

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

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 UNITED STATES OF AMERICA :  
 :  
 -v- :  
 :  
 ELIYAHU WEINSTEIN, AND :  
 VLADAMIR SIFOROV :  
 :  
 Defendants. :  
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Docket No.: 11-CR-701 (JAP)

**DECLARATION OF  
ERIC CREIZMAN**

I, ERIC CREIZMAN, hereby declare under penalty of perjury pursuant to 28 U.S.C § 1746:

1. I represent Eliyahu Weinstein as his attorney in the above-captioned action. I am admitted to practice in the courts of the State of New York, the United States District Courts for the Southern and Eastern Districts of New York, the United States Second Circuit Court of Appeals, and the United States Supreme Court.

2. I submit this declaration in support of Eliyahu Weinstein’s motion to withdraw his guilty plea, dated January 3, 2013.

3. On or about October 22, 2013, in response to my inquiry, Mark Harris, Esq. of Proskauer Rose LLP, previous counsel to Eliyahu Weinstein in this action, told me in sum and substance, that on or about January 2, 2013, Robert Cleary, Esq. of Proskauer LLP had a telephone conversation with The Honorable Joel A. Pisano.

4. According to Mr. Harris, during that call, Mr. Cleary and Judge Pisano spoke about plea discussions between the government and Mr. Weinstein’s counsel. Mr. Harris said that Judge Pisano told Mr. Cleary, in sum and substance, that he was aware of the history of the plea discussions between the government and Weinstein’s previous counsel, that if Weinstein accepted responsibility and performed restitution, “all doors will be open to him,” but if he went to trial and was convicted of even one count, “all doors would be closed.” Mr. Harris said that

after this conversation on January 2, 2013, he and Mr. Cleary communicated the substance of this conversation to Mr. Weinstein.

5. Later that day, on January 2, 2013, Mr. Weinstein agreed to enter a plea of guilty after the government and Mr. Weinstein's counsel agreed on the terms of a plea agreement. On January 3, 2013, Mr. Weinstein pled guilty to counts of the Indictment in this case charging wire fraud conspiracy and money laundering.

6. The government produced 3500 material in this case to Proskauer LLP on or about December 31, 2013. Mr. Harris told me that after he and Mr. Cleary reviewed the 3500 material—which occurred a few days before Mr. Cleary's January 2, 2013 call with Judge Pisano—they concluded that it was very damaging to Mr. Weinstein and thus advised him to plead guilty. According to Mr. Harris, however, Mr. Weinstein resisted their advice to plead guilty until January 2, 2013.

7. In connection with my representation of Mr. Weinstein, I have reviewed court filings and contemporaneous emails. In a letter to the Honorable Cathy L. Waldor dated September 20, 2011, the government moved to revoke Mr. Weinstein's bail and to remand him pending the outcome of the case. (*See* Dkt # 32).

8. After the government withdrew its motion to revoke Mr. Weinstein's bail, on October 4, 2011, David Schoen, then counsel of record to Mr. Weinstein in this case, sent an email to Mark Harris and Emily Stern of Proskauer LLP, stating: "Mark and Emily, I believe you will be needed as witnesses later in the case, since they said they plan to indict on the MR matter. They said this in chambers the other day; they have not repeated it. I hope they never indict on anything; but if they do, this should be a centerpiece for the defense and we want to be very strong on covering every angle to demonstrate fully legitimate and reviewed, counseled deal for

all aspects, by a defendant who approached it with the greatest of care. So please save notes, memories, etc.”

9. Based on my interviews of relevant individuals, as well as my review of contemporaneous emails, Mr. Weinstein began meeting with lawyers at Proskauer LLP to prepare for trial at least as early as December 23, 2012.

10. Based on my interviews and review of emails, Henry Klingeman, then counsel of record to Mr. Weinstein, was on vacation during the last week of December 2012 and thus did not participate in these trial preparation sessions. In addition, Mr. Klingeman did not review the 3500 material in this case until January 2, 2013 at the earliest. Furthermore, Mr. Klingeman was not included on several emails sent between counsel for the government and Proskauer LLP in which drafts of the plea agreement were exchanged.

I hereby declare the foregoing is true and correct to the best of my knowledge and belief.

Dated: New York, New York  
December 26, 2013

  
Eric M. Creizman