

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

- - - - - x  
 UNITED STATES OF AMERICA, : Case No.16cr9 (VAB)  
 :  
 Government, :  
 vs. :  
 : 915 Lafayette Blvd  
 HAROLD JAMES PICKERSTEIN, : Bridgeport, CT  
 : May 10, 2016  
 Defendant. :  
 - - - - - X

TRANSCRIPT OF SENTENCING HEARING

BEFORE: THE HONORABLE VICTOR A. BOLDEN, U.S.D.J.

APPEARANCES:

FOR THE GOVERNMENT: WILLIAM NARDINI, ESQ.  
 U.S. Attorney's Office  
 157 Church Street  
 New Haven, CT 06510

FOR THE DEFENDANT: ANDREW B. BOWMAN, ESQ  
 Law Offices of Andrew Bowman  
 1804 Post Rd. East  
 Westport, CT 06880

WILLIAM DOW, ESQ  
 Jacobs & Dow  
 350 Orange Street  
 New Haven, CT 06503

Sharon Montini, RMR, FCRR  
 915 Lafayette Blvd  
 Bridgeport, CT 06604  
 Official Court Reporter

1                   THE COURT: Good afternoon. Please be  
2 seated. We're here in United States v. Harold  
3 Pickerstein.

4                   Will counsel, please, state their  
5 appearances for the record.

6                   MR. NARDINI: Good afternoon, your  
7 Honor. For the United States, Assistant U.S.  
8 Attorney William Nardini. With me at counsel table  
9 is Special Agent Jeff Waterman of the FBI. And I'd  
10 also note for the record the presence of the U.S.  
11 Probation Office, Senior Probation Officer Ray Lopez  
12 and U.S. Probation Officer John Wackerman.

13                   THE COURT: Good afternoon, all.

14                   MR. BOWMAN: Good afternoon, your Honor.  
15 For the defendant, Andrew Bowman.

16                   MR. DOW: Good afternoon, your Honor.  
17 William Dow for Mr. Pickerstein as well.

18                   THE COURT: All right. On January 14,  
19 2016, the defendant, Harold Pickerstein, appeared  
20 before me and entered a guilty plea to Count One,  
21 which charged the defendant with mail fraud, in  
22 violation of 18 U.S.C. Section 1341. A presentence  
23 report was thereafter prepared for the Court by the  
24 United States Probation Office. The initial report  
25 was dated April 18, 2016. I have reviewed that

1 report, the first addendum to that report --  
2 April 18th, I'm sorry. The first addendum to the  
3 report dated April 18th, the second addendum to the  
4 report dated May 6, and I've consulted with its  
5 principal author, U.S. Probation Officer John  
6 Wackerman, as well as Senior Officer Ray Lopez.  
7 I've also reviewed the sentencing recommendation,  
8 the government's memorandum, the defendant's  
9 memorandum, the declaration of the defendant's net  
10 worth and cash flow, and the various character  
11 letters.

12 Mr. Bowman and Mr. Dow, have you and  
13 your client read and discussed the presentence  
14 report and the addenda to it?

15 MR. BOWMAN: Yes, we have.

16 THE COURT: Do you have any objections  
17 to any of the factual statements in the presentence  
18 report?

19 MR. BOWMAN: No, your Honor.

20 THE COURT: Mr. Nardini, does the  
21 government have any objections to any of the factual  
22 statements in the presentence report?

23 MR. NARDINI: No, your Honor. We'd ask  
24 that the Court adopt the factual findings.

25 THE COURT: All right, there being no

1 objections, the Court will adopt the factual  
2 statements contained in the presentence report as  
3 its findings -- and the addendum as its findings of  
4 fact in this case.

5 I also accept the plea agreement signed  
6 on January 14, 2016, and filed January 14, 2016. I  
7 am satisfied that the agreement and the stipulation  
8 of offense conduct and rider concerning restitution  
9 attached to the agreement adequately reflects the  
10 seriousness of the actual offense behavior and  
11 accepting it will not undermine the purposes of  
12 sentencing.

13 You can sit, Mr. Bowman. That's fine.

14 The defendant faces the following  
15 maximum and minimum penalties: Imprisonment, under  
16 18 U.S.C. Section 1341, Mr. Pickerstein faces a term  
17 of imprisonment of up to 20 years and no minimum  
18 term of imprisonment. With respect to fines, under  
19 18 U.S.C. Section 3571, Mr. Pickerstein faces a  
20 maximum fine of \$1,226,432.40. In terms of  
21 supervised release, Mr. Pickerstein faces no minimum  
22 term of supervised release and a maximum term of  
23 supervised release of three years. If he was to  
24 violate any condition of supervised release, the  
25 Court could then sentence him to additional time in

1 prison of as much as the statutory maximum of two  
2 years.

