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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

THE UNITED STATES OF AMERICA,

Plaintiff,

-vs-

FREDRIK TODD,

Defendant.

DOCKET NUMBER:

14-00518

SENTENCING HEARING

Clarkson S. Fisher United States Courthouse
402 East State Street
Trenton, New Jersey 08608
January 21, 2015

B E F O R E:

JOEL A. PISANO,
UNITED STATES DISTRICT JUDGE

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

UNITED STATES ATTORNEY'S OFFICE
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Attorney for the Defendant

Certified as True and Correct as required by Title 28, U.S.C.,
Section 753

/s/ Regina A. Berenato-Tell, RMR, CRR, CCR

1 THE COURT: Good morning.

2 MS. BIANCAMANO: Good morning, your Honor.

3 THE COURT: Okay. We're here for sentencing. This
4 is Mr. Todd. Mr. Todd, good morning.

5 THE DEFENDANT: Good morning.

6 THE COURT: Counsel, your appearances, please.

7 MR. GREWAL: Assistant U.S. Attorney Gurbir Grewal
8 for the government. Good morning, Judge.

9 MR. INTRATER: Good morning, your Honor. Zach
10 Intrater for the United States.

11 MS. BIANCAMANO: Good morning, your Honor. Stacy Ann
12 Biancamano on behalf of Mr. Fredrik Todd, who is seated at
13 counsel table.

14 THE COURT: Ms. Biancamano, good morning. Mr. Todd.

15 All right. We're here for sentencing, and I want to go
16 through for the parties' benefit the materials that I have
17 read in order to prepare for this. I have gone through,
18 again, the plea agreement. I have read the plea memorandum
19 that I had prior to taking the plea from Mr. Todd because I
20 wanted to review the allocution notes. I also read the
21 presentence investigation report. I have a sentencing
22 memorandum from the defendant, which attaches 49 letters on
23 his behalf attesting to the background, community spirit,
24 letters from Mr. Todd's family members, associates, religious
25 associates, things of that nature, and there's also an exhibit

1 which consists of the settlement agreement of some litigation
2 in which Mr. Todd was involved. I don't really understand the
3 relevance of it, other than if it is submitted to demonstrate
4 that Mr. Todd doesn't have any money because he gave it all
5 away in this settlement, I suppose. That's okay. And then I
6 have from the government a sentencing memorandum, which
7 includes a motion for a downward departure from the advisory
8 Guidelines range based upon Section 5K1.1 citing to Mr. Todd's
9 cooperation with law enforcement.

10 I have also read -- and I needed to do this because of
11 some of the arguments made in Ms. Biancamano's memo in which
12 she makes reference to the sentences imposed upon
13 co-conspirators Glucksman and Schleider, so because I have --
14 because I am required to take into account the sentences
15 imposed upon co-conspirators I did review some materials in
16 connection with Glucksman and Schleider, and we'll be getting
17 to that in a minute. So that is the universe of what I have
18 read. Have I left anything out?

19 MR. INTRATER: Not from the government, your Honor.

20 MS. BIANCAMANO: No, Judge.

21 THE COURT: Mr. Todd, have you seen the presentence
22 report?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Have you gone over it carefully with your
25 attorney?

1 THE DEFENDANT: Yes.

2 THE COURT: Has she been available to meet with you?

3 THE DEFENDANT: All the time.

4 THE COURT: And has she prepared you for today's
5 proceeding?

6 THE DEFENDANT: Yes.

7 THE COURT: Has she answered all of your questions,
8 and are you satisfied with her services?

9 THE DEFENDANT: Yes.

10 THE COURT: All right. Well, we start with the
11 necessity of establishing -- excuse me, there's a preliminary
12 issue. Have a seat. A preliminary issue is that there's an
13 application here by the defense to seal the courtroom. It is
14 apparently out of an abundance of caution that Mr. Todd might
15 be somehow prejudiced if the nature of his cooperation is
16 revealed on the public record. I'm denying that application
17 for a number of reasons, and we just had a brief conference in
18 chambers to discuss it.

19 First of all, this is a public proceeding, and I think
20 there is no question that the sealing of a public record at a
21 sentencing proceeding is inimical to the democratic process
22 and the judicial process, so on the very basic premise that
23 this is a public proceeding, the application is going to be
24 denied. But, secondly, it appears that Mr. Todd is concerned
25 about some of the details of his cooperation and any

1 ramifications that might come as a result of their disclosure.
2 This is a fairly common problem where there is a 5K
3 application by the government. Of course, these applications
4 under Section 5K can only come to the Court by motion of the
5 government, and when they do, obviously, they generally reveal
6 conduct of a cooperating defendant, which the defendant very
7 often doesn't want to be disseminated all around the world for
8 a number of different reasons, some of which apply here, some
9 of which don't. But generally my practice is not to delve
10 into the specifics of it anyway because it is in the Court's
11 file. I have read it. The parties have read it, and
12 generally speaking, I understand what the government is urging
13 upon me, so I really don't see the -- I don't see the danger
14 which is complained of. So for all of those reasons with all
15 due respect, Ms. Biancamano, the courtroom is not going to be
16 sealed.

17 Now, we move to the sentencing process, and, of course,
18 we have the now all too familiar protocol, which tells us that
19 this is a three-step process. The first step in the process
20 is to determine the advisory sentence and Guidelines range.
21 The second step in the process is to determine whether there
22 are any departures, Guidelines-based departures, which should
23 be considered. And, lastly, the Court needs to take into
24 account the factors in the sentencing statute Section 3553(a)
25 in order to determine what a reasonable sentence will be in

1 the case. And, of course, we generally define a reasonable
2 sentence as one which is sufficient but not greater than
3 what's necessary to accomplish the general goals of
4 sentencing. Of course, they include the punishment of the
5 defendant, fashioning a sentence which takes into account
6 victim's rights and the public interest; secondly, to
7 determine whether there's any need for rehabilitation and
8 treatment or education of the defendant; and lastly, of
9 course, to provide a deterrent effect, not only to see to it
10 that this defendant won't commit any other criminal conduct,
11 but, also, to send a message into the appropriate community to
12 prevent others from doing similar conduct.

13 That's the legal landscape against which we work, and
14 we have here a plea agreement, which helps us along, and in
15 the plea agreement there are stipulations made by the parties
16 with respect to the Guidelines analysis, and the parties have
17 stipulated in the case to a Schedule A in the plea agreement
18 that we start with a base offense level of 7 under 2B1.1. The
19 parties have stipulated that there is an offense
20 characteristic, which gives us an 18-level upward adjustment
21 as to Count 1, and that's because the parties, including the
22 defendant, have stipulated that the financial loss for which
23 Mr. Todd is going to be held responsible is more than two and
24 a half million but less than \$7 million. There's also a
25 stipulation that the conspiracy involved sophisticated means.

1 So as to Count 1 there was an offense level of 27.

2 As to Count 2 there's further stipulations that the
3 funds emanating from criminal conduct carry a base offense
4 level of 27, and because Mr. Todd pled to an offense under
5 Section 1957 there's a one-level upward adjustment bringing us
6 to 28. The grouping analysis results in no increase, and we
7 used a higher offense level from the two counts, and,
8 therefore, there is an adjusted offense level of 28. And
9 because Mr. Todd stipulates that he abused a position of
10 private trust because he was an attorney engaged in these
11 transactions there's another upward adjustment of two levels.
12 So we have a Guideline offense of 30 -- Guideline offense
13 level of 30, excuse me, and the defendant is entitled to a
14 three-level downward adjustment because of his acceptance of
15 responsibility and decision to plead guilty.

