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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA : CRIMINAL ACTION
VERSUS : NO. 14-108
LARRY BUTLER : HON. JOHN W. DEGRAVELLES
: AUGUST 28, 2015

=====

SENTENCING

=====

A P P E A R A N C E S

FOR THE GOVERNMENT:

MR. RYAN CROSSWELL
U. S. ATTORNEY'S OFFICE, MIDDLE DISTRICT OF LOUISIANA
777 FLORIDA STREET
SUITE 208
BATON ROUGE, LOUISIANA 70801

FOR THE DEFENDANT:

MR. RICHARD M. UPTON
FEDERAL PUBLIC DEFENDERS OFFICE-BR
707 FLORIDA STREET, SUITE 303
BATON ROUGE, LOUISIANA 70801

REPORTED BY: GINA DELATTE-RICHARD, CCR

UNITED STATES COURTHOUSE
777 FLORIDA STREET
BATON ROUGE, LOUISIANA 70801
(225) 389-3564

1 USA V. LARRY BUTLER 14-CR-108-JWD 08/28/15

2 THE COURT: OUR NEXT CASE WE'RE CALLING IS UNITED
3 STATES VERSUS LARRY BUTLER, WHICH IS 14-CR-108, AND I THINK
4 MR. UPTON HAS GONE TO GET MR. BUTLER. OH, MR. BUTLER IS HERE.
5 OKAY. OKAY. GOOD. AND SO WE'RE GOING TO NEED MR. UPTON --
6 WHERE IS HE? HE'LL BE HERE SHORTLY.

7 MR. CROSSWELL: YOUR HONOR, HE SAID HE WAS STEPPING
8 OUT FOR A SECOND, I THINK.

9 THE COURT: OKAY. HERE HE COMES. ALL RIGHT.
10 I JUST CALLED THE CASE, MR. UPTON.
11 AND WOULD COUNSEL PLEASE MAKE APPEARANCES FOR THE
12 RECORD?

13 MR. CROSSWELL: GOOD MORNING, YOUR HONOR. RYAN
14 CROSSWELL ON BEHALF OF THE UNITED STATES.

15 MR. UPTON: GOOD MORNING, YOUR HONOR. MARK UPTON,
16 ASSISTANT FEDERAL PUBLIC DEFENDER ON BEHALF OF MR. LARRY
17 BUTLER. HE IS PRESENT, AND WE ARE READY TO PROCEED.

18 THE COURT: ALL RIGHT. THANK YOU.
19 THIS MATTER IS BEFORE THE COURT ON SENTENCING. DOES
20 ANYBODY HAVE ANY REASON -- EXPRESS ANY REASON WHY WE CANNOT GO
21 FORWARD WITH SENTENCING THIS MORNING?

22 MR. CROSSWELL: NOTHING FROM THE GOVERNMENT, YOUR
23 HONOR.

24 MR. UPTON: NO, YOUR HONOR.

25 THE COURT: ALL RIGHT. THE UNITED STATES PROBATION

1 SERVICES PREPARED A WRITTEN PRE-SENTENCE INVESTIGATION REPORT
2 TO ASSIST ME IN SENTENCING.

3 AND MR. BUTLER HAVE YOU READ THE PRE-SENTENCE
4 REPORT?

5 THE WITNESS: YES.

6 THE COURT: HAVE YOU DISCUSSED IT WITH YOUR
7 ATTORNEY?

8 THE WITNESS: YES.

9 THE COURT: ASIDE FROM THE OBJECTIONS WHICH WERE
10 ADDRESSED IN THE ADDENDUM TO THE PRE-SENTENCE REPORT AND THE
11 OBJECTIONS MADE BY THE DEFENDANT, ARE THERE ANY CORRECTIONS,
12 ALTERATIONS, ADDITIONS WHICH THE DEFENSE WISHES TO MAKE?

13 MR. UPTON: NO, THERE ARE NONE, YOUR HONOR. AND AS
14 A MATTER OF FACT, AFTER HAVING REVIEWED THE UNITED STATES'
15 SUBMISSION MADE ON THE COURT'S ORDER, WE AGREE WITH THE UNITED
16 STATES' DETERMINATION OF INTENDED LOSS AND RESTITUTION AS SET
17 FORTH IN ITS PLEA FILING; THEIR RESPONSE TO THE OBJECTIONS
18 THAT WE MADE, YOUR HONOR.

19 THE COURT: AND THAT'S THE \$118,000 NUMBER?

20 MR. UPTON: 118,806.98, YOUR HONOR. YES.

21 THE COURT: OKAY.

22 MR. UPTON: SO THAT WOULD MOOT -- OUR AGREEMENT
23 WOULD, IN ESSENCE, MOOT OUR OBJECTION AND WE'D WITHDRAW THAT
24 OBJECTION. I DON'T THINK IT'S NECESSARY SINCE WE'RE IN
25 AGREEMENT WITH THEIR CALCULATION.

1 THE COURT: ALL RIGHT. THANK YOU.

2 SO THE RECORD IS CLEAR, SENTENCING IN THIS MATTER
3 WAS ORIGINALLY SET FOR HEARING ON JULY 29TH, 2015, AND AT THAT
4 SENTENCING I HEARD ARGUMENT ON OBJECTIONS BY THE GOVERNMENT,
5 DOCUMENT 26, AND TWO OBJECTIONS BY THE DEFENDANT. I RULED ON
6 THE GOVERNMENT'S OBJECTION AND THE DEFENDANT'S SECOND
7 OBJECTION, BOTH OF WHICH DEALT WITH THE SAME ISSUE, WHICH WAS
8 THE SOPHISTICATED MEANS ENHANCEMENT. I'M GOING TO ADDRESS IT
9 AGAIN JUST SO THAT THE RECORD IS CLEAR, AND WE'LL DO THAT IN A
10 SECOND.