3           With respect to probation, because the  
4 instant offense is a class C felony, the defendant  
5 is eligible for probation. The authorized term is  
6 one to five years under 18 U.S.C. 3561(c).

7           Under 18 U.S.C. Section 3556, the Court  
8 shall also order restitution to the victims of the  
9 offense in accordance with 18 U.S.C. Section 3663A  
10 and 3664. The restitution amount is \$633,410.04.  
11 In addition, under 18 U.S.C. Section 3013, I must  
12 impose a mandatory special assessment of \$100 on  
13 each count of conviction, for a total of \$100.

14           Do either counsel have any objection or  
15 correction to that statement of the maximum and  
16 minimum penalties in this case?

17           Mr. Nardini?

18           MR. NARDINI: No, your Honor.

19           THE COURT: Mr. Bowman?

20           MR. BOWMAN: No, your Honor.

21           THE COURT: Are there any motions at  
22 this time?

23           MR. NARDINI: Yes, your Honor. The  
24 government would move that the defendant receive a  
25 third point off the guidelines for acceptance of

1 responsibility as set forth in our sentencing memo.

2 THE COURT: Thank you, Mr. Nardini.

3 That motion is granted.

4 The sentencing guidelines appear to have  
5 been -- yes, I'm sorry, Mr. Bowman, did you have a  
6 question?

7 MR. BOWMAN: Your Honor, to the extent  
8 that it is necessary, given our sentencing  
9 memorandum, we, of course, are moving for a downward  
10 departure or a variance below the guideline range.

11 THE COURT: All right. Thank you, Mr.  
12 Bowman.

13 With respect to the sentencing  
14 guidelines, which appear to have been correctly  
15 calculated in the presentence report, there is a  
16 total offense level of 20, a criminal history  
17 category of I. The resulting sentencing guideline  
18 range is: Months' imprisonment, 33 to 41 months;  
19 years of supervised release, one to three years;  
20 probation, under the guidelines, ineligible; a fine  
21 of 7,500 to 75,000; and a mandatory special  
22 assessment of \$100.

23 Are there any objections to that  
24 calculation of the United States sentencing  
25 guidelines or the resulting sentencing guideline

1 range?

2 Mr. Nardini?

3 MR. NARDINI: No.

4 THE COURT: Mr. Bowman?

5 MR. BOWMAN: No, your Honor.

6 THE COURT: All right. Is there -- Mr.  
7 Nardini, is there any victim present who wishes to  
8 address the Court?

9 MR. NARDINI: Yes. Attorney Hugh Keefe  
10 is here present on behalf of the victim, Mr.  
11 Galante, and I believe he may wish to briefly  
12 address the Court.

13 THE COURT: All right, fine.

14 Go ahead, Mr. Keefe. We can hear from  
15 you now.

16 MR. KEEFE: Now?

17 THE COURT: Yes, sir.

18 MR. KEEFE: May it please the Court, I  
19 wrote Mr. Nardini a letter dated January 18, 2016.  
20 Did you get a copy?

21 THE COURT: I have, Mr. Keefe. I've  
22 received and reviewed your letter. Thank you so  
23 much.

24 MR. KEEFE: I talked with Mr. Galante  
25 since then, the most recent being an hour ago, and

1 he fully affirms everything in that letter. He's  
2 known Mr. Pickerstein for over 25 years. He has a  
3 very high regard for him notwithstanding this  
4 offense. He himself was recently released from  
5 prison and he knows what it does to an individual  
6 and that individual's family. He respectfully asks  
7 this Court to do the extraordinary thing in this  
8 case, an extraordinary thing by giving Mr.  
9 Pickerstein every benefit that he deserves and  
10 giving him a sentence of straight probation.

11 I would like to read this letter in its  
12 entirety; however, I forgot my glasses and the pair  
13 I have does not do it, but your Honor has it anyhow,  
14 and it certainly just expands on what I've just  
15 said.

16 THE COURT: Do you want to have someone  
17 else read it into the record?

18 MR. KEEFE: I don't think it's  
19 necessary.

20 THE COURT: That's fine. We can have it  
21 submitted and placed in the report.

22 MR. KEEFE: Thank you, your Honor.

23 THE COURT: Mr. Bowman, before I proceed  
24 to sentencing, I'd like to give you an opportunity  
25 to make any statements you wish to make on Mr.