16 So we have Criminal History Category I. This is
17 consistent with the probation office's analysis under the
18 Guidelines, and we, therefore, have an advisory Guidelines
19 sentencing range of 70 through 87 months. Are we in agreement
20 with that, counsel?

21 MR. GREWAL: Yes, your Honor.

22 MR. INTRATER: Yes, your Honor.

23 MS. BIANCAMANO: Yes, Judge.

24 THE COURT: We then move to phase two, which is the
25 government's application for a downward departure, and, of

1 course, I do recognize that I have the discretion to engage in
2 a departure, whether it be downward or upward. The question
3 is whether I think it is appropriate. Mr. Intrater, Mr.
4 Grewal, I have read your application. Is there anything you
5 would like to add to it?

6 MR. INTRATER: Your Honor, I would just briefly. As
7 your Honor well knows, the standard in the Third Circuit is
8 governed by the Torres factors, and in this case the
9 government would respectfully submit that all of the
10 applicable Torres factors have been met by Mr. Todd here. One
11 thing that I want to point out, which I think is important and
12 which I hope came across in the government's submission is
13 that Mr. Todd did what we believe was a very difficult thing
14 to do. Before he was charged, before he had to be approached
15 by law enforcement he voluntarily came in to us. That's a
16 significant thing. Your Honor has vast experience --
17 unfortunately, I would submit -- has vast experience with
18 cases of this kind, these affinity frauds. This affinity
19 fraud was based in the Orthodox Jewish community, and Mr. Todd
20 is a member of that community. For him to do what he did at
21 the time that he did in the posture that he did is
22 significant. The ramifications of his assistance to the
23 government are unknown to us. In other words, how will he be
24 viewed in the community. But we just want to lay out for the
25 Court, as the Court is already aware, I'm sure, that to come

1 in before you're charged without this sort of heavy weight of
2 a definite charge hanging over your head is a significant
3 thing.

4 I don't want to underplay the strength of the
5 Government's case here. We believe that the proofs were very
6 clear. They were very strong. Nonetheless, Mr. Todd's
7 assistance did enable us to get an insider's view of the
8 fraud. Those types of insider views are important, not just
9 in this case, but they're important in all white collar cases,
10 I would submit, because absent witnesses, all we have are
11 those records, which, again, to be clear were abundant and
12 which amply set forth that frauds took place here. We never
13 believed that Mr. Todd was minimizing. We didn't believe that
14 he was trying to hide things from us. It is sometimes hard to
15 get information out of Mr. Todd. I think that's just by
16 virtue of how he speaks and the way that his mind works, but
17 in all the sessions that we have had with him, we always
18 believed that he was doing his best to assist the
19 investigation and to tell us the truth.

20 The nature and extent of the defendant's assistance,
21 I'm going to be circumspect here on the record with respect to
22 this, but as your Honor knows, that assistance has exceeded
23 just the assistance that he provided in this case, in the
24 Weinstein case. It has also extended to other investigations.

25 I don't know whether or not the fourth Torres factor,

1 that is to say the physical risk that the defendant endured is
2 applicable, but as I usually say in these types of situations,
3 I would submit respectfully that it is a good thing that Mr.
4 Todd did not have or to our knowledge has not had any physical
5 threats made to his safety and so forth. I don't think he
6 should be penalized for that.

7 And, finally, with respect to timeliness that's where I
8 started out. That's where I would like to finish off. It was
9 an extremely timely and useful type of assistance.

10 Thank you, your Honor.

11 THE COURT: All right. Ms. Biancamano, do you have
12 anything to add?

13 MS. BIANCAMANO: Judge, I would just like to add that
14 with respect to Mr. Todd's cooperation, in addition to the
15 fact that he came in before he was charged he had a crisis of
16 conscientious, as they say, Judge, and knew that it was
17 absolutely the right thing that he had to do was to go into
18 the government and not only give the details of the offense
19 with respect to Weinstein, but, also, in doing that he
20 implicated himself in the middle of, you know, the fraud
21 conspiracy. So that was very brave, and I submit that is not
22 the norm of clients that I represent that go in before they're
23 even aware that they're going to be charged. It was a
24 situation where he recognized the wrong that he had done, the
25 wrong that was going on with Weinstein and knew that if he

1 didn't stop this individual that this fraud was going to
2 continue and more victims were going to lose more money.

3 I also believe, Judge, in Mr. Todd's case there was a
4 very large decision to be made because of his Orthodox
5 background, your Honor, his community. As the Court is very
6 familiar, generally people in the community do not cooperate
7 with the federal government, and that was a very big decision
8 for Fred to make. It has affected not only him but, also, his
9 family. They have been ostracized, your Honor, in the
10 Lakewood community that, you know, is his home and has been
11 his childhood home. His wife is here, Judge. She can attest
12 to that. They were very well respected members of the
13 community, and as a result of his cooperation that is not the
14 case any longer.

15 So, I would just like to point that out even though
16 there haven't been physical threats there has been a clear
17 isolation and almost, I believe, removal in the community now,
18 Judge.

19 THE COURT: Well, I have to just on that point alone,
20 Ms. Biancamano, I mean -- by the way, I don't come to this in
21 a vacuum. I don't come to this in a vacuum because I have
22 presided over more cases from the Orthodox -- involving the
23 Orthodox Jewish community than I can count, and it is not only
24 from the Weinstein case, the Weinstein fraud and its fallout,
25 but from several other criminal cases that have found their

1 way to this room. I have had experience, I think, more than
2 any other judge in this Court in dealing with criminal cases
3 that come out of this community. And we have heard argument
4 over and over again about the strength of the community, the
5 close-knit community, the support that one another receives
6 from being a member of this community, and now we're worried
7 about whether Mr. Todd's family is going to be ostracized.

8 Well, this affinity fraud to which Mr. Intrater refers
9 is terrible. It has been going on for centuries, and it has
10 got to come to a stop, and the only way it comes to a stop is
11 if the people in the community put a stop to it. So, the fact
12 of the matter is if Mr. Todd's family finds themselves
13 ostracized in some way from the balance of the Orthodox
14 community in Lakewood, they should be congratulated and
15 comfortable in my view and set an example.

16 MS. BIANCAMANO: We agree, Judge. I just wanted to
17 point out to the Court that that is something that has been
18 ongoing, and it is an additional factor.

19 THE COURT: You know, it is a consequence of Mr.
20 Todd's conduct. It is a consequence of what he did. And he
21 is to be commended, and he is entitled to a downward departure
22 under the circumstance that the government presents because I
23 have no doubt that the Torres factors are met. His
24 cooperation was timely. He came forward before being charged.
25 Indeed, I dare say the agents didn't get to the word "remain,"

1 much less "remain silent" in the first conversation. His
2 information turned out to be accurate. It was useful in the
3 sense that they were able to confirm what they already knew.
4 And to the extent there are social ramifications of his
5 cooperation, well, so be it. I recognize that that's the
6 case, and he is to be recognized for it, and I will, I'm going
7 to grant the government's application. The question is to
8 what extent. But there's no question that he is entitled to
9 some consideration here because he did come forward, you know,
10 but one thing I want to be clear about, to the extent it can
11 be read in any of these memos that his testimony was going to
12 be so critical to the government's case, to the investigation
13 and to the proofs at trial against Mr. Weinstein, I want to
14 just dispel that because, frankly, the government didn't need
15 Mr. Todd. I have been through this. I have been through this
16 case. I have seen -- I have seen the records. We got the
17 Chambers victims here in court. There are tape recordings.
18 So, you know, there is evidence here that was going to be
19 overwhelming, and Mr. Todd certainly is entitled to
20 consideration because of what he did, but I want to be very
21 clear about the fact that Weinstein in my view was going to be
22 convicted whether he pled guilty or not.