11 WITH RESPECT TO THE DEFENDANT'S SECOND OBJECTION,
12 THE DEFENDANT SUBMITTED NEW EVIDENCE, AND I CONTINUED THE
13 SENTENCING SO THAT THE DEFENDANT COULD SUBMIT ALL OF THE
14 RELEVANT EVIDENCE ON THAT ISSUE AND THE GOVERNMENT WOULD HAVE
15 AN OPPORTUNITY TO RESPOND. THE PARTIES HAVE COMPLIED WITH
16 THIS ORDER. THE DEFENDANT SUBMITTED TWO ADDITIONAL OBJECTIONS
17 AND EVIDENCE --

18 AND I THINK THAT'S THE ONE THAT YOU'RE TALKING
19 ABOUT, MR. UPTON, AND I GUESS WE'LL GET TO THAT IN DUE COURSE
20 AND PUT ON THE RECORD YOUR POSITION.

21 IN ANY EVENT, WITH RESPECT TO THE SOPHISTICATED
22 MEANS OBJECTION, WHILE I RULED ON IT EARLIER, SINCE WE SORT OF
23 STOPPED IN MIDSTREAM AND CAME BACK, I'M GOING TO GO AHEAD
24 AGAIN AND PUT THIS ON THE RECORD. THE GOVERNMENT OBJECTED TO
25 PARAGRAPHS 29, 37 AND 39 OF THE PRE-SENTENCE REPORT,

1 SPECIFICALLY THAT THE DEFENDANT'S BASE LEVEL OFFENSE WAS NOT
2 INCREASED BY TWO LEVELS BECAUSE THE OFFENSE INVOLVED
3 SOPHISTICATED MEANS. THE DEFENDANT OBJECTED TO A TWO LEVEL
4 INCREASE FOR USE OF SOPHISTICATED MEANS AS REFLECTED IN THE
5 ADDENDUM TO THE PRE-SENTENCE REPORT.

6 AS OF JULY 29TH, 2015 -- AT THAT SENTENCING OF
7 JULY 29TH, 2015, THE COURT SUSTAINED THE GOVERNMENT'S
8 OBJECTION, OVERRULED THE DEFENDANT'S OBJECTIONS AND PROVIDED
9 REASONS, AND I WILL REPEAT THOSE FOR THE RECORD NOW.

10 SOPHISTICATED MEANS ARE DEFINED AS AND I QUOTE,
11 "ESPECIALLY COMPLEX OR ESPECIALLY INTRICATE OFFENSE CONDUCT --
12 OFFENSE CONDUCT PERTAINING TO THE EXECUTION OR CONCEALMENT OF
13 AN OFFENSE, CONDUCT SUCH AS HIDING ASSETS OR TRANSACTIONS OR
14 BOTH THROUGH THE USE OF FICTITIOUS ENTITIES, CORPORATE SHELLS
15 OR OFFSHORE FINANCIAL ACCOUNTS ALSO ORDINARILY INDICATES
16 SOPHISTICATED MEANS." AND I'M QUOTING FROM THE UNITED STATES
17 SENTENCING GUIDELINES SECTION 2B1.1 COMMENT N. 9(B).

18 THE FIFTH CIRCUIT HAS UPHELD THE APPLICATION OF THE
19 SOPHISTICATED MEANS ENHANCEMENT AND I QUOTE, "IN CASES
20 INVOLVING SOME METHOD THAT MADE IT MORE DIFFICULT FOR THE
21 OFFENSE TO BE DETECTED EVEN IF THAT METHOD WAS NOT BY ITSELF
22 PARTICULARLY SOPHISTICATED." AND I'M QUOTING FROM UNITED
23 STATES VERSUS VALDEZ, 726 F.3D 684 AT PAGE 695, FIFTH CIRCUIT
24 2013 CASE. THE GOVERNMENT CITED SEVERAL CASES INVOLVING
25 SOPHISTICATED MEANS AND THE COURT FINDS THOSE APPLICABLE HERE.

1 THE CASES INCLUDE UNITED STATES VERSUS WRIGHT, WHICH IS 496
2 F. 3D 371 AT PAGE 379, FIFTH CIRCUIT 2007. UNITED STATES
3 VERSUS CLEMONS, 73 F. 3D 1330, FIFTH CIRCUIT 1996 AND UNITED
4 STATES VERSUS JONES 533 F APPENDIX 448, FIFTH CIRCUIT 2013.

5 THROUGHOUT THE CRIMINAL CONDUCT THE DEFENDANT
6 SUBMITTED FRAUDULENT RESUMES TO BOTH THE LOUISIANA HEALTH CARE
7 COOPERATIVE AND MARY BIRD PERKINS CANCER CENTER ALL THROUGH
8 SOCIAL SECURITY NUMBERS, MANIPULATED BILLING PROCEDURES TO
9 CONCEAL CRIMES COMMITTED BY THE DEFENDANT, PRETENDED TO BE HIS
10 OWN PROFESSIONAL REFERENCE TO OBTAIN EMPLOYMENT, ALTERED A
11 CALIFORNIA DRIVER'S LICENSE AND OFTEN OBTAINED NEW
12 IDENTIFICATION DOCUMENTS AND CHANGED ADDRESSES TO MAKE
13 CRIMINAL BACKGROUND CHECKS MORE DIFFICULT TO DETERMINE.

