the artistry of fire-inspired fare. The globally-inspired cooking techniques, kissed by the open flames of classic wood and charcoal grills, create a unique flavor and experience to enjoy and share.

Gross revenue of \$3.2M



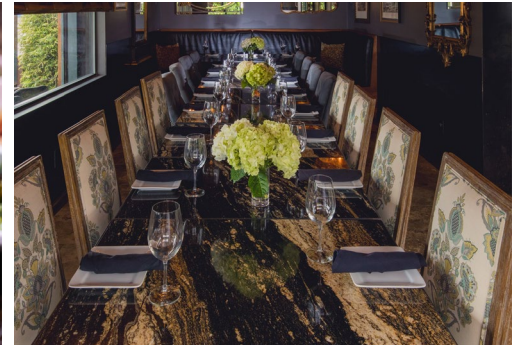


THE PATIO ON LAMONT



Our flagship location in Pacific Beach, a vibrant surf town just north of downtown San Diego, The Patio on Lamont is a cozy neighborhood restaurant offering locally sourced, seasonal cuisine with unique cocktails, wine, and craft beers. The elevated loft is a perfect place for private dining or to host an event. A pet-friendly patio and living plant wall add to the immense charm of this indoor/ outdoor eatery.

Gross revenue of \$3.5M





THE PATIO ON GOLDFINCH



The Patio on Goldfinch is nestled in the historic Mission Hills district and serves as a community gathering place to enjoy locally sourced, sustainable, chef-inspired modern cuisine. From brunch to date night to a family outing, this elevated neighborhood eatery offers a relaxing indoor/ outdoor environment with unique features like the cheese cave, living plant wall, and dog-friendly patio.

Gross revenue of \$4.2M





BUSINESS PLAN - 3 PROTOTYPES



THE PATIO MARKETPLACE

500 - 1000 SF

Grab & Go

Barista Experience

Spoke and Wheel Model

Revenue \$250k - \$500K

VALUE

Easy to execute/lower buildout cost

A good fit for smaller populations
or small footprints

Low labor cost

Food prepared offsite
& delivered fresh daily

Catering delivery





BUSINESS PLAN - 3 PROTOTYPES



THE PATIO MARKETPLACE

CAFE

1000 - 1500 SF

Grab & Go

Barista Experience

Hot Kitchen

Revenue \$500K - \$1.5M

VALUE

Good fit for smaller footprints with high density populations

Higher profitability

Hot Kitchen - fresh prepared items

Catering prepared on site





BUSINESS PLAN - 3 PROTOTYPES



THE PATIO MARKETPLACE RESTAURANT

1500 - 5000 + SF
Grab & Go
Barista Experience
Hot Kitchen
Event Center
Revenue \$1.5M- \$5M

VALUE

Activates entire campus/building
Perfect for high density, large populations
Hot kitchen - fresh prepared items
Events driven
Activations





BUSINESS PLAN - EXPANSION OPPORTUNITY

The Patio Group plans to target strong traditional and emerging markets for expansion.

TRADITIONAL HIGH -PERFORMING MARKETS TO TARGET *(2019 growth ranking in US, Forbes)*

- New York (1)
- Dallas - Fort Worth (2)
- Houston (3)
- Washington (4)
- Los Angeles (5)
- Boston (6)
- Atlanta (7)
- Miami (8)
- Chicago (10)
- Phoenix (11)
- San Francisco - Oakland (13)
- Denver (13)
- Austin (14)
- Las Vegas (19)
- Nashville (21)
- Charlotte (23)
- Detroit (30)

HOT UP-AND-COMING MARKETS TO TARGET *(Tier 1 ranking in US, buildium)*

- Atlanta (1)
- Austin (2)
- Boise (3)
- Charlotte (4)
- Clearwater (5)
- Columbus (6)
- Dallas (7)
- Denver (8)
- Las Vegas (10)
- Nashville (11)
- Orlando (13)
- Phoenix (13)
- Sacramento (14)
- Salt Lake City (15)
- San Antonio (16)
- San Jose (18)
- Tampa (20)

INDUSTRY OPPORTUNITY

WORKPLACE TRENDS AND AMENITY -RICH CORPORATE OFFICES

Newmark Knight Frank released a study that highlights the popularity of “live - work - play” environments and the impact that this popularity has on workplace productivity and employee happiness has become a key decision driver for tenants in the market for office space. Potential building tenants now look to a property’s overall design and amenities to ensure an engaged and productive workforce. In years past, developers typically allocated between two and four percent of their portfolio space to amenities, many of which were basic. As developers seek to differentiate their properties and demand premier rental rates, they have increased the allocation of amenities space by 200 percent in many properties. With this increase in space allocation has come an increase in the quality and variety of amenities including on -site food services with multi -station eateries and healthy grab -and-go options.