23 MS. BIANCAMANO: Judge, I agree with the Court in
24 that there was ample evidence to convict Weinstein. I also
25 agree -- I reviewed all the documents, and I have read prior

1 sentencing transcripts and looked at the roles of the other
2 parties involved in the case. I would point out, your Honor,
3 that it is always good, and I think the government would agree
4 with me on this, to have someone on the inside who tells a
5 story, who corroborates everything that the government is
6 saying, whether it be by bank transfer, whether it be by, you
7 know, communication or e-mail. A live person's testimony I do
8 believe, Judge, goes a long way, if this case there would be a
9 trial in front of the jury as to lay out exactly what happened
10 because, as your Honor is intimately familiar, Mr. Weinstein
11 was very good at covering his tracks and sort of putting the
12 pieces of the puzzle together and having players who kind of,
13 you know --

14 THE COURT: He thought he was good at it. He thought
15 he was good at it, and he wasn't. We know that he wasn't. We
16 know what happened here. Any Ponzi scheme falls of its own
17 weight. The heavier it becomes, the harder it falls. Write
18 that one down, Mr. Intrater.

19 So, you know, we have Mr. Weinstein. We have the 240
20 million however many it was. This is a separate conspiracy, I
21 understand that, and Mr. Todd is responsible for much less
22 than that, thankfully, but we know what happened here, and
23 enough.

24 MS. BIANCAMANO: Thank you, Judge.

25 THE COURT: So I have said what I have to say. Mr.

1 Todd, you're entitled to consideration for your cooperation.
2 It was timely. It was reliable. It was accurate, and you did
3 place yourself if not in physical jeopardy you placed your
4 family and yourself in harm's way with respect to this
5 community. So all of the Torres factors have been met. I
6 will grant the government's application; the question is to
7 what extent. And although the plea agreement limits what the
8 parties can argue in phase three of this process because the
9 plea agreement stipulates that there will not be any other
10 application for downward variances, other than what's set
11 forth here, I'm going to permit you to argue, Ms. Biancamano,
12 as to the extent of the downward departure, but I think in
13 many ways the argument you make is constrained by the
14 stipulation in the plea agreement. So that being said, let's
15 move along.

16 MS. BIANCAMANO: Yes, Judge. With respect to
17 analysis of what would be a reasonable sentence for Mr. Todd
18 in this case, I submit, your Honor, that when you look at the
19 conduct of Mr. Todd and you look at the seriousness of the
20 offense we readily concede that it is a very serious offense.
21 We readily concede, as Mr. Todd will address the Court, that
22 he committed a very grave error in judgment. I submitted the
23 settlement agreement, Judge, to show the Court that at the
24 time that this activity was happening with respect to
25 Weinstein Mr. Todd himself had invested and had remortgaged a

1 bunch of his properties that eventually he lost, and he was in
2 debt to a hard money lender, who, of course, was introduced to
3 him by Weinstein, and through several years of very intense
4 litigation he wound up losing essentially everything that he
5 had, the 29 properties as part of this settlement agreement.

6 You know, it is hard for me to fathom, and in
7 speaking to Mr. Todd, the government is correct in that
8 sometimes he speaks very kind of circular, but --

9 THE COURT: Somebody described it in these papers as
10 elliptical. I don't know what that means, but that's the way
11 it was described.

12 MS. BIANCAMANO: I'm thinking that means circular.
13 But in any event, in our multiple, multiple meetings and
14 discussions it is clear to me, Judge, that Mr. Todd is much
15 more than this offense. The essence of Mr. Todd, you know, he
16 is in his sixties, Judge. He has never been before a court of
17 law. Quite to the contrary. You know, he himself is the son
18 of Holocaust survivors, and I have come to understand what
19 that means, and I like the Court have been involved in a
20 number of cases involving Orthodox individuals in criminal
21 contexts. And it is hard to kind of fit the two together, but
22 I now -- it is only now in the last couple weeks that I have
23 met Mr. Alex Ellenson that I learned truly what the meaning of
24 Holocaust survivor is. I have always heard it, and I have
25 come to understand it now. Essentially it means that the

1 person who is spared has then an obligation, a feeling that
2 they were left on this earth for some particular reason. And
3 I think that Mr. Todd has brought that from his parents and
4 his father did very well, your Honor, and, you know, left him
5 a good inheritance that he now has essentially, you know, lost
6 a great deal of it. But with that inheritance, Judge, I
7 submit that he did good things. You know, some people they
8 inherit money or money comes easy to them, they don't
9 necessarily do good works. They don't, you know, necessarily
10 help people. The sentencing letters that I attached are
11 filled with stories of Mr. Todd graciously and of his own
12 volition assisting members of his community.

13 After his dad passed, Judge, he went back to Lakewood
14 to live in the community. He was not raised Orthodox, and he
15 actually went to Boston College and, you know, was very, I
16 guess, secular as they would say. And then he decided after
17 his father passed that he wanted to go back to his community,
18 Lakewood community, learn the traditions of being Orthodox,
19 and he started actually an on-line school. He was tutored and
20 mentored by several rabbis. He learned all the traditions,
21 and he started a school for other people so that they could
22 learn these traditions, as well, Judge. He published many
23 books, and he has given back tremendously to his community in
24 that respect.

25 Education was always a priority of his, and he worked

1 tirelessly to ensure that other people came to understand the
2 traditions just as he had struggled to learn over the years.

3 Additionally, your Honor, as of the last several
4 years he has been very, very actively involved with the United
5 States military. He is one of two endorsers for the Orthodox
6 community within the military. That means that he has the
7 distinct privilege and honor of communicating and appointing
8 people to be rabbis, to be chaplains within the military in
9 all phases of the military, Army, Navy, Air Force, Marines,
10 and these chaplains are very significant in that they have
11 hands-on direct contact with, you know, the armed forces in
12 battle, at home. They give spiritual guidance. They're very
13 instrumental in helping and assisting with the suicide rate we
14 have in the military, Judge, and Mr. Todd is on the phone --
15 and I can attest to this myself because even in meetings with
16 him he is on the phone, he is e-mailing -- constantly from
17 different individuals that are chaplains in the military who
18 call him day and night for advice as to what to do in certain
19 situations.