14 WHILE SOME OF THIS CONDUCT MAY SEEM UNSOPHISTICATED
15 IN ISOLATION, ALL OF THE DEFENDANT'S ACTIONS TAKEN TOGETHER
16 INVOLVED AN ORGANIZED, MULTILAYER PLAN DESIGNED TO MAKE IT
17 MORE DIFFICULT TO BE DETECTED, AND WHICH IN FACT DID MAKE IT
18 MORE DIFFICULT FOR THE OFFENSE TO BE DETECTED. THUS, THE
19 DEFENDANT'S CONDUCT QUALIFIES AS SOPHISTICATED MEANS.

20 ACCORDINGLY, THE GOVERNMENT'S OBJECTION IS SUSTAINED
21 AND THE DEFENDANT'S SECOND OBJECTION IS OVERRULED. THE
22 OFFENSE INVOLVES SOPHISTICATED MEANS AND SO CONSEQUENTLY THE
23 DEFENDANT'S BASE OFFENSE LEVEL IS INCREASED BY TWO LEVELS
24 PURSUANT TO UNITED STATES SENTENCING GUIDELINES SECTION 2B1.1
25 (B)10(C) AS OUTLINED IN THE ADDENDUM TO THE PRE-SENTENCE

1 REPORT.

2 NOW, THE SECOND OBJECTION WAS THE VALUE OF THE LOSS,
3 BUT I UNDERSTAND THAT, FROM MR. UPTON'S STATEMENT A MOMENT
4 AGO, THERE'S NO LONGER AN OBJECTION. THAT'S BEEN WITHDRAWN,
5 SO THE VALUE OF THE LOSS IS \$118,806.98 MADE UP OF LOUISIANA
6 HEALTH COOPERATIVE, \$85,996.37, MARY BIRD PERKINS \$28,061.86,
7 CUSTOM CORPORATES, INC. \$3,948.75 AND DOCUMENT PRINTING
8 SERVICES, LLC \$800.

9 NOW, IS THERE ANYTHING FURTHER WITH RESPECT TO ANY
10 OBJECTIONS?

11 MR. UPTON: NO, YOUR HONOR.

12 THE COURT: MR. CROSSWELL?

13 MR. CROSSWELL: NOTHING FROM THE GOVERNMENT, YOUR
14 HONOR.

15 THE COURT: ALL RIGHT. ACCORDINGLY, THE COURT
16 ADOPTS THE UNDISPUTED FACTUAL STATEMENTS AND GUIDELINES,
17 COMPUTATIONS RECOMMENDED BY THE PROBATION OFFICE AS REFLECTED
18 IN THE PRE-SENTENCE INVESTIGATION REPORT AND ADDENDUM. I FIND
19 THAT THE APPLICABLE GUIDELINES IN THIS CASE PROVIDE FOR THE
20 FOLLOWING: TOTAL OFFENSE LEVEL OF 16, CRIMINAL HISTORY
21 CATEGORY 5, A TERM OF IMPRISONMENT OF 41 MONTHS TO 51 MONTHS.
22 A PERIOD OF SUPERVISED RELEASE OF ONE TO THREE YEARS. THE
23 DEFENDANT IS INELIGIBLE FOR PROBATION. A FINE IN THE SUM OF
24 5,000 TO \$50,000 AND RESTITUTION IN THE AMOUNT OF \$118,806.98.
25 A SPECIAL ASSESSMENT FEE IN THE AMOUNT OF \$100 PER COUNT.

1 NOW, MR. BUTLER, AT THIS TIME DO YOU HAVE ANYTHING
2 THAT YOU' D LIKE TO SAY TO THE COURT IN MITIGATION OF
3 PUNISHMENT BEFORE SENTENCE IS IMPOSED?

4 THE WITNESS: JUST TO REITERATE WHAT I'VE ALREADY
5 WRITTEN TO THE COURT THAT, SORRY FOR MY ACTIONS AND MAKING
6 FULL RESTITUTION WILL BE MY NUMBER ONE PRIORITY AS SOON AS I
7 CAN.

8 THE COURT: ALL RIGHT. THANK YOU, MR. BUTLER.

9 ANYTHING FROM YOU, MR. UPTON?

10 MR. UPTON: JUDGE, I DON'T HAVE MUCH TO ADD. I
11 THINK THE PRE-SENTENCE REPORT IS PARTICULARLY COMPREHENSIVE IN
12 THIS CASE, AND WE WOULD ALSO DIRECT THE COURT'S ATTENTION IN
13 OUR AGREEMENT WITH PARAGRAPH 123 AND ANY FINDINGS OF THE
14 PROBATION OFFICE IN THAT PARAGRAPH, YOUR HONOR.