1 Pickerstein's behalf, including any argument in  
2 support of a downward departure or non-guideline  
3 sentence.

4 Mr. Pickerstein, you, of course, have  
5 the right to make a statement today. You are not  
6 required to, but I would be interested in anything  
7 you have to say and your lawyer and what other  
8 witnesses, so forth, you have. Then I'll hear from  
9 Mr. Nardini.

10 Mr. Bowman.

11 MR. BOWMAN: Thank you, your Honor.  
12 Your Honor, with the Court's permission, there are  
13 four people who would like to address the Court, and  
14 I thought it would be kind of logical from our point  
15 of view. They are Joe Martini, James Cowdery, Eric  
16 Breslin and Lyn McCarthy.

17 If I could ask Mr. Martini to come up.

18 THE COURT: That's fine. Thank you.

19 MR. MARTINI: Good afternoon, your  
20 Honor.

21 THE COURT: Good afternoon, Mr. Martini.

22 MR. MARTINI: Thank you for the  
23 opportunity to address the Court and talk about Jim.  
24 I met Jim -- I was trying to think of the exact  
25 date, but I couldn't pin it down. But it was the

1 early 1990s, and I was an assistant U.S. attorney at  
2 the time, and Tom Murphy, who is now Jamie Cowdery's  
3 law partner, and I were prosecuting a case against  
4 Jim's client before Judge Cabranes and a jury. It  
5 was a difficult case, your Honor. It was a hard  
6 fought case. I still remember today Jim's vigorous  
7 defense, his effective cross-examination of an  
8 extremely experienced IRS special agent, and his  
9 passionate closing to the jury.

10 Jim was a terrific lawyer, your Honor,  
11 and I think everyone -- and there are so many of his  
12 peers and terrific defense lawyers in the gallery,  
13 and I think everybody would agree with that  
14 sentiment. Jim was terrific, and I was proud every  
15 time I walked into the courtroom with him.

16 Thankfully for me after that case Jim  
17 and I remained friends, and in 1998 I became his law  
18 partner at the firm that was then known as Pepe &  
19 Hazard. And Lou Pepe is also here in the gallery  
20 today.

21 Jim and I were law partners for nine  
22 years. In 2007, I joined Wiggan & Dana. I left  
23 Pepe & Hazard, joined Wiggan & Dana, where I am now,  
24 but Jim and I continued to be friends and we would  
25 refer cases back and forth to each other and get

1 together on occasion.

2           Your Honor, being Jim's partner, his law  
3 partner, was an incredible privilege, and it was so  
4 valuable to me, especially as a young lawyer. I had  
5 come to the U.S. Attorney's Office from New York. I  
6 came to the U.S. Attorney's Office in Connecticut  
7 where I didn't really know many people. I met a lot  
8 of people as an assistant, obviously, but joining  
9 private practice was different. I was joining a  
10 private practice in Connecticut with no business to  
11 speak of -- or no business at all, and very few  
12 contacts in Connecticut.

13           And Jim -- and my story is not unique.  
14 I saw a bunch of people in the audience today,  
15 Calvin Woo, Jim Filan, Bobby Lacobelle, who I'm sure  
16 had the same experience. Jim took me under his wing  
17 and he introduced me to so many people. I met  
18 community leaders in town, I met prominent  
19 businesspeople, I met experts who I still use today,  
20 and I became friends with some of the real giants of  
21 the defense bar, and luckily Jim has two of them in  
22 Andy and Willie here with him this afternoon.

23           Jim and I went to lunch every day, or  
24 almost every day, and we talked. We talked about  
25 books; Jim is an avid reader, and his sophistication

1 was well above mine, so I actually learned a lot  
2 about literature. We talked about sports, and we  
3 gossiped. It was fun, for sure, your Honor, but it  
4 was also a privilege. I was proud to be out with  
5 Jim. I was proud to be his partner and proud to be  
6 his friend. And like all of us here today, I am  
7 still proud to call him my friend.

8           And without fail, whenever we were out  
9 at a restaurant or wherever we were eating, a friend  
10 or a former client or somebody from the community or  
11 somebody from the synagogue where Jim was so  
12 actively involved at, Beth El, he would meet  
13 somebody from one of those walks of life. I was  
14 always amazed by this. It was clear to me Jim meant  
15 something very special to these people. It wasn't  
16 just a shake and hi and how have you been. It  
17 always occurred to me that Jim must have done  
18 something really special to them, brought some  
19 measure of joy or brought some comfort to their  
20 lives.