20 Your Honor, Mr. Todd recognizes what he did was
21 wrong. It happened at a time when he was completely I don't
22 want to say outside of himself, but clearly not himself. He
23 made very bad decisions that affected people, and as you know
24 the Chambers are here, and they have lost significant amounts
25 of money. He regrets his actions. In fact, he regretted them

1 so much that he immediately went to law enforcement before
2 ever even being approached. He knew all along what the right
3 thing was, and his realization that he had to stop Weinstein
4 was a very, very big one in his life. He sits before you and
5 stands before you, Judge, a humbled man. Since his
6 cooperation and since this offense, Judge, he has continued on
7 with his charitable good works, even though he really has
8 nothing. He still is very involved with the military, and
9 Rabbi Chrysler is here, who would like to speak to your Honor.
10 He is a lieutenant commander in the Navy, Judge, regarding his
11 relationship with Fred Todd, and Alex Ellenson is here, who is
12 a business associate and friend, and Rabbi Rothschild. These
13 are all people from different phases of his life, Judge, that
14 I believe when you hear them can truly attest to the true
15 nature of what is -- who is Fred Todd. And I think that is
16 something when fashioning a reasonable sentence we would come
17 to a balance. The offense, yes, it is very serious. Is there
18 a true need for deterrence in this case? Specific deterrence,
19 I would say no, Judge, because Mr. Todd was deterred and went
20 to the government before, you know, it was even discovered.
21 General deterrence? I think the bigger issue, Judge, is
22 sending a message to the Orthodox community that if people
23 cooperate and people work with the government there is a
24 benefit. They want to stop fraud, that he shouldn't be
25 ostracized for doing the right thing. The right thing in the

1 global community. For something that benefitted their
2 community actually. So, I think in terms of the message that
3 the Court sends that that would be the message, Judge.

4 And I would submit that if your Honor would indulge
5 the parties who traveled a long way to come speak to the Court
6 that we would be prepared for that now.

7 THE COURT: Certainly. By the way, before I hear
8 from them I want to tell you all that I have read all of these
9 letters. There were 49 letters. I have this -- I have a
10 responsibility, as any judge does, to read everything that
11 comes in, and I have read these letters, but I want to tell
12 you that I was absolutely stunned by a statement in
13 Exhibit 29, which is a letter from a gentleman writing on
14 behalf of Mr. Todd, who tells me in the first sentence, "I
15 have been told that these letters really do not get read, so
16 on the chance it will even be skimmed, I will try and keep it
17 brief." I want to dispel the rumor that these letters don't
18 get read. Frankly, that rumor is offensive. I have read
19 every one of these 49 letters, and I am taking them all into
20 consideration.

21 MS. BIANCAMANO: Thank you, Judge. Should I...

22 THE COURT: Yes, sir, what's your name?

23 MR. ROTHSCHILD: Zeev Rothschild. Good morning, your
24 Honor. I just want to give my perspective of a little bit of
25 what's happening with Mr. Todd. I have known Mr. Todd for

1 more than 30 years. We have prayed together, as you saw in my
2 letter, for almost that amount of time in the sunrise, in the
3 morning. I know him from before he was married, and I have
4 been involved with him. He has always been a very, very
5 honorable person, and things that he has done have been always
6 very honorable.

7 I had the distinct pleasure or displeasure of meeting
8 up with Mr. Weinstein in his early days before he got involved
9 in the massive criminal enterprise that the judge knows about.
10 I had a family. At that time I had eight children, and I
11 needed a van, and I didn't have a lot of money. And I was
12 looking to buy a stick shift 12-passenger van. And
13 Mr. Weinstein was a used car salesman in the proverbial way
14 that they speak about used car salesmen.

15 I went to Mr. Weinstein to buy a van, and Mr. Weinstein
16 showed me a van. It was \$3,000, and he said he would deliver
17 it to Lakewood. I gave him \$2,500, and I told him I would
18 give him the last \$500 when the van appears and comes in my
19 driveway. No problem. I gave him the money. He says,
20 "Tomorrow night the car is going to be there." One day, two
21 days, three days, a week later, the van is not there. I go
22 back to him, and I said, "Where is the van?" He said, "The
23 van is in New York. I'm going take a bus into New York. I'll
24 go get the van myself and bring it back to Lakewood."
25 Mr. Weinstein says, "Okay. Come in." He says, "You know

1 what? I just sent the van back to Lakewood. The van is in
2 Lakewood. It is over there." I went back and said, "Where is
3 it?" He tells me where it is. I go to the guy, and he says,
4 "You won't believe what happened. An hour ago the van was
5 stolen." I called the police. The police come. He has no
6 number. There's no registration, no copy of anything.

7 Whoever says there was a van?

8 THE COURT: Did you look for it in Trotwood, Georgia?
9 You might have found it.

10 MR. ROTHSCHILD: That is not the end of the story.
11 The end of the story is I ask him back for the money because
12 he stole the thing. He said, "You want back the money?" The
13 next day I received in the mail he was bringing me to beth din
14 to religious court for my \$500 I didn't pay him yet.

15 THE COURT: May I respectfully ask you to confine
16 your remarks to Mr. Todd? Weinstein is ancient history.

17 MR. ROTHSCHILD: I will. The reason why I'm saying
18 this is that I knew Weinstein, Mr. Weinstein as a criminal
19 long before everybody else knew. Mr. Todd got involved with
20 Mr. Weinstein, as far as I know, when they dealt together with
21 the school; there was a Jewish state school in Lakewood, which
22 Mr. Todd attended when he was young, and Mr. Todd was there
23 and he had children in that school, and he wanted to better
24 the school. And Mr. Weinstein was also one of the members of
25 the board of directors.

1 Mr. Weinstein was trying to manipulate the school to
2 steal \$3 million, take a mortgage on the school, and I went to
3 Mr. Todd and begged him, I said, "Mr. Weinstein is a thief.
4 Don't deal with him." Mr. Weinstein was much more smarter
5 than I was and much more powerful, and Mr. Todd somehow fell
6 in with Mr. Weinstein. And Mr. Weinstein took Mr. Todd, and
7 not only Mr. Todd, from -- I'll go back a step. Mr. Todd
8 basically had given up his law practice. He gave up all his
9 studies, and he decided to dedicate himself to his religious
10 background, to his religious beliefs where he came from, and
11 like we mentioned before, he was the son of a Holocaust
12 survivor. His mother was almost a sole survivor in her whole
13 village of thousands of people. Almost the whole village was
14 annihilated, and he decided he wanted to give back to the
15 people what this village would have given. And he spent this
16 time studying. He did not practice law. He had a big career,
17 and he gave it all up to study and to become a religious
18 person. He did not practice. I don't think there's one case,
19 and I checked it out, from my research was there's not one
20 case that he ever submitted to the Court as being a lawyer.
21 He didn't attend any closings. He wasn't any type of a lawyer
22 whatsoever.

23 Mr. Weinstein saw Mr. Todd's shingle, that he was a
24 lawyer, and he became very useful to him. And Mr. Todd, who
25 had an inheritance of over \$10 million, lost the whole \$10

1 million to Mr. Weinstein. Mr. Todd can't become a victim
2 because he, obviously, did crimes over here, but he was a hair
3 width's away from being a victim. And, in fact, he lost more
4 money to Mr. Weinstein than the Chambers did. He lost his
5 whole thing until the point that a lot of the money that he
6 has had right now was raised from the community because
7 literally he is a penniless person.

8 Mr. Todd went in with Mr. Weinstein. He took full
9 advantage of him. Mr. Todd is a wonderful guy. He is
10 ideological. He does for the community everything, but,
11 unfortunately, business savvy he doesn't have, and Mr.
12 Weinstein was able to take full advantage of that.

13 Just to understand a little bit, there's a fellow whose
14 name is Mr. Berger. Mr. Berger was a person in London, who
15 was fleeced out of \$20 million. Someone asked Mr. Berger why
16 don't you go and speak to Mr. Weinstein to get back your
17 money. He said, "I'm convinced if I walk into the room I'm
18 not going to get back any money from Mr. Weinstein but Mr.
19 Weinstein is going to get another \$5 million out of my pocket.
20 I'm not going to meet him." I was no match, and my warnings I
21 gave to him were no match for Mr. Weinstein. He worked him
22 over until he got him to agree to use his legal degree and to
23 use whatever he had in order to help him in his criminal
24 career.