15 THE COURT: ALL RIGHT. THANK YOU, MR. UPTON.

16 WOULD THE GOVERNMENT LIKE TO BE HEARD?

17 MR. CROSSWELL: YOUR HONOR, I WOULD AND I ALSO WANT
18 TO REITERATE THAT I THINK THAT SOME OF THE VICTIMS --

19 THE COURT: I DID UNDERSTAND THAT, AND I FULLY
20 INTEND TO HAVE THE VICTIMS COME FORWARD AND GIVE THEIR
21 STATEMENT.

22 MR. CROSSWELL: THANK YOU, YOUR HONOR. YOUR HONOR,
23 I KNOW THAT YOU'RE FAMILIAR WITH THE PSR AND THE PERTINENT
24 FACTS, BUT THERE ARE THREE THINGS THAT I FEEL NEED TO BE
25 EMPHASIZED HERE. AND NUMBER ONE, IT'S THE TREND IN THIS

1 DEFENDANT' S CRIMINAL HISTORY. IT' S GONE FROM WHAT MAY BE
2 CONSIDERED MINOR OFFENSES TO NOW A FULL-FLEDGED SIX FIGURE
3 PROBLEM. AND PARTICULARLY IN THIS CASE, BEAR IN MIND THAT
4 AFTER HE WAS CAUGHT BY A SECRET SERVICE AGENT HE WENT BACK AND
5 DID IT AGAIN TO MARY BIRD PERKINS. THE DEFENDANT HAS SHOWN
6 ZERO REGARD FOR LAW ENFORCEMENT. HE' S SHOWN ZERO REGARD FOR
7 HIS PAROLE OBLIGATIONS. AND HE' S SHOWN ZERO REGARD FOR HIS
8 ACCUMULATING VICTIMS.

9 THE SECOND POINT THAT I THINK NEEDS TO BE MADE IS
10 THAT THESE VICTIMS ARE NONPROFIT ORGANIZATIONS. ONE OF THEM
11 PROVIDES LOW CARE HEALTH CARE COSTS TO LOUISIANA CITIZENS AND
12 THE OTHER' S MISSION IS TO FIGHT CANCER. PARTICULARLY FOR THE
13 PEOPLE THAT WERE INVOLVED IT' S BEEN A HUMILIATING, FRUSTRATING
14 EXPERIENCE.

15 AND THE THIRD THING THAT I THINK NEEDS TO BE
16 EMPHASIZED IS THAT ASIDE FROM THE FRAUD AND DECEIT THAT WAS
17 INVOLVED IN THIS CRIME, THERE' S ABJECT GREED AND SELFISHNESS.
18 AND YOU MAY HAVE NOTICED THAT THIS DEFENDANT WAS MAKING
19 \$168,000 FROM LOUISIANA HEALTH CARE EXCHANGE. AND HE MAY HAVE
20 CONTINUED ON THAT PATH, BUT HE COULDN' T HELP HIMSELF AND HE
21 WENT AND SPENT OVER \$30,000 ON A CREDIT CARD IN OVER TWO
22 MONTHS ON FURNITURE AND FOOD. IT' S APPALLING.

23 AND I JUST WANT TO READ ONE PORTION OF AN E-MAIL
24 WITH PERMISSION FROM ONE OF THE VICTIMS THAT WAS WRITTEN.
25 THIS IS SUSAN DICKERSON FROM MARY BIRD PERKINS, AND IT WAS

1 WRITTEN SHORTLY AFTER THIS WAS DISCOVERED. SO SHE DIDN'T KNOW
2 THIS WOULD BE IN FRONT OF YOU TODAY. BUT SHE SAYS, "CARRIE
3 AND I BOTH VERIFIED REFERENCES FOR LARRY AND I THOUGHT A
4 THOROUGH REVIEW WAS CONDUCTED PRIOR TO OFFERING HIM THE JOB.
5 AFTER REVIEWING HIS FILE I FOUND A DIFFERENT SOCIAL SECURITY
6 NUMBER ON HIS W-4 THAN FOUND ON OTHER NEW HIRE FORMS.
7 VERIFICATION OF SOCIAL SECURITY NUMBERS ON ALL RELEVANT FORMS
8 WILL BE A PART OF THE HIRING PROCESS GOING FORWARD AS WELL AS
9 OTHER CHANGES I PLAN TO IMPLEMENT POST MORTEM. I FEEL SICK
10 ABOUT THIS. I WILL CLOSELY WORK WITH DETECTIVE ROBINSON TO
11 INSURE JUSTICE IS DONE. CARRIE IS WORKING WITH AMEX AND SOME
12 OF THE VENDORS TO TRY AND REVERSE SOME OF THE CHARGES. SHE OR
13 I WILL LET YOU KNOW WHAT THE FINANCIAL IMPACT IS AS WE LEARN
14 MORE OVER THE NEXT FEW DAYS."

15 AND, AGAIN, THIS IS JUST AN EXCERPT OF AN E-MAIL TO
16 HER SUPERVISOR. THESE ARE PEOPLE THAT SHOULD BE FIGHTING
17 CANCER AND INSTEAD THEY WERE DEALING WITH THE MESS THAT THIS
18 DEFENDANT CREATED. SO THE GOVERNMENT ASKS FOR A SEVERE PRISON
19 SENTENCE.

20 THE COURT: ALL RIGHT. THANK YOU, MR. CROSSWELL.
21 ARE THE VICTIMS HERE? AND IF THEY ARE, ANYONE WHO
22 WOULD LIKE TO SPEAK COME FORWARD.