21           Jim and I also shared Giant tickets.  
22 And we went to ball games together; we were both  
23 Yankee fans. We tussled a little bit over who would  
24 get the best tickets to Giant games. Jim didn't go  
25 to the games, but he tussled over the tickets with

1 me because he wanted to give them to his kids. He  
2 had no interest in going to the games.

3 Jim, your Honor, officiated at my second  
4 wedding in 2005, and I have in my office a picture  
5 from the wedding that I cherish that shows Jim  
6 standing on the beach in -- you know, as he always  
7 is, well dressed, in incredible heat, reading  
8 wedding vows that he drafted himself for us and  
9 which we still have.

10 Your Honor, Jim has touched so many  
11 lives in so many ways: As a lawyer, of course; as a  
12 husband to Marjorie; as a father and grandfather to  
13 his children and grandchildren; as a friend; as a  
14 mentor to me and others. I would venture to say  
15 that everybody in this courtroom, if they had the  
16 opportunity, could describe how Jim has made their  
17 lives better. No one can match his kindness and his  
18 generosity or be a better friend.

19 There is a saying I heard once, and I'm  
20 going to attribute it to George Steinbrenner because  
21 I know Jim would get a kick out of that. I'm not  
22 sure he was the original proponent of this, but it  
23 goes like this, that if you do something for someone  
24 and more than two people know about it, then you are  
25 doing it for the wrong reason. And that was Jim.

1 With him, he did things for people for the right  
2 reason, because he cared. And those who knew Jim,  
3 like myself and everybody else in this courtroom,  
4 received a tremendous gift just by watching him.  
5 After knowing Jim, you couldn't help but to be moved  
6 towards doing something more for someone who you  
7 knew, a client, a family member or a friend.

8           Jim and Marjorie and his other friends  
9 who I came to know were always so generous and  
10 loving towards me and my family. We shared happy  
11 times, for sure, and Jim was always there for me  
12 when things went sour for me. When I was going  
13 through a divorce, for example, Jim was my sounding  
14 board and he suggested I speak with a lawyer in town  
15 named Bonnie Amendola about representing me. I did  
16 go to see Bonnie, and she was a perfect match for  
17 me, and together she and Jim helped me get through a  
18 very difficult time in my life.

19           There was another occasion where I had a  
20 serious bout of vertigo, and I'm sure Jim will  
21 remember this because I couldn't walk and I couldn't  
22 drive, and I had to go to court and I had to go here  
23 and there, and Jim took me. Jim found a neurologist  
24 for me to see. He took me to see the doctor. I can  
25 remember him sitting in the waiting room waiting for

1 me to finish my appointment, taking care of  
2 business, to the extent that he could, and taking me  
3 home. Those are just a few examples.

4           Because of the way he lived like that,  
5 he was larger than life, and I think we all thought  
6 he was superhuman almost. But we've learned that  
7 he's human after all, and we know that humans make  
8 mistakes and they make errors in judgment.

9           Your Honor, Jim has paid, and continues  
10 to pay, dearly for his mistakes. He's lost his  
11 legal career, and I can't imagine the pain Jim felt  
12 from that. That's an incredible punishment from  
13 someone who so cherished the law and being a lawyer  
14 and so loved all things about the law, everything.

15           And I don't think in a million years Jim  
16 would want anyone to talk about his acts of  
17 kindness, but in this context we all want to and  
18 must. I'm looking at Judge Daly, and I was talking  
19 about this with some of the other lawyers who  
20 practiced in this courtroom over the years before  
21 Judge Daly, Judge Daly use to say, long before Judge  
22 Rakoff said it a little differently in that *Adelson*  
23 decision which is so quoted so often in this  
24 context, judge Daly use to say that sentencing is  
25 the time when someone cashes in the credits that

1 they earned for all of the good things that they did  
2 in their life.

3 In Jim's case, those credits were earned  
4 for doing good for so many people and for all the  
5 right reasons and despite his own personal tragedy.  
6 And despite his own personal hardships, he never  
7 wavered from the person I described to you.

8 Regardless of what was going on in his life, he was  
9 always there for the other person, whether it be a  
10 client, a friend or a family member. And because he  
11 earned those credits that way, your Honor, I submit  
12 to you that the value of those credits so far  
13 outweighs the consequences of the mistake that he  
14 made in this case, and that the true measure of Jim  
15 Pickerstein is reflected in all of us here today and  
16 all of the things that he's done for all of us.