Sources:
Newmark Knight Frank. Amenities Packages Drive Occupancy and Employee Retention While Capturing the “Third Space”. Retrieved from <http://www.ngkf.com/>
Bureau of Labor Statistics, NKF Research; January 2018



INDUSTRY OPPORTUNITY

ACTIVATING OFFICE BUILDING COMMON SPACES

The recent changes in the market for office spaces is driven by tenants demanding a more space-activated work environment to attract and retain millennials and highly-skilled workers .

NAIOP, the Commercial Real Estate Development Association, conducted a study on the activation of common spaces in office buildings to highlight how developers and office building owners gain competitive advantage by offering more amenities and adding vibrancy to the common areas.

Successful workplaces provide amenities as important differentiators in the battle for talent . According to the Gensler U.S. Survey 2019 the design of workplaces and amenities drive employee effectiveness, experience and engagement .

THE AMENITIES PEOPLE WANT ARE NOT ALWAYS THE MOST EXPENSIVE

- 1 RESTAURANT/ BAR/PUB
- 2 CAFE
- 3 SPECIALTY COFFEE
- 7 GYM
- 8 MEDICAL FACILITIES

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Why Tenants Want More Vibrant Office Settings		
Reason	Owners	Service Providers
Attract and retain employees	91%	92%
Have happy and productive employees	78	81
Encourage socialization and collaboration among employees	65	78
Enhance corporate brand or image	63	68
Encourage employees to work in office rather than remotely	38	24
Encourage socialization and collaboration among all building tenants	24	22

Sources:
NAIOP Research Foundation.
Activating Office Building
Common Spaces for
Competitive Advantage.
Gensler. The US Workplace
Survey 2019. Retrieved from
<http://www.gensler.com/>



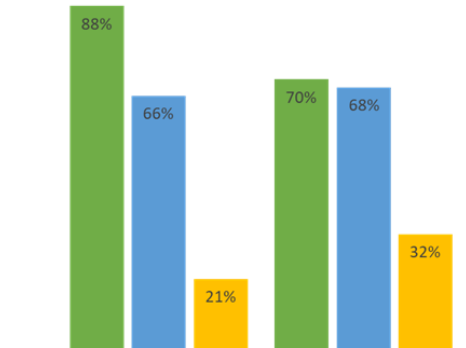
INDUSTRY OPPORTUNITY

INDUSTRIES PAYING FOR ADDITIONAL AMENITIES

Prevalence of Desire for Vibrant Office Building Environments by Tenant Type			
Tenant type	Very prevalent	Somewhat prevalent	Not at all prevalent
Technology	91%	9%	0%
Information and media	83	14	3
Arts, entertainment, recreation	66	31	2
Retail	42	38	19
Professional services	35	59	6
Construction	29	49	22
All tenants	21	75	4
Finance and insurance	20	71	9
Education, health services	34	49	17
Manufacturing, natural resources	10	36	54

Sources:
NAIOP Research Foundation. Activating Office Building Common Spaces for Competitive Advantage.

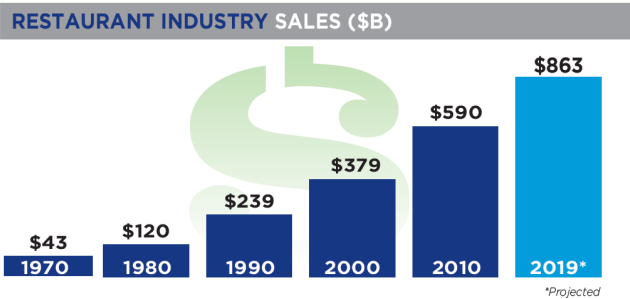
Source of Funds to Pay for Amenities



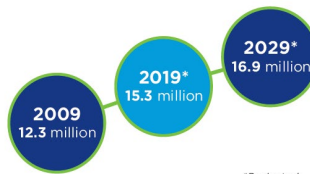
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INDUSTRY OPPORTUNITY