23 I SEE YOU'RE IN A BOOT THERE. SO IF YOU'D LIKE TO
24 BE MORE COMFORTABLE YOU CAN SIT IN THE WITNESS BOX.

25 CARRIE WOOD: NO, I'M OKAY.

1 THE COURT: YOU OKAY? WELL, THEN YOU CAN STAND
2 THERE. IT WILL BE FINE.

3 CARRIE WOOD: HI. MY NAME IS CARRIE WOOD. I'M THE
4 CONTROLLER FOR MARY BIRD PERKINS CANCER CENTER, AND THIS IS
5 SUSAN DICKERSON. SHE'S THE VICE-PRESIDENT OF HUMAN RESOURCES.

6 LARRY BUTLER DEFRAUDED A COMMUNITY OWNED AND
7 OPERATED ORGANIZATION WITH OVER 40 YEARS OF DEDICATION TO
8 FIGHTING CANCER. HE NOT ONLY FALSIFIED RECORDS TO BE HIRED BY
9 THE CENTER, BUT HE STOLE MONEY FROM A NONPROFIT ORGANIZATION
10 WITH A VITAL MISSION TO IMPROVE SURVIVORSHIP AND LESSEN THE
11 BURDEN OF CANCER. MR. BUTLER'S DEPLORABLE ACTIONS WERE AN
12 INJUSTICE TO THE ORGANIZATION AND THE MANY MEN AND WOMEN AT
13 MARY BIRD PERKINS WHO HAVE DEDICATED THEIR CAREERS TO FIGHTING
14 CANCER AND TO THOSE COURAGEOUSLY BATTLING THE DISEASE.

15 THE COURT: THANK YOU, MA'AM.

16 MS. DICKERSON: YES. RYAN READ MY STATEMENT EARLIER
17 THAT WAS WRITTEN TO THE CEO AND PRESIDENT OF MARY BIRD PERKINS
18 CANCER CENTER. I JUST WANT TO SAY THAT BECAUSE OF MR.
19 BUTLER'S ACTIONS I NOW HAVE TO SPEND MORE TIME AND MONEY IN
20 HIRING PEOPLE. SOME QUALIFIED PEOPLE ARE NOW NOT ELIGIBLE FOR
21 HI RE BECAUSE OF THE VAST AND EXTENSIVE CHECKING WE NOW HAVE TO
22 DO. AND BECAUSE OF THAT IT'S TAKING AWAY FROM PROBABLY CURING
23 SOME CANCER PATIENTS, SO IT'S DISAPPOINTING.

24 THE COURT: ALL RIGHT. THANK YOU, MS. DICKERSON.
25 IS THERE ANYONE ELSE HERE THAT WANTS TO MAKE A

1 STATEMENT OF ANY KIND?

2 OKAY. I WANT TO BEGIN BY PROVIDING SOME REASONS FOR
3 THE SENTENCE THAT I'M GOING TO IMPOSE. THE COURT HAS FOR ITS
4 CONSIDERATION A 49-YEAR-OLD MALE WHO PLED GUILTY TO WIRE FRAUD
5 AND FALSE REPRESENTATION OF A SOCIAL SECURITY NUMBER. IN THE
6 INSTANT OFFENSE THE DEFENDANT CREATED FALSE RESUMES FOR THE
7 PURPOSE OF SUBMITTING THE RESUMES TO LOUISIANA HEALTH CARE
8 COOPERATIVE AND THE MARY BIRD PERKINS CANCER CENTER FOR
9 EMPLOYMENT.

10 THE DOCUMENTS CONTAINED FALSE INFORMATION, SUCH AS
11 SOCIAL SECURITY NUMBERS, DRIVER'S LICENSE NUMBERS TO HIDE HIS
12 OWN CRIMINAL HISTORY FROM HIS EMPLOYERS. AFTER OBTAINING
13 EMPLOYMENT, THE DEFENDANT FRAUDULENTLY USED THE COMPANY CREDIT
14 CARDS FOR THE PURCHASE OF PERSONAL GOODS. IN TOTAL, THE
15 DEFENDANT CAUSED A LOSS OF \$118,806.98 TO MARY BIRD PERKINS
16 AND LHC AND THE OTHERS WHO, INCLUDING CUSTOM CORPORATE AND
17 DOCUMENTS PRINTING SERVICES, LLC. AND THESE WERE ALL VICTIMS
18 OF THE DEFENDANT'S CRIMINAL ACTIVITY.

19 AND ESPECIALLY WITH RESPECT TO THE NONPROFITS IT --
20 I AGREE WITH THE CHARACTERIZATION, MR. CROSSWELL, I THINK IT'S
21 UNCONSCIONABLE CONDUCT. AND THAT CONDUCT IT SHOULD BE
22 REFLECTED IN THE SENTENCE THAT THIS COURT GIVES AND WILL BE
23 REFLECTED IN THE SENTENCE THAT THIS COURT GIVES.

24 THE COURT HAS IDENTIFIED THE FACTORS THAT REFLECT,
25 IN MY VIEW, AN INADEQUACY OF THE CRIMINAL HISTORY CATEGORY.

1 THE DEFENDANT HAS A LONG AND COMPLEX CRIMINAL HISTORY.
2 MR. BUTLER HAS A TOTAL OF TEN CRIMINAL CONVICTIONS FOR
3 DEFRAUDING AN INNKEEPER, PETTY THEFT TWO COUNTS, REFUSING TO
4 PAY CAB FARE, ISSUING WORTHLESS CHECKS, MONETARY INSTRUMENT
5 ABUSE FOUR COUNTS AND UTTERING FORGERY. MR. BUTLER HAS
6 RECEIVED 11 CRIMINAL HISTORY POINTS. HOWEVER, FOUR
7 CONVICTIONS COULD NOT BE COUNTED DUE TO TIME RESTRAINTS. TWO
8 CONVICTIONS COULD NOT BE COUNTED BECAUSE THEY WERE CONSIDERED
9 A SINGLE SENTENCE.