17 I know your Honor has read -- I know you  
18 can only hear from four of us, but I know there were  
19 other letters submitted, and I would bet that they  
20 express very similar sentiments to those that I'm  
21 expressing to the Court, and I know that your Honor  
22 will take all of those thoughts to heart and take  
23 the full measure of Jim Pickerstein into account  
24 this afternoon.

25 I thank you for the opportunity.



1 THE COURT: Thank you, sir.

2 MR. COWDERY: Good afternoon, your Honor  
3 I am Jamie Cowdery. I'm one of those people Joe  
4 Martini just mentioned, someone who was deeply  
5 touched by Jim Pickerstein. Sadly, I go back a  
6 little further than Joe. I met Jim Pickerstein when  
7 he was an assistant United States attorney, and  
8 while Joe couldn't remember exactly when he met Jim,  
9 I remember exactly when I met Jim.

10 I had just been hired into the U.S.  
11 Attorney's Office -- and I mentioned this in my  
12 letter, your Honor -- out of a civil practice firm.  
13 And I tell this story, your Honor, because, for me,  
14 I think in pictures and I talk in stories, and the  
15 task of the Court is to get an idea of who this  
16 person is in front of you because you haven't had  
17 the opportunity to live with him and work with him.  
18 As far as I know, there are only two ways to do  
19 that; one is with gifted words to convey concepts,  
20 and I can't do that, but what I can do is tell you a  
21 story, and that's what I'd like to do.

22 I came into the U.S. Attorney's Office  
23 still a young man, and I was scared to death. I  
24 didn't know anything about the criminal law, and it  
25 just happened that the day I got into the U.S.

1 Attorney's Office they had taken down a wiretap on a  
2 big motorcycle gang and there were agents running  
3 around with guns and agents running around with  
4 evidence bags, and here I was, having, you know,  
5 read some United States Supreme Court cases, and Jim  
6 Pickerstein was showing me around. And I must have  
7 made some squeak or something because he said,  
8 "What's the matter?" And I said, "I don't think I'm  
9 prepared for this." And he said, "Relax, it's not  
10 rocket science. These people you are looking at,  
11 they don't know as much as they think they do, and  
12 you probably know a lot more, so relax." And then  
13 he said, "Some of the best assistant United States  
14 attorneys came out of civil backgrounds."

15 Well, you know, it was exactly the right  
16 thing to say. Excuse me. It was typical of Jim  
17 because it was decent and kind and thoughtful, and,  
18 at the same time, light enough and self-effacing  
19 enough that it didn't become tedious. And it made  
20 all the difference to me because I felt -- I went  
21 from feeling like I don't belong here, I'm never  
22 going to survive here, to I can do this.

23 Now, unfortunately, it didn't prevent me  
24 from making mistakes because I certainly did, and we  
25 had a disastrous ruling in a case that I was working

1 on and I thought the world was going to end, and Jim  
2 once again came to me and helped plot out a way  
3 forward and to reassure that it was going to work  
4 out, and it did.

5           So this is a man, your Honor, who I love  
6 and respect. When we were in the U.S. Attorney's  
7 Office together, Jim made sure that we behaved  
8 justly; not just professionally, but justly. I  
9 remember a story, and I mentioned it in my letter,  
10 but it's worth telling. When you -- I start in the  
11 office and I'm terrified. After a few years in the  
12 office I think I know everything, and it's very easy  
13 in that job to think that you are just automatically  
14 because you are in the job and then it's all about  
15 winning. There was an individual who probably  
16 reasonably understood, or might have reasonably  
17 understood, that he had a promise of immunity, but  
18 I'm confident that we could have won otherwise. I  
19 mentioned it to Jim and he said, "Absolutely not, we  
20 don't do that." And he was right.

21           And this is a man who not only is kind  
22 and decent, but is just and fair, and it's why I  
23 respect him so much.

24           Since he left the U.S. Attorney's Office  
25 and I left the U.S. Attorney's Office and we have

1 done this for a living, he has never changed. He's  
2 someone to whom I don't hesitate to refer cases. He  
3 always took care of the cases that I referred to him  
4 and he always behaved in the highest traditions of  
5 the bar.

6 So this is a person who has helped me in  
7 so many ways and has been so kind and decent to me  
8 that I hope, your Honor, that my words today have  
9 done him justice because he's earned it.