25 Mr. Todd has done some tremendously amazing things for

1 people from all walks of life. I read all the letters that
2 the judge read. I was given copies of them. It is amazing
3 what he has done. I didn't know half the facts that he has
4 done there, but I can tell you from the little vantage point I
5 had from the prayers that we do together and things like that,
6 Mr. Todd has always been there for everybody with everybody,
7 has taken care of all the disadvantaged people. There's
8 people there who have all sorts of problems. Mr. Todd has
9 been there for this whole time.

10 The judge in previous sentencings asked why didn't
11 you come forward, and people asked for downward departures.
12 Mr. Todd did come forward as the Prosecutor said. One thing I
13 noticed in all the reports over here is no one asked for jail
14 time. Everyone -- the Prosecutor doesn't ask for a certain
15 amount of time in jail. The probation didn't ask for that.
16 No one is asking for a specific amount of time of jail.
17 There's no question that the defendant has to be punished.
18 There's no question he did terrible crimes. I'm part of the
19 Lakewood community. I'm a rabbi there. And I deal with a lot
20 of the victims, a lot of the financial stuff come my way. I
21 can tell you how many victims I know of these crimes and how
22 many people lost that the government doesn't know about, how
23 many victims lost tens of millions of dollars, and they come
24 and try to get back their money, what can we do, how can we do
25 it. I know the story. Mr. Todd stopped that. He came

1 forward, and he stopped the people in their tracks.

2 When Mr. Todd was given the \$10 million to get out on
3 bail from a gentleman in Flatbush, New York, I went over to
4 the person and said, "Why did you do that? You're just going
5 to let further crimes happen while he is on bail?" Mr. Todd
6 was the one that reversed that by going into the government
7 and stopping it. It is true that Mr. Todd is ostracized by a
8 big part of the community and our prayers, which we have
9 around 200 people, 260 people there, there's a split. Some
10 people think of him as a hero. He was the one that came in
11 and stood up and stopped everything where it was. There's
12 other people that he got ostracized from. It is very
13 difficult for him. When he was sitting shiva, he was sitting
14 condolences when his mother was recently passed away, hardly
15 any people came to pay the traditional shiva calls. He has --
16 the community needs help and getting better.

17 I want to just end with one thing. I was -- as I
18 mentioned to the Judge, I deal with a lot of people who are
19 victims in the crisis and people are criminals themselves.
20 There was a criminal, his name was Al Gold. He was involved
21 in a case in England called the Sun Insurance case. It was a
22 case that was heard in Austria, and Mr. Wilhelm was at that
23 time stepping down as chancellor of Austria. And I wrote him
24 a letter. And what I wrote him was that -- it said you had an
25 illustrious career until at the end of your career they came

1 out and found out you were an SS officer. Why don't you make
2 a statement, and that statement should be that you're not an
3 anti-Semite because you do take into consideration the plight
4 of Jewish people and you consider them. Mr. Wilhelm at that
5 time took me up on it, and he gave the person a full pardon.
6 I am not lawyer, but I followed a lot of the cases that your
7 Honor has presided over; the Merck cases, the Lloyd case, a
8 lot of other criminal cases. Your Honor, the insight -- and I
9 have learned from your Honor's insight -- it is unbelievable
10 the insight that your Honor has.

11 This case over here, and I know that your Honor is
12 stepping down from the bench in the near future, and it is a
13 big loss for the whole State of New Jersey and for whoever the
14 judge -- the judge has done a tremendous thing for the whole
15 New Jersey and for the whole United States. If the judge can
16 send a message that affinity crime is not correct and can come
17 to my community and tell my community if you cooperate you
18 will get the benefit of the doubt, and if you cooperate and
19 come in before they come to you before the situation -- while
20 the situation is breaking, you will have the ability to get a
21 second chance, I think it will send this message, and I think
22 that if your Honor can send that message amongst all the other
23 tremendous things that your Honor has done it will be a
24 tremendous thing that your Honor will look back at.

25 There's a lot of alternative punishments, which I'm

1 sure your Honor knows better than I do, available. Mr. Todd,
2 your Honor has said in previous sentencings, home detention in
3 our community is not a deterrent, it is not a punishment. In
4 Mr. Todd's case it is a punishment. Mr. Todd has a difficult
5 time coming out in the morning. He has people ridiculing him.
6 In our community the mourners -- someone who appears after
7 someone passes away, they lead the services. He is not able
8 to lead the services. He is only able to lead a small part of
9 the services because of it. He has a lot of different
10 detriments because of this. To Mr. Todd it is a deterrence,
11 and he is willing to commit himself to public service, to
12 speak and to get people away from problems explaining the
13 situations. We have organizations there. He is willing -- he
14 volunteered that he is willing to be part of those things. If
15 your Honor can find some way to craft a sentence that he
16 doesn't have to sit, and I just want to point out the victims
17 that he informed on are sitting in Otisville. He doesn't have
18 the possibility to go to Otisville. It is not a possibility.
19 Even going to Fort Dix is a problem because of the people that
20 he spoke about. The prison system doesn't do this. If he
21 would go -- if the judge sentenced him to incarceration what
22 would end up happening would be that he would get a more
23 severe sentence than the very people that he helped the
24 government with. So I'm begging your Honor if there's a way
25 that your Honor can give an alternate sentence and in some way

1 to give him something that he doesn't have to sit in
2 incarceration I think that it would meet all the Guidelines of
3 the Sentencing Guidelines.

4 Thank you very much.

5 THE COURT: Thank you, sir. I have two comments to
6 make to you, Rabbi Rothschild. The first is, you're right
7 that this affinity fraud needs to stop, and I have sent the
8 message. You have been here, I think. You have read,
9 obviously, the materials, so you know what I have had to say
10 about it. I can't be more clear. But there are two things
11 that are going to help to stop this affinity fraud. You're
12 one of them. You're a community leader, and you have got to
13 exercise your responsibility with all these other folks to
14 send that message into your own community. And the second way
15 it is going to stop is you see these FBI agents who have been
16 sitting here time after time? Guess what? They're not going
17 away.

18 MR. ROTHSCHILD: We know that.

19 THE COURT: They are not going away, and we'll find
20 out if you're right that this has finally come to an end. You
21 know, I do have some insight, and you know what some of the
22 other insight I have learned is? Cash flow is thicker than
23 blood. So thank you very much for your remarks, and we hope
24 that you're right.

25 MR. ROTHSCHILD: Your Honor, one of the reasons Mr.

1 Todd...

2 THE COURT: Thank you.

3 Anything else, Ms. Biancamano?

4 Yes, sir. Your name?

5 MR. KREISLER: My name is Neal Kreisler, Lieutenant
6 Commander in the United States Navy. I currently serve as the
7 command chaplain at the School of Infantry East, Camp Lejeune,
8 North Carolina.

9 THE COURT: Thank you for coming, and thank you for
10 your service.

11 MR. KREISLER: Thank you, your Honor. It is not my
12 intention to attempt to downgrade the severity of the
13 offenses, the crimes to which the convicted has pled. As a
14 military officer and, therefore, a leader in my own realm, I'm
15 aware of the importance of culpability, the importance of
16 accountability and the importance of taking responsibility for
17 what happens as a result of your actions. I only wish to
18 attest to the character of Mr. Todd as I know him, and it is
19 with great appreciation that I do so and it is with affection
20 for the man.