10 MR. BUTLER HAS APPROXIMATELY 35 MISCELLANEOUS
11 ARRESTS, PRIMARILY RELATING TO FRAUD. IN ADDITION, THE
12 DEFENDANTS -- THE DEFENDANT HAS BEEN ARRESTED NUMEROUS TIMES
13 WHILE ON PREVIOUS TERMS OF SUPERVISION. THE DEFENDANT'S
14 CRIMINAL ACTIVITY BEGAN AS EARLY AS 1985, AND HAS OCCURRED
15 REGULARLY WITH THE EXCEPTION OF SEVERAL PERIODS OF
16 INCARCERATION UNTIL THE CURRENT DATE.

17 IN ADDITION, THE CRIMINAL CONDUCT SPANS SEVERAL
18 STATES, INCLUDING LOUISIANA, CALIFORNIA, FLORIDA AND
19 MISSISSIPPI. THERE IS NO INDICATION THAT THE DEFENDANT WILL
20 CEASE HIS CRIMINAL CONDUCT. WHILE THE DEFENDANT'S CRIMINAL
21 HISTORY IS EXTENSIVE, THE DEFENDANT DOES HAVE SOME MITIGATING
22 FACTORS WHICH THE COURT HAS CONSIDERED. MR. BUTLER WAS
23 EFFECTIVELY TAUGHT TO BE A CRIMINAL BY HIS FATHER. IN
24 ADDITION, INFORMATION INDICATES THAT THE DEFENDANT WAS
25 SEXUALLY ABUSED FOR A LENGTHY PERIOD BY A FAMILY FRIEND WHILE

1 HE WAS A JUVENILE.

2 BASED ON ALL OF THE INFORMATION AND BASED ON THE
3 INADEQUACY OF THE CRIMINAL HISTORY CATEGORY, I WILL IMPLEMENT
4 PURSUANT TO UNITED STATES SENTENCING GUIDELINES SECTION 4A1.3
5 (A)(1) AN UPWARD DEPARTURE OF ONE CRIMINAL HISTORY CATEGORY TO
6 A CATEGORY SIX. FURTHER, I HAVE CONSIDERED A CRIMINAL HISTORY
7 CATEGORY OF SIX, AND I BELIEVE THIS IS STILL INADEQUATE.

8 BASED ON THAT AND THE ABOVE INFORMATION, I WILL IMPLEMENT
9 PURSUANT TO UNITED STATES SENTENCING GUIDELINES SECTION 4A1.3
10 (A)(1) AN UPWARD DEPARTURE OF ONE OFFENSE LEVEL TO AN OFFENSE
11 LEVEL OF 17.

12 BASED ON THE CRIMINAL HISTORY CATEGORY OF SIX AND
13 THE OFFENSE LEVEL OF 17, THE CUSTODY RANGE IN THIS CASE IS NOW
14 51 TO 63 MONTHS. ACCORDINGLY, IT IS ADJUDGED THAT AFTER
15 HAVING CONSIDERED THE UNITED STATES SENTENCING GUIDELINES AND
16 THE SENTENCING FACTORS ENUMERATED IN 18 UNITED STATES CODE
17 SECTION 3553(A), IT IS THE JUDGMENT OF THE COURT THAT THE
18 DEFENDANT, LARRY D. BUTLER, IS HEREBY COMMITTED TO THE CUSTODY
19 OF THE BUREAU OF PRISONS TO BE IMPRISONED FOR A TERM OF 60
20 MONTHS ON EACH OF TWO COUNTS -- I'M SORRY. ON EACH OF COUNTS
21 ONE, TWO, AND THREE TO BE SERVED CONCURRENTLY. IT IS
22 RECOMMENDED THAT THIS TERM OF IMPRISONMENT RUN CONSECUTIVE TO
23 ANY TERM OF IMPRISONMENT THAT MAY BE IMPOSED ON A REVOCATION
24 OF PAROLE IN THE 19TH JUDICIAL DISTRICT COURT, DOCKET NUMBER
25 03-08-226, 07-09-353, 12-09-131, 12-09-205 AND 12-09-206.

1 IT IS RECOMMENDED TO THE BUREAU OF PRISONS THAT THE
2 DEFENDANT BE HOUSED IN A FACILITY CAPABLE OF PROVIDING
3 SUBSTANCE ABUSE TREATMENT AND MENTAL HEALTH TREATMENT. UPON
4 RELEASE FROM IMPRISONMENT THE DEFENDANT SHALL BE PLACED UNDER
5 SUPERVISED RELEASE FOR A TERM OF THREE YEARS. THIS TERM
6 CONSIST OF TERMS IN THREE YEARS -- I'M SORRY, ON COUNTS ONE,
7 TWO AND THREE, ALL SUCH TERMS TO RUN CONCURRENTLY. WITHIN 72
8 HOURS FROM RELEASE OF THE CUSTODY OF BUREAU OF PRISONS, THE
9 DEFENDANT SHALL REPORT IN-PERSON TO THE PROBATION OFFICE TO
10 THE DISTRICT TO WHICH THE DEFENDANT IS RELEASED.