10 Thank you.

11 THE COURT: Thank you, Mr. Cowdery.

12 MR. BRESLIN: Good afternoon, your  
13 Honor.

14 THE COURT: Good afternoon, sir.

15 MR. BRESLIN: My name is Eric Breslin.  
16 I was one of the people who wrote a letter. I  
17 practice in New York. I know there are lawyers here  
18 from New Jersey. So while Jim is revered in  
19 Connecticut, and I think justifiably so, I think  
20 it's important that your Honor know that his reach,  
21 his scope and his reputation and his acts of  
22 goodness extended even bound beyond this state.

23 I've been Jim Pickerstein's friend for  
24 over 30 years. Your Honor, Jim Pickerstein is a  
25 person you go to when you have a problem. Now, Mr.

1 Bowman was good enough to share with me some of the  
2 letters that have been submitted to the Court, and  
3 this fact comes shining through. In so many of  
4 them, whether you were a young AUSA in the District  
5 of Connecticut who was in over your head, whether  
6 you were a member of his synagogue or his community,  
7 whether you were a criminal defense colleague, a  
8 member of his family or his friend, it didn't  
9 matter, Jim Pickerstein has always been a person  
10 that you went to with your problems, and I have seen  
11 it and experienced it. If it was a question of  
12 evidence or tactics, you went to Jim. If it was a  
13 personal or practice issue or a business issue, you  
14 went to Jim. If you just needed a laugh or a pat on  
15 the back or recognition or reaffirmation that being  
16 a lawyer in this day and age is not the easiest way  
17 to make a living, you went to Jim. In fact, the  
18 only thing I did not go to Jim for is driving me  
19 anywhere from place to place because he is, frankly,  
20 a terrible driver. So I would seek lifts from some  
21 other people.

22           This has been so in my own life. A  
23 divorce, had to be a single father to two small  
24 children, a business reverse, an adverse verdict, I  
25 have always known that in Jim there was a person on

1 the other end of the telephone or across the table  
2 who genuinely loved me and cared for me and would  
3 try to make things better, or at least make me  
4 smile.

5           So, your Honor, if I could, I would pose  
6 a question to this Court. What does it say about a  
7 man to be someone from whom others affirmatively  
8 seek support and comfort and who provides it over  
9 and over again? I think it says that there is  
10 something genuinely good and worthy at the core of  
11 that person, that his essence is pure, although his  
12 conduct may have fallen short. And certainly this  
13 has been my experience with a man of extraordinary  
14 kindness and vitality and generosity who has touched  
15 and improved my life in meaningful ways. Jim is one  
16 of the finest people I have ever known, and this  
17 case, although tragic, will have no impact on my  
18 view of him and the kind of person I know him to be.

19           Now, it has not been easy to be Jim  
20 Pickerstein, and I think the Court knows that.  
21 There has been loss and pain and terrible emotional  
22 burdens, and I have seen from observing Jim that a  
23 capacity for compassion and a desire to help others  
24 does not automatically translate into happiness or  
25 peace in one's own life. It would be nice if it

1 did, but it does not. And it's hard to be a man  
2 with answers at all times for all people. It's hard  
3 to be the person that people go to, and it's hard to  
4 be a person who feels the need to fix things for the  
5 people you care about, because you can't. You try,  
6 you do your best, but ultimately you fail. And the  
7 more you love and the more you care and the wider  
8 the circle of people that you love and who love you  
9 back, the more certain is your ultimate failure.

10 And that is how I see Jim and that is  
11 how I ask your Honor to see Jim, a person of love  
12 and goodness, who tried to help and comfort and fix,  
13 but who stumbled as he approached the finish line,  
14 and who fell, and to see the hero in him and in the  
15 life that he has led, to recognize this sin, which  
16 he has acknowledged, but to see that first and  
17 foremost that he has led a heroic and good life and  
18 to take that into consideration today.

19 Thank you.

20 THE COURT: Thank you, sir.

21 Ma'am, if you are more comfortable doing  
22 it from the table.

23 MS. MCCARTHY: No, your Honor, I'll  
24 stand. Thank you.

25 THE COURT: That's fine.

1                   MS. McCARTHY: Good afternoon, your  
2 Honor. I thank you very much for allowing me to  
3 speak on behalf of my dear friend Jim. Before I  
4 begin, I need to tell you how important it was for  
5 me to be here today. I was just discharged from the  
6 hospital on Saturday.