21 I only know Mr. Todd at a religious level. I don't
22 know much about money, sir. My check is automatically
23 deposited into my account, my salary. I don't even know much
24 about how finances work or even so much what a Ponzi scheme
25 is, though I know that there was a fraud and money was stolen,

1 but I know Mr. Todd from a religious level. My service in the
2 military, I have been to war zones and all over the world
3 flying on carriers to do my job, and this has honed my ability
4 to perceive spiritual integrity. And this is what I see in
5 Fred Todd. With complete conviction, your Honor, and complete
6 sincerity I'm convinced that Fred Todd could not have known
7 that he would be engaging in such a sin. But he did it, and
8 he must be culpable. We must account for our mistakes. But
9 it was an error of judgment. All I know from Fred Todd is
10 that he only wants to help. This is another reason why this
11 must have been just a horrific error of judgment. He only
12 wants to help. Every time he talks to me, I'm doing this, I'm
13 doing that, I'm going to help the world better. How can a man
14 who wants to make the world better knowingly engage in this,
15 though he did so?

16 Your Honor, part of -- the one point I gleaned from
17 your preliminary comments on the nature of sentencing is its
18 remedial aspects. And part of remediation or improving from
19 one's sins and misjudgments is to do repentance. I know Fred
20 has done repentance. This is how I believe I know it, sir.
21 When I make a mistake in my command, and I don't make criminal
22 mistakes, but if I mess up I have learned over the years the
23 first thing I do -- and I do this, your Honor -- I immediately
24 go to the executive officer or to the colonel, my CO,
25 commanding officer, and tell them, "Sir, I messed up. I made

1 a mistake." And that's repentance because I'm realizing and
2 I'm confessing. I made a mistake and here's what I'm going to
3 do to rectify it. The fact that Fred Todd, I believe, the
4 fact that he caught this when he realized what was going on
5 and made every effort to come forth and ameliorate the
6 situation indicates that he acknowledged what he had done and
7 he was doing repentance, and it doesn't remove his
8 culpability, but he has done the repentance, I really believe
9 so. I understand sentencing must be done, and there must be a
10 punishment, and I'm not trying to diminish the suffering of
11 the victims. I just want to talk about the man Todd in the
12 bigger picture. And, by the way, your Honor, I carefully
13 crafted my letter to you knowing and convinced that you would
14 read it, sir.

15 There's so much good that Fred Todd can do,
16 particularly because he has repented for this. He knows what
17 he has done. There's so much good he can do for the
18 community. And respectfully, sir, it just seems to me it is
19 such a shame were he to sit in a situation where he couldn't
20 affect directly that community for the good because I know
21 that's only -- it is the only thing he wants to do is to do
22 good, and I understand there must be consequences, but I wish
23 to say this on behalf of Fred Todd, the man that I know, which
24 is only good. And one of the reasons I have this uniform on,
25 sir, is because he helped me. Unfortunately, in the United

1 States Navy Chaplain Corps there are politics, and there was a
2 time when I was having a rough professional situation and Fred
3 Todd jumped on my behalf and he came in and he helped me
4 retain my job, and, of course, I moved on to Lieutenant
5 Commander. So I only have appreciation and affection for him,
6 but I wish to emphasize to your Honor I sincerely -- I have
7 the conviction that he would -- he didn't do this knowing he
8 was going to steal. How could he? How could he? He did it,
9 and he is being punished, but there's so much more for him to
10 contribute, and I truly believe he has repented. And, your
11 Honor, respectfully, I submit that is an important component
12 of the process that he has been going through. And
13 respectfully I would request as a man who cares for him within
14 the parameters of the law to diminish in whatever capacity you
15 see fit and is possible the extent of his punishment.

16 THE COURT: Okay.

17 MR. KREISLER: That's all I have for you, sir.

18 THE COURT: Thank you very much. Okay.

19 MS. BIANCAMANO: Judge, there's a retired active duty
20 combat vet who would like to speak to you.

21 THE COURT: Yes, sir. Your name?

22 MR. CARMACK: Robert Carmack, sir.

23 THE COURT: Mr. Carmack, thanks for coming.

24 MR. CARMACK: Thanks for having me. I'm retired
25 United States Air Force active duty. I enlisted right out of

1 high school. Came in in 1982 and retired in the year 2002
2 where I went and worked for the Army as a civilian. I have
3 worked in the government capacity ever since I can get a
4 paycheck. Never worked anywhere else. As a combat war
5 veteran I met Fred Todd on an aircraft trip to California, and
6 we discussed what he did for a living, basically, and he
7 was -- one of his things that he did do was he was an endorser
8 for chaplains for the Jewish community. I myself am not
9 Jewish, but I appreciate chaplains from any, any religious
10 aspect or affiliation, especially being a combat vet. I have
11 seen the work that chaplains have done. Because of his
12 endorsements and his community involvement with the United
13 States military I have benefitted directly from him, and, in
14 fact, my knowledge ever since I have met him, he has
15 counselled me and my family with some -- obviously, I spent 20
16 years, three wars, so he was my counsel even though he wasn't
17 in my direct reporting chain. However, he did assist me, and
18 I have watched him assist many, many veterans in his capacity
19 as an endorser. For that alone I'm speaking on his behalf and
20 hoping that the tremendous work that he has done will be a
21 mitigating factor to some of the other things that will
22 benefit him.

23 So it is my intention to explain to you firsthand that
24 he has done great, great work for the United States veteran
25 and continues to do so at this time.

1 THE COURT: Great. Thank you, sir. Okay. Mr. Todd,
2 would you like to speak? You can stay where you are. You can
3 remain seated if you're comfortable.

4 THE DEFENDANT: May I go up there?

5 THE COURT: Whatever you want to do.

6 THE DEFENDANT: Thank you, your Honor, for letting me
7 speak here. Let me put my glasses on. I have prepared this.
8 Anyway, your Honor, I stand before you, you know, quite broken
9 and shaken over what happened. You know, shaken and broken by
10 what happened. You know, Chaplain Kreisler, he sort of -- and
11 Mr. Carmack, speak out very well. It is a disgrace to my
12 community and to my family and to God. It is a desecration of
13 God's name, and I worked so hard for 30 years, and I became
14 observant, and in one shot it was destroyed. And Mr. Chambers
15 over there, you know, they're very nice people, and what
16 happened to them is just, you know, it is like a viper hits
17 you so fast, you don't even know what struck you. And, you
18 know, and when I became aware of what happened as soon as I
19 could, when I -- also, very important is that, you know, the
20 way that that person -- which I can't even say his name -- did
21 things that hopefully they would be able to get back their
22 money. But it was impossible. And this is the first
23 chance -- your Honor, we don't swear, we affirm, the first
24 second that I saw what was going on I didn't need a tap on my
25 shoulder. And, also, your Honor, I didn't fight. You know,

1 although, you know, I strategically could understand, you
2 know, the criminal things and to get me approved and all that,
3 but I didn't do any of that. I didn't even look at the
4 documents. I didn't even know really what I signed. I
5 just -- you know, I was so appalled by what happened, you
6 know, that I should ever hurt somebody because what we do
7 with, you know, when the chaplain in the military every day
8 somebody is committing suicide. And Chaplain Kreisler is the
9 epitome of all that. And I said this is going to cave in over
10 here, but I couldn't let it go, and I couldn't for one second
11 have -- it had to be stopped. And I understand, your Honor
12 you could have convicted him. You didn't need me at one
13 point, but when we sat together, Zach and Gurbir, you know,
14 and they sat with me and they said, We know every second he is
15 out there what he is doing. And I didn't want one more
16 second. And I literally sacrificed myself, my family, my
17 career, my license, my name. You know, my father, may he rest
18 in peace, how he survived after he ran from the Nazis and he
19 went to Siberia, and he didn't steal a seed. He had an
20 impeccable reputation. He paid everybody beforehand. And I
21 should be in this situation? I was used. It happened so fast
22 I didn't even know what happened, but as fast as I could I
23 came forth. And the shame and disgrace that I have is
24 unbelievable. I ask for the Chambers' forgiveness. I
25 understand, and it is a hard thing, but I ask.