11 WHILE ON SUPERVISED RELEASE, THE DEFENDANT SHALL
12 COMPLY WITH THE 13 STANDARD CONDITIONS AND THE FOLLOWING
13 MANDATORY SPECIAL CONDITIONS; 14, 15, 16, 17, 21, 22, 23, 31,
14 32 AND 48 ADOPTED BY THIS COURT IN DETAIL IN GENERAL ORDER
15 NUMBER 2012: 15.

16 IN SUMMARY, THE DEFENDANT SHALL ABIDE BY ALL STATE,
17 FEDERAL AND LOCAL LAWS, PAY ANY FINANCIAL PENALTY ORDERED,
18 SHALL NOT ILLEGALLY POSSESS A CONTROLLED SUBSTANCE, SUBMIT TO
19 A DRUG URINALYSIS AS REQUIRED BY LAW, NOT POSSESS A FIREARM OR
20 DESTRUCTIVE DEVICE, PARTICIPATE IN DNA TESTING, PARTICIPATE IN
21 SUBSTANCE ABUSE TREATMENT, PARTICIPATE IN SUBSTANCE ABUSE
22 TESTING, PARTICIPATE IN MENTAL HEALTH TREATMENT, PROVIDE
23 ACCESS TO FINANCIAL INFORMATION, NOT INCUR NEW CREDIT CHARGES
24 AND SUBMIT TO SEARCH AND POSSIBLE SEIZURE OF ANY CONTRABAND
25 CONDUCTED BY THE PROBATION OFFICER.

1 IT IS ORDERED THAT THE DEFENDANT SHALL PAY
2 RESTITUTION IN THE AMOUNT OF \$85,996.37 TO THE LOUISIANA
3 HEALTH CARE -- LOUISIANA HEALTH COOPERATIVE, \$28,061.86 TO THE
4 MARY BIRD PERKINS CANCER CENTER, \$3,948.75 TO CUSTOM
5 CORPORATES, INCORPORATED AND \$800 TO DOCUMENT PRINTING
6 SERVICES, LLC. IT IS FURTHER ORDERED THAT THE DEFENDANT SHALL
7 PAY TO THE UNITED STATES A SPECIAL ASSESSMENT OF \$100 PER
8 COUNT FOR A TOTAL OF \$300 WHICH SHALL BE DUE IMMEDIATELY. THE
9 SPECIAL ASSESSMENT IS DUE IMMEDIATELY. THE RESTITUTION
10 BALANCE SHALL BE DUE IMMEDIATELY, BUT NONPAYMENT IS NOT A
11 VIOLATION OF SUPERVISION SO LONG AS THE DEFENDANT MAKES THE
12 REQUIRED MONTHLY PAYMENTS.

13 UPON RELEASE FROM INCARCERATION ANY UNPAID
14 RESTITUTION BALANCE SHALL BE PAID AT A MONTHLY RATE TO BE
15 DETERMINED BY THE COURT. SUCH PAYMENT SHALL BEGIN WITHIN 60
16 DAYS AFTER THE RELEASE FROM IMPRISONMENT. IF THE COURT FINDS
17 THAT THE DEFENDANT DOES NOT HAVE THE ABILITY TO PAY A FINE.
18 THE COURT WILL WAIVE THE FINE IN THIS CASE. PURSUANT TO 18
19 UNITED STATES CODE SECTION 981 (A)(1)(C) AND 28 UNITED STATES
20 CODE 2461 (C), THE DEFENDANT SHALL FORFEIT TO THE UNITED
21 STATES ALL PROPERTY CONSTITUTING DERIVED -- CONSTITUTING AND
22 DERIVED FROM PROCEEDS OBTAINED DIRECTLY AND INDIRECTLY FROM
23 THE WIRE FRAUD OFFENSES IN VIOLATION OF 18 UNITED STATES CODE
24 SECTION 1343, INCLUDING BUT NOT LIMITED TO, AT LEAST
25 \$118,806.98. THIS AMOUNT BEING THE TOTAL OF THE INTEREST

1 ACQUIRED AND THE GROSS PROCEEDS OBTAINED THROUGH THE
2 VIOLATION.

3 IN THE ALTERNATIVE, FOR THE SAME REASONS AS STATED
4 BEFORE BASED ON THE TOTALITY OF THE CIRCUMSTANCES, THE FACTS
5 OF THE CASE, THE CHARACTERISTICS OF THIS DEFENDANT, A SENTENCE
6 OF 60 MONTHS INCARCERATION IS AN APPROPRIATE SENTENCE FOR THIS
7 DEFENDANT.

8 MR. BUTLER, I WANT TO ADDRESS THESE REMARKS DIRECTLY
9 TO YOU, SIR. YOU ARE OBVIOUSLY -- AND WHY DON'T YOU COME
10 FORWARD AND STAND AT THE PODIUM.

11 MR. BUTLER, YOU ARE OBVIOUSLY A VERY SMART GUY. YOU
12 HAVE THE CAPACITY TO NOT JUST BE A PRODUCTIVE CITIZEN BUT AN
13 EXTREMELY PRODUCTIVE CITIZEN, JUST PLAYING IT STRAIGHT UP.
14 YOU HAVE BEEN ABLE TO GET JOBS WITH A SALARY THAT MOST PEOPLE
15 WOULD ENVY, AND YET YOU HAVE ABUSED POSITIONS OF TRUST AND
16 CONTINUED TO COME BACK TIME AND AGAIN TO WHERE YOU ARE TODAY.