7                   I'm Lyn McCarthy, and I am not an  
8 attorney. I am here today to speak on behalf of my  
9 very dear friend Jim. Jim and I met 14 years ago.  
10 My husband had to retain him in a criminal matter,  
11 and that was the first time we ever met.

12                   During the 14 years, he has really  
13 turned into a very, very close and dear friend to me  
14 personally. The first few years of the criminal  
15 matter he was a rock personally for me. He showed  
16 me strength and he walked me through all of the  
17 procedures that were going to be going on. Never  
18 once did he not pick up the phone if I had a  
19 question for him. He was there for me 24/7. And to  
20 this day and going forward, I will always be  
21 grateful for him and for what he did for me  
22 personally.

23                   That was the beginning of our  
24 relationship. As I said, he has been a continual  
25 friend to me up until as we speak today. What the



1 other attorneys spoke about previous to me is  
2 everybody went to him for a question always, but  
3 what they didn't speak about is what he would do for  
4 others.

5           As I said, the two weeks I was in the  
6 hospital, it was: "Do you need anything?" "Can I  
7 get you anything?" "Do you ride a ride?" "Do you  
8 need help shopping?" "Do you need help at home?"  
9 "What can I do for you?" "What can I do for you?"  
10 "What can I do for you?"

11           I wish I had something he could have  
12 done for me because there really was nothing, but he  
13 was there for me, as I know he is for all of his  
14 friends in the community here in Connecticut, in New  
15 York, and wherever else he has friends.

16           He has been a model husband to Marjorie  
17 for many, many years, a wonderful father, and also  
18 an exemplary and wonderful grandfather. He now has  
19 taken on caring for one of his grandchildren, and,  
20 again, he shows his children, his grandchildren,  
21 what it is to be a good, solid man.

22           Jim has suffered some personal losses as  
23 well as his professional loss these past couple of  
24 years. I think Jim has suffered enough in his  
25 lifetime. He knows that he made a mistake. People

1 make mistakes. People need to be forgiven.

2 So I just want to end by thanking you  
3 again and hoping that my words will resonate with  
4 you. And, again, I just want to say what an  
5 exemplary person Jim is and what a wonderful friend  
6 he's been to me for 14 years.

7 Thank you, your Honor.

8 THE COURT: Thank you, ma'am.

9 MR. DOW: Good afternoon, your Honor.

10 THE COURT: Good afternoon, Mr. Dow.

11 MR. DOW: There is a schtick that  
12 lawyers use when talking about their clients, it's  
13 an honor to represent the individual. This is not a  
14 schtick. It is an honor to represent Jim  
15 Pickerstein. I will address your Honor and speak to  
16 your Honor as a friend of Jim, as a colleague, and  
17 as an advocate, if I can.

18 Jim -- your Honor has read the letters  
19 that have been submitted. Your Honor, I think, has  
20 a sense of who he is. But this a fellow who defines  
21 himself by helping others. I met Jim in 1974. I  
22 had been practicing in Washington D.C., Jim  
23 Pickerstein was the acting United States attorney,  
24 and he hired me. I wanted to come back to  
25 Connecticut; I had a small family at the time, I

1 wanted to come back and be with my family. That  
2 decision was the most important decision that was  
3 ever made in my professional life. Without that  
4 decision, I wouldn't be standing here today speaking  
5 on his behalf or anybody's behalf. I don't know  
6 what I would have been.

7 But he made that decision, and once that  
8 decision was made, he guided me, and has continued  
9 to guide me as an attorney and as a friend  
10 throughout.

11 Now, as a colleague, I can only echo the  
12 things that have been said by the three lawyers who  
13 preceded me and all the letters that your Honor has  
14 received. He's helped me get clients. He's helped  
15 me guide clients. He's been a source of  
16 information, knowledge. And, you know, it always is  
17 -- to echo what both Jamie and Joe said, it's always  
18 with a sense of what's right. Jim has -- you know,  
19 there was a judge, I think a judge your Honor is  
20 familiar with, Judge John Reynolds in New Haven. He  
21 was a common pleas judge, was promoted, and John was  
22 not a scholar, but he knew how to practice law. He  
23 had two rules: One, represent your client; two,  
24 watch out for the other lawyer. That's what Jim  
25 taught. Jim taught all of us that, and we benefited

1 from that. I think the letters you have show that.