2019 RESTAURANT INDUSTRY FACTS

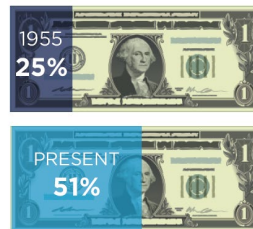


RESTAURANT INDUSTRY EMPLOYMENT



LOCATIONS: 1 million+

RESTAURANT INDUSTRY SHARE OF FOOD \$



ECONOMIC IMPACT



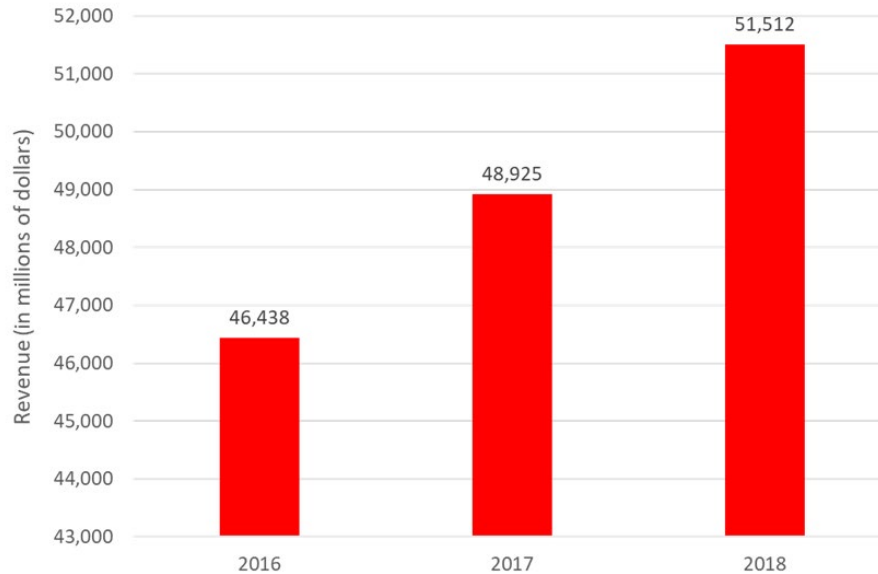
- Restaurant industry **sales are projected to total \$863 billion in 2019** and equal 4 percent of the U.S. gross domestic product.
- The restaurant industry is **projected to employ 15.3 million people in 2019** — about one in 10 working Americans.
- The restaurant industry is **expected to add 1.6 million jobs over the next decade**, with employment reaching 16.9 million by 2029.
- **More than 9 in 10 restaurants** have fewer than 50 employees.
- **More than 7 in 10 restaurants** are single-unit operations.
- **Sales per full-time-equivalent employee** at eating and drinking places in 2018 were \$82,000.

Source: National Restaurant Association. 2019 Restaurant Industry Factbook. Retrieved from <https://restaurant.org/>



INDUSTRY OPPORTUNITY

ANNUAL REVENUE REPORT OF THE LARGEST NONCOMMERCIAL CONTRACT FOOD SERVICE MANAGEMENT COMPANIES.



Total FY Revenue of Top 50 Food Contract Management Companies

Source: Food Management. Top 50 Contract Management Companies 2019. Retrieved from <https://www.food-management.com/top-50-contract-companies/>



COMPETITIVE LANDSCAPE

What sets us apart?

- Quality design with chef-driven culinary offering
- Ability to activate the space for functional multi-purpose use
- Easy to replicate across multiple locations
- Creating long term value
- Workplace wellness amenity
- Corporate environment offering grab and go option
- Meet lifestyle needs of current/ future demographics
- Enhances employee retention
- Drop-off catering
- Online Ordering

Others in the Space:

Compass Group
Aramark
Sodexo
Delaware North
Centerplate
Culinart Group
Bon Appetit
Guckenheimer



COMPETITIVE ANALYSIS

COMPASS GROUP NORTH AMERICA		
Revenues	9% Year-over-year change	Locations
2018: \$18.6 billion		2018:15,000
2017: \$17.0 billion		2017:13,700
Segments served: B&I (31%), Healthcare (29%), Education (23%), Sports/Leisure (15%), Defense/Offshore/Remote (2%)		

Compass North America is a unit of London -based Compass Group PLC, the world's largest contract foodservice firm, which operates in more than 50 countries and generated around \$29 billion in revenues in fiscal 2018, of which the USA unit accounted for nearly 60 percent with an organic growth rate of 7.8 percent. In the United States, Compass operates under the brand names of its various operating units such as Restaurant Associates, Morrison, Levy, Eurest and Chartwells.