1 I want to thank, you know, Neal for coming up from Camp
2 Lejeune. It was a big thing. Robert Carmack is like a
3 brother to me. Rabbi Rothschild, Elliott Ellenson. And, you
4 know, I regret, you know, my lapse in my judgment, you know,
5 and how, you know, that as a lawyer I should have known
6 better, but I was overwhelmed. I fought like crazy to keep my
7 mother alive. My uncle, may God avenge his blood, he went out
8 to his mother, and I fought for my mother's life every step of
9 the way, and I could never believe -- and even though I'm
10 experienced and older, I could never believe anybody could be
11 that cruel to sit there and look like we do and act like we
12 do -- you know, I admit I'm naive, you know, but that naivety
13 helped so many people, but it was impossible to defend, and
14 when I found out, I went in and I gave up.

15 Your Honor, I know I'm not deserving this, but I want
16 to ask for your compassion and let me keep doing what I'm
17 doing because I know every single day -- you know,
18 fortunately, I'm sort of the commander of my own force. Rabbi
19 Kreisler is a representative of that. We have had thousands
20 and thousands of people, and most of them are not Jewish at
21 all, and if I'm not there for them, people will die. One of
22 my chaplains stopped seven suicides, but I'm the one holding
23 him. Rabbi Kreisler, he was counseling a couple of marine
24 sergeants, and he lost it and killed his wife. We had to go
25 counsel all of them. I cannot express to you what it is. You

1 can tie me up, whatever you want, but I can do -- to be tied
2 up it doesn't help, and then right before we got here an
3 organization came to me, which I didn't know, where I took my
4 lessons and is going to put it through all the federal
5 system -- you probable have a letter -- to help rehabilitate
6 and work with people, a huge, huge job. So I can just ask you
7 for your compassion, and I want to thank my wife, who if she
8 wasn't a veteran of the Israeli Army I don't think she would
9 have stood up. We have been pounded for eight years
10 relentlessly. It wasn't two years ago. It has been hell
11 every single day. Not once. Day in and day out. You know,
12 and when you see your mother -- I don't know if your mother is
13 still alive -- and you look at a Holocaust survivor, and you
14 say, I have to take care of her, yeah, yeah, yeah. What do
15 you do? How can you defend against such a thing? How could
16 someone do such a thing? The cruelty is impossible to
17 imagine, and no matter what you did it doesn't come close to
18 what should have been done, you know? I couldn't stand it one
19 more second. I didn't fight with the government. I went in
20 there. I know we have another case, which is not that,
21 which -- don't talk about that? Okay. But just whatever they
22 asked me to do I did beyond most.

23 Thank you.

24 MS. BIANCAMANO: Thank you, Judge.

25 THE COURT: Thank you. As I have said, you're going

1 to get consideration for what you have done, and that was the
2 right thing for you to do. But let me ask you a question
3 while you're standing here, and I have asked this question
4 over and over again. I have been asking this question for 15
5 years. How did you think this was going to work out?

6 THE DEFENDANT: Your Honor, it happened so fast.

7 THE COURT: Well, let's talk about that for a minute.
8 This happened so fast. You said it hit you like a viper. It
9 happened so fast. It didn't happen so fast. It went from
10 February of 2012 until at least May of 2013. 15 months. It
11 didn't happen fast. And, you know, Rabbi Rothschild comes up
12 and says, you know, you caught it and stopped it. Well, you
13 didn't catch it and stop it before the Chambers lost all these
14 millions of dollars.

15 THE DEFENDANT: Your Honor --

16 THE COURT: Look, I'm not here to lecture you. I'm
17 not here to do any of that. You asked me for compassion. I
18 have a responsibility, and I am going to exercise the
19 responsibility. Believe me, I don't particularly enjoy it,
20 but I have a responsibility here, Mr. Todd. You did what you
21 did. How did you think it was going to work out?

22 THE DEFENDANT: Your Honor, everything was done so
23 fast by the time I realized it I did all that I could do
24 because I was also bluffed. It didn't come -- that it was
25 gone, and there was monies. If your Honor --

1 THE COURT: Let's not go there. Let's not. There's
2 an argument in your attorney's memorandum that you were one of
3 Weinstein's pawns. Let's not go there because the fact of the
4 matter is you might have been recruited, you might not have
5 known the entire magnitude of his evil purpose, but you were
6 no pawn. I mean, you utilized your attorney accounts to
7 perpetrate a six and a half million dollar fraud, and you knew
8 that Weinstein was toxic. Everybody knows Weinstein was
9 toxic. And you let him use your attorney account to
10 perpetrate a six and a half million dollar fraud on innocent
11 people. That's what happened here. I'm not making this up.
12 Okay.

13 THE DEFENDANT: Thank you, your Honor.

14 THE COURT: Thank you, sir. Anything else,
15 Mr. Intrater?

16 MR. INTRATER: I know Mr. Richland would like to make
17 a brief statement.

18 THE COURT: Mr. Richland?

19 MR. RICHLAND: Good morning, your Honor. Nice to see
20 you again. I'm going to make my statement extremely brief. I
21 think you covered it very well here. We happen to think --

22 THE COURT: You know, I can't get enough of this
23 case.

24 MR. RICHLAND: I appreciate that. So, basically, I
25 would just say as much of a punishment you can give him is

1 what you should give him because, quite frankly, he is an
2 attorney, he was in a position of trust, and he abused it, and
3 my clients lost out. And, quite frankly, 15 months, he didn't
4 do it. If he had done it early enough my clients wouldn't
5 have lost out. Thank you very much, your Honor.

6 THE COURT: Believe me, Mr. Richland, I understand
7 your clients' -- not only your clients' financial problem and
8 loss, but I also understand and appreciate your clients'
9 frustration and, frankly, your client's outrage. I understand
10 that.

11 MR. RICHLAND: Thank you, your Honor.

12 THE COURT: Mr. Chambers has been here. We have been
13 through this. Okay. Anything else?

14 MR. INTRATER: Not from the government, your Honor.

15 THE COURT: Well, we come to the end of the line
16 here, Mr. Todd. A couple of things. First of all, I have an
17 obligation to rule on the government's motion for a downward
18 departure, and there's no question, having already indicated
19 that I'm going to grant it, and I do grant it. It is within
20 my discretion, and the fact of the matter is I have listened
21 to the arguments made about your character, background, and
22 personal characteristics, and although I don't need to take
23 that into account in ruling technically on a 5K1 downward
24 departure motion, it has been my practice to by and large
25 conflate the consideration of the 3553(a) factors along with

1 the downward departure. So I am going to grant the
2 government's request, and I'll get to the extent of it in a
3 moment.