17 IN REVIEWING THE PRE-SENTENCE REPORT, I THINK IT'S
18 NOTEWORTHY THAT AT ONE TIME YOU WERE ADDICTED TO CRACK
19 COCAINE, AND WHILE YOU WERE INCARCERATED IN FLORIDA YOU
20 ENTERED AND SUCCESSFULLY COMPLETED A FAITH-BASED SUBSTANCE
21 PROGRAM AND YOU HAVE NOT USED CRACK COCAINE IN 25 YEARS. WHAT
22 YOU DID WAS NOT EASY. IT IS AN ACCOMPLISHMENT THAT MANY
23 PEOPLE ARE UNABLE TO DO. AND WHAT THAT TELLS ME, MR. BUTLER,
24 WHICH CONFOUNDS ME FRANKLY, BUT WHAT IT TELLS ME IS THAT YOU
25 HAVE THE CAPACITY TO RECOGNIZE AND TO OVERCOME

1 SELF-DESTRUCTIVE BEHAVIOR. YOU'VE DONE IT BEFORE IN THE PAST.
2 NO SMALL FEAT THAT YOU'VE ACCOMPLISHED.

3 I DON'T KNOW WHAT DRIVES YOU TO DO THE THINGS THAT
4 YOU DO AND THAT LED YOU HERE TODAY IN THIS COURT, BUT I
5 SUGGEST TO YOU, LIKE YOUR CRACK COCAINE ADDICTION, YOU HAVE
6 THE ABILITY TO OVERCOME THAT AND CHANGE YOUR LIFE. OBVIOUSLY
7 YOU HAVE TO WANT TO CHANGE YOUR LIFE, AND IT IS THE SINCERE
8 HOPE OF THIS COURT THAT YOU DO SO.

9 SO I'M GOING TO ORDER THE PRE-SENTENCE INVESTIGATION
10 REPORT AND MAKE IT PART OF THE RECORD UNDER SEAL. AT THIS
11 TIME I'M GOING TO ACCEPT THE PLEA AGREEMENT, WHICH IS DOCUMENT
12 NUMBER 20, REACHED IN THIS CASE BECAUSE I AM SATISFIED THAT IT
13 REFLECTS THE ACTUAL OFFENSE CONDUCT, AND THAT BY ACCEPTING THE
14 PLEA AGREEMENT THE STATUTORY PURPOSE OF SENTENCING IS NOT
15 UNDERMINED.

16 MR. BUTLER, AT THIS TIME IT'S MY DUTY TO INFORM YOU
17 THAT YOU HAVE THE RIGHT TO APPEAL FROM THE JUDGMENT AND
18 SENTENCE WITHIN 14 DAYS FROM THIS DATE. FAILURE TO APPEAL
19 WITHIN 14 DAYS SHALL BE A WAIVER OF YOUR RIGHT TO APPEAL. THE
20 GOVERNMENT MAY FILE AN APPEAL FROM THE SENTENCE. YOU ARE ALSO
21 ADVISED THAT YOU ARE ENTITLED TO ASSISTANCE OF COUNSEL IN
22 TAKING AN APPEAL, AND IF YOU ARE UNABLE TO AFFORD A LAWYER ONE
23 WILL BE PROVIDED FOR YOU. IF YOU'RE UNABLE TO AFFORD THE
24 FILING FEE THE CLERK OF COURT WILL BE DIRECTED TO ACCEPT
25 NOTICE OF APPEAL WITHOUT SUCH FEE. IF YOU CANNOT AFFORD A

1 TRANSCRIPT OF THE PROCEEDINGS IN THIS CASE ONE WILL BE
2 PREPARED FOR APPEAL AND PROVIDED TO YOU AT GOVERNMENT -- AT
3 COST; DO YOU UNDERSTAND THOSE RIGHTS?

4 THE WITNESS: YES.

5 THE COURT: ALL RIGHT.

6 ARE THERE ANY ADDITIONAL MATTERS TO BE TAKEN UP AT
7 THIS TIME?

8 MR. UPTON: PLEASE NOTE OUR OBJECTION TO THE COURT'S
9 UPWARD DEPARTURE, YOUR HONOR.

10 THE COURT: YES, MR. UPTON. IT'S NOTED.

11 MR. CROSSWELL: YOUR HONOR, AT THIS TIME THE
12 GOVERNMENT WOULD MOVE TO DISMISS COUNT FOUR OF THE SUPERSEDING
13 INDICTMENT PURSUANT TO THE PLEA AGREEMENT.

14 THE COURT: ALL RIGHT. NO OBJECTION I TAKE IT FROM
15 THE DEFENSE?

16 MR. UPTON: NO OBJECTION.

17 THE COURT: OKAY. AND SO THAT MOTION IS GRANTED.
18 ANYTHING FURTHER?

19 MR. UPTON: NO, YOUR HONOR.

20 MR. CROSSWELL: NOTHING FROM THE GOVERNMENT, YOUR
21 HONOR.

22 THE COURT: ALL RIGHT. THEN WE WILL REMAND
23 MR. BUTLER TO THE CUSTODY OF THE UNITED STATES MARSHAL.

24 C E R T I F I C A T E

25 I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE

1 RECORD OF THE PROCEEDINGS IN THE ABOVE-ENTITLED NUMBERED
2 MATTER.

3 S: /GINA DELATTE-RICHARD

4 GINA DELATTE-RICHARD, CCR

5 OFFICIAL COURT REPORTER

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