Source: Food Management. Top 50 Contract Management Companies 2019.
Retrieved from <https://www.food-management.com/top-50-contract-companies/>

ARAMARK		
Revenues	-1% Year-over-year change	Contracts
2018: \$10.14 billion		2018: na
2017: \$10.2 billion		2017:2,505
Segments served: Education (32%), Sports/Leisure/Corrections (24%), Facilities/Other (16%), B&I (15%), Healthcare (13%)		

The revenue figure listed is for Aramark's North America Food & Support Services (FSS) unit for fiscal year 2018. The company's International FSS unit added another \$3.656 billion, and the Uniform unit \$1.996 billion to the company's total of \$15.8 billion in sales.

Among major initiatives launched or expanded over the course of the past year have been partnerships with Ocean Hugger Foods to serve its Ahimi vegan "tuna," with Oath Pizza to serve its Certified Humane pies.

On the corporate dining side, Aramark continues to roll out its True Eats small-site solution in the corporate dining area and exclusive partnerships with the sports/ entertainment segments.



COMPETITIVE ANALYSIS

SODEXO INC.		
Revenues	-2% Year-over-year change	Locations
2018: \$9.6 billion		2018: 13,000
2017: \$9.8 billion		2017: 13,000
Segments served: Healthcare (34%), Education (33%), B&I (32%), Other (1%)		

Sodexo is a Paris-based multinational vendor of multiple outsource services that had total FY2018 revenues of \$22.3 billion. The number above is for the North American division only, which generated 43 percent of the company total.

Last fall, the company rolled out its Taste4 menu program for high schools, featuring customization, grab-go options, faster checkout lines and a rotation of retail-style branded concepts.

DELAWARE NORTH		
Revenues	13% Year-over-year change	Contracts
2018: \$3.4 billion		2018: na
2017: \$3.0 billion		2017: na
Segments served: Arenas/Stadiums (51%), Transportation (26%), Parks/Recreation Ctrs. (11%), B&I (7%), Other (3%), Museums/Perf. Arts Ctrs. (2%)		

Delaware North's Sport service unit announced several new contracts in the past year, including the Los Angeles Forum and Allianz Field in Minneapolis, the future home of Major League Soccer's Minnesota United FC. The company also unveiled plans for \$100 million in renovations to its TD Garden arena property in Boston while the Legendary Transformation project redeveloping the surrounding area reached several milestones, including signing major new tenants for the mixed-use retail/ residential/ office complex.

Source: Food Management. Top 50 Contract Management Companies 2019. Retrieved from <https://www.food-management.com/top-50-contract-companies/>



COMPETITIVE ANALYSIS

TOP 50 CONTRACT FOOD SERVICE MANAGEMENT COMPANIES

Rank	Company Name	FY 2018 Revenue	FY 2017 Revenue	Pct. Change	Contracts
1	Compass Group North America	18600	17000	9%	15000
2	Aramark Corp.	10140	10230	-1%	na
3	Sodexo Inc.	9600	9800	-2%	13000
4	Delaware North Cos	3400	3000	13%	na
5	Elior North America	1401	1200	17%	1872
6	Healthcare Services Group Inc.	1000(e)	887	13%	na
7	AVI Foodsystems Inc.	765	725	6%	na
8	Legends Hospitality	750(e)	na	na	na
9	Thompson Hospitality	690	675	2%	230
10	Guest Services Inc.	468	460	2%	135

Rank	Company Name	FY 2018 Revenue	FY 2017 Revenue	Pct. Change	Contracts
11	Spectra Food Services and Hospitality	408	376	9%	139
12	Guckenheimer/ISS	400(e)	362	10%	na
13	Metz Culinary Management	385	279	38%	375
14	Southwest Foodservice Excellence	350	317	10%	na
15	Thomas Cuisine Management	245	225	9%	52
16	Parkhurst Dining	225	198	14%	73
17	Gourmet Services Inc.	220(e)	na	na	na
18	Whitsons Culinary Group	172	176	-2%	188
19	American Dining Creations	168	161	4%	na
20	Nutrition Group	167	165	1%	533

Rank	Company Name	FY 2018 Revenue	FY 2017 Revenue	Pct. Change	Contracts
21	Taher Inc.	141	131	8%	252
22	Continental Services	134	112	20%	345
23	HHS Culinary & Nutrition Solutions	129	108	19%	86
24	Creative Dining Services	125	100	25%	66
25	Lessing's Food Service Management	120	103	17%	110
26	Company Kitchen	116	116	0%	na
27	Southern Foodservice	95	94	1%	84
28	ABM Healthcare Support Services	90	75	20%	55
29	Pomptonian Food Service	88	81	9%	101
30	MMI Dining Systems	79	77	3%	167