4 But what we have here, taking into account the facts
5 and circumstances of the case is, we have you as a knowing and
6 willing coconspirator, along with Mr. Weinstein and some
7 others, in order to perpetrate a fraud on some victims. And
8 there were a couple of different component parts to this
9 conspiracy. We know we have got the Florida condominium deal.
10 We have got the Facebook shares deal. We have got some other
11 aspects to it totalling something over six and a half million
12 dollars, and, indeed, you are responsible to make restitution
13 in the amount of \$6,530,000 or so to these victims, and
14 they'll be specified in the judgment, but this was a knowing
15 and conscious fraud perpetrated over a period of time, and you
16 played an integral part in that conspiracy. Indeed, part of
17 the scam was that these were legal investments, and the
18 investments had to be channeled through an attorney, and you
19 were the attorney. And the fact is that you utilized your
20 attorney account in order to take money from these innocent
21 victims, and you knew that it wasn't going to the destinations
22 represented to them. Indeed, there wasn't any Facebook share
23 deal. There wasn't any Florida condominium deal. And you
24 knew that Weinstein was toxic, and you knew that he was
25 stealing the money. So that's what this is all about.

1 Now, what do we do with it? The facts and
2 circumstances of the case are terrible from your point of view
3 as they were terrible to Weinstein, as they were terrible to
4 Glucksman, as they were terrible to Schleider. I need to take
5 into account not only the harm visited upon Mr. Chambers and
6 the other victims, but I need to take into account the harm
7 visited upon society, upon your own community, and I have
8 spoken about this until I'm blue in the face, but the fact of
9 the matter is that this is just another example of this
10 affinity fraud that's been so nicely characterized. And,
11 indeed, I don't mean to be glib in quoting my colleague, but
12 cash flow is thicker than blood, and we have seen the damage
13 that it can do. So you've got to pay for that. You know,
14 you've got to be held to a higher standard as an attorney, and
15 indeed that's part and parcel and one of the factors in
16 raising the Guidelines level that you face. I do take into
17 account your personal history and background otherwise. I do
18 take into account the fact that these folks have come here to
19 support you. I do take into account the work you have done in
20 the military. I do take into account the work you have done
21 in your own community, and I do take into account the fact
22 that you have got a very supportive family situation. Your
23 wife is here. I take all of that into account. But, you
24 know, the fact of the matter is Rabbi Kreisler asked me to
25 fashion a sentence that permits you to continue doing your

1 good work. And I do recognize the fact that this has been
2 weighing heavily and very heavily upon you since you knew you
3 were going to face this criminal sanction. But that's how it
4 works out. That's what you have done to yourself and what you
5 have done to your family. That's how it works out. I have
6 asked the question for 15 years, how did you think this was
7 going to work out, and no one has ever satisfactorily answered
8 the question, and I'm telling you: This is how it works out.
9 It doesn't work out any other way. The good news is you're a
10 relatively young guy, and the sentence even at the Guidelines
11 range of 70 months wouldn't put you in jail long enough that
12 you wouldn't be released and still have energy to take care of
13 yourself, your family, and your community. But you're not
14 going to go to jail for 70 months. The fact of the matter is
15 you're going to go to jail for less than that, and you're a
16 young man, and there isn't any reason in the world why you
17 can't make good on your promise here and continue to do good
18 works for yourself, for your community, counsel soldiers,
19 counsel military people and move along. The fact of the
20 matter is I don't think I have to worry about you committing
21 further crimes. I don't think specific deterrence is
22 particularly an issue here, but lord knows there's got to be
23 general deterrence. You know, and people have to know if
24 they're going to participate in these kinds of frauds there's
25 going to be a consequence.

1 This business about helping Weinstein raise six and a
2 half million dollars because he was facing a sentence, he
3 needed to pay his lawyers. Give me a break. Anyway, I have
4 taken all of this into consideration. I'm going to give you a
5 downward departure based on the government's application. I
6 take into account all the wonderful things that have been said
7 and written about you in so doing. I'm going to grant the
8 government's application. I'm going to downward depart from
9 level 27 to level 22, so it is a five-level downward
10 adjustment, which I tell you is significant. I think it is
11 necessary to demonstrate that cooperation will result in real
12 consideration, nevertheless a sentence within the Guideline
13 range of 41 to 51 months is still appropriate in my view to
14 recognize your criminal conduct, to take into account the
15 rights of the victims. And I respect Mr. Chambers, who has
16 come here before and has urged upon the Court that I should
17 sentence you to the maximum possible under the law, but that's
18 just not realistic for me to do, Mr. Chambers.

19 So for the reasons that I have stated I'm going
20 sentence you, Mr. Todd, at the middle of the Guidelines range
21 of level 22, and it is, therefore, the judgment of the Court
22 that you be sentenced to be committed to the custody of the
23 Bureau of Prisons for 46 months. After you are released
24 you're placed on supervised release for a period of three
25 years. While on supervised release all standard conditions

1 that have been adopted by the Court shall be complied with.
2 I'm not imposing any other special conditions. I am imposing
3 an order for restitution. I believe the amount is \$6,530,000;
4 is that correct?

5 MR. INTRATER: Yes, your Honor.

6 THE COURT: And there will be specific victims to
7 whom that money should go in the judgment. He has pled guilty
8 to two counts, so I'm imposing a \$100 special assessment on
9 each count. I am not imposing any additional fine because of
10 the amount of the restitution order. I am advising the
11 defendant that I have sentenced below the levels that have
12 been stipulated to in the plea agreement. In reaching the
13 sentence I want to take into account also perspective and in
14 the avoidance of disparity of sentencing I have taken into
15 account the sentence imposed upon Mr. Weinstein. I have taken
16 into account the sentence upon Mr. Glucksman, which was a
17 stipulated sentence under Rule 11(c)(1)(C). I also take into
18 account the sentence imposed upon Mr. Schleider, who was a
19 much less culpable individual facing a sentence only at level
20 13. So I think the sentence that I have fashioned is
21 appropriate, and is consistent and does bear a rational
22 relationship to the sentence imposed upon the other
23 defendants.

24 Lastly, I will recommend to the Bureau of Prisons,
25 number one, that they take into account the fact that Mr. Todd

1 did engage in cooperating with the government in designating
2 him to an institution. Further, to the extent possible he be
3 designated to a facility somewhere near to his family. And I
4 will permit voluntary surrender. Anything further?

5 MR. INTRATER: Just two things, your Honor. First,
6 pursuant to the Department of Justice's policy, which began
7 after Mr. Todd pled guilty, the government would just want to
8 inform Mr. Todd that nothing in his plea agreement precludes
9 him from appealing on the basis of ineffective assistance of
10 counsel. The second thing is just that we would ask that the
11 Court orally enter a preliminary order of forfeiture with a
12 written order of forfeiture to follow.

13 THE COURT: Yes. That's stipulated to in the
14 agreement, and I will make that order. Thank you. Thanks a
15 lot. Good luck, Mr. Todd.

16 MS. BIANCAMANO: Judge, in the recommendation would
17 the Court be inclined to recommend, also, that it be a
18 facility which could accommodate Mr. Todd's religious
19 affiliation?

20 THE COURT: The Bureau of Prisons has an obligation
21 to accommodate his religious beliefs. We know that. That's
22 necessary.

23 MS. BIANCAMANO: Thank you, Judge.

24 THE COURT: Okay. Dana, there's two counts. It's
25 \$100 per count on the special assessment. By the way, the

1 sentence is the same sentence on each count to run
2 concurrently. Thank you.

3 (Adjourned at 11:26 a.m.)

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