Rank	Company Name	FY 2018 Revenue	FY 2017 Revenue	Pct. Change	Contracts
31	Cafe Services Inc.	65	57	14%	180
32	LPM Affiliated Companies dba Epicurean Feast	61	64	-5%	93
33	Quest Food Management	61	57	7%	79
34	Epicurean Group	58	54	7%	57
35	Food Management Group Inc.	56	52	8%	245
36	Mazzone Hospitality/PRIME Business Dining	55(e)	54	2%	na
37	Sterling Spoon Culinary Management	52	49	6%	20
38	Fresh Ideas Food Service Management	41	38	8%	21
39	Global Connections to Employment (GCE)	41	42	-2%	21
40	Food For Thought Enterprises Inc.	38	37	3%	33

Rank	Company Name	FY 2018 Revenue	FY 2017 Revenue	Pct. Change	Contracts
41	Better4You Meals	37	na	na	50
42	Luby's Culinary Services	37	35	6%	32
43	NexDine	37	30	23%	70
44	Prince Food Systems Inc.	37	35	6%	42
45	Brock & Co. Inc.	36	36	0%	56
46	Culinary Services Group	32	30	7%	53
47	SLA Management	31	na	na	150
48	Lintons Managed Services	28	28	0%	78
49	Lunchtime Solutions Inc.	25	24	4%	50
50	Plum Market Food Service	13	na	na	12
Total		\$51,512	\$48,925	5.30%	



B2B & B2C SALES STRATEGY

The current strategy centers around:

- Networking
- Referrals from current and former industry partners
- Advertising and promotion with relevant publications
- Participation in groups/ associations
- Repeat business with existing partners across their national footprint
- Brand marketing to drive affinity and loyalty to consumers
- Multi-channel campaigns to attract and retain customers wherever they may be
- Direct to consumer outreach



FINANCIAL PROJECTIONS

Income	Year 1	Year 2	Year 3	Year 4	Year 5
Net Income	3,337,500	39,850,000	90,650,000	157,050,000	239,050,000
<i>% Growth</i>		1094%	127%	73%	52%
Cost of Goods Sold	(1,143,000)	(13,150,500)	(29,008,000)	(48,685,500)	(71,715,000)
<i>% of Net Income</i>	34%	33%	32%	31%	30%
Gross Profit	2,194,500	26,699,500	61,642,000	108,364,500	167,335,000
<i>% of Net Income</i>	66%	67%	68%	69%	70%
Expenses					
Payroll	(1,273,574)	(14,346,000)	(31,727,500)	(53,397,000)	(81,277,000)
<i>% of Net Income</i>	38%	36%	35%	34%	34%
Operating	(579,863)	(6,774,500)	(14,957,250)	(25,128,000)	(38,248,000)
<i>% of Net Income</i>	17%	17%	17%	16%	16%
General & Administrative	(434,738)	(5,180,500)	(10,878,000)	(18,060,750)	(28,686,000)
<i>% of Net Income</i>	13%	13%	12%	12%	12%
Total Expenses	(2,288,174)	(26,301,000)	(57,562,750)	(96,585,750)	(148,211,000)
Net Operating Income (Loss)	(93,674)	398,500	4,079,250	11,778,750	19,124,000
<i>% Margin</i>	-3%	1%	5%	8%	8%
Management Income	311,070	3,785,750	9,065,000	15,705,000	23,905,000
<i>% of Net Income</i>	9%	10%	10%	10%	10%
Corporate Overhead	(167,492)	(1,992,500)	(4,532,500)	(7,852,500)	(11,952,500)
<i>% of Other Income</i>	5%	5%	5%	5%	5%
Net Other Income (Loss)	143,577	1,793,250	4,532,500	7,852,500	11,952,500
Net Income	49,904	2,191,750	8,611,750	19,631,250	31,076,500
<i>% of Net Income</i>	1%	6%	10%	13%	13%

Revenue	Store Openings					
	Marketplace		Café		Restaurant	
	200,000	1,000,000	1,000,000	3,250,000		
1	5	1,000,000	6	6,000,000	6	19,500,000
2	7	1,400,000	8	8,000,000	8	26,000,000
3	9	1,800,000	10	10,000,000	12	39,000,000
4	12	2,400,000	12	12,000,000	16	52,000,000
5	15	3,000,000	14	14,000,000	20	65,000,000



USE OF PROCEEDS

1. Develop sales and marketing material
2. Hire business development/ sales team
3. Create replicable operations process and training program for expansion
4. Collaborate with regional and national partners
5. Assemble operational management rollout teams



CONTACT INFORMATION



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