2           The other contributions he's made -- you  
3 know, we have a luxury here in Connecticut, I think.  
4 This is a very collegial bar, it's a very collegial  
5 district. Jim didn't start that, but he propagated  
6 that. When Jim was the chief -- he was acting U.S.  
7 attorney and then chief assistant United States  
8 attorney, he set a tone of how we practice law in  
9 this district, and it is one where we can be candid,  
10 where we can be collegial, where we can battle  
11 things out, but where we kind of know who each other  
12 are and how we address the court, how we address  
13 each other. And his communications and his  
14 interactions weren't limited to talking to somebody  
15 in a black robe sitting on the bench, it was the  
16 people who work in the courthouse, it was the court  
17 officers, probation. It was everybody, because  
18 that's who he is. He emanates this sense of  
19 generosity, this sense of helping. That's a  
20 contribution he's made.

21           He's done that, and he consistently has  
22 done that while dealing with the tragedies we all  
23 know about that don't bear dwelling on here other  
24 than to say that when you watch somebody deal with  
25 personal tragedies and personal difficulties and not

1 have that turn to bitterness, and yet not just put  
2 one step in front of the other so they get through  
3 the day, but to help others get through the day,  
4 that's something that merits recognition. It merits  
5 recognition from us as individuals when we interact  
6 with other people. I think it merits recognition  
7 from us as we form communities and we live in our  
8 communities. And I submit, your Honor, it's  
9 something that the Court is -- "obliged" I think is  
10 probably too strong a word, but that merits  
11 consideration by the Court when it considers what is  
12 the appropriate resolution of the case -- in this  
13 case, for example.

14 I want to talk to you now not as -- I  
15 want to talk to you now not as a lawyer, and I don't  
16 want this case to be defined -- as the government  
17 properly points out, this is a case about a lawyer,  
18 and the Court is going to have to sentence a lawyer,  
19 and so that perhaps taints the framework or gives a  
20 perspective on this case that perhaps might make it  
21 uncomfortable should it influence the Court on how  
22 things are perceived. I want to talk about Jim  
23 Pickerstein the person.

24 Before your Honor was sworn in and was  
25 assigned to this court, there was a gentleman who

1 had the snack bar in this courthouse, a guy named  
2 Lou Bomba, down here in the back, who had -- I think  
3 it was state subsidized. He was legally blind. Lou  
4 was there for years. If he made a dollar a week of  
5 profit, that was a lot. And Lou would kind of  
6 bumble through his day. We were all -- as lawyers,  
7 we'd come in and we would chitchat with the Lou  
8 thinking that we were reaching out to the common man  
9 kind of thing.

10 Well, Lou got into trouble, and it  
11 wasn't those of us who kind of went and chitchatted  
12 with Lou who went and helped Lou out, it was Jim  
13 Pickerstein. Lou got into trouble because he got  
14 into some reverse mortgage situation or something  
15 like that, and it was Jim Pickerstein, not Jim  
16 Pickerstein the lawyer, Jim Pickerstein the person,  
17 who reached out to Lou Bomba, and he got him out of  
18 that problem. It goes without saying that there was  
19 no fee involved or anything like that.

20 But that is the person that we're asking  
21 -- that you are being asked to sentence. That's the  
22 person who has this generosity literally flowing  
23 through his veins. There are people who wake up in  
24 the morning and think of others. There are people,  
25 like most of us, I'm afraid, and I'm ashamed to

1 admit, we think of ourselves and then maybe how  
2 others fit into our plans. Jim is an others person.  
3 Jim is oriented to others. He defines himself by  
4 how he helps others. And what you've heard, yes,  
5 it's from lawyers, because he's helped lawyers, that  
6 was the world in which he lived, but it was not  
7 limited to lawyers, and I ask you not to look at  
8 this case as a lawyer case. This is a person case.  
9 He's a person who made a mistake, and he admits it,  
10 and no one suffers from it more than Jim. Jim --  
11 the loss to Jim of being handicapped in helping  
12 others is severe. Andy and I have talked to him  
13 about it. Andy and I were with him from the  
14 beginning of this problem, and we feel it, and  
15 hopefully we're adequately conveying it to your  
16 Honor.

17           The importance of the qualities that Jim  
18 has to all of us are what I mentioned. It's when we  
19 interact with other people and express to them our  
20 appreciation for the way they treat us. That binds  
21 our community, that creates our community, and those  
22 communities become part of our society. That's how  
23 we want to our society to be defined, to be disposed  
24 to looking out for others and helping others. When  
25 they stumble, we help to pick them up. When they

1 are in need, we try to help them out. Some of us  
2 come by it instinctively. That's what Jim does.  
3 Some of us have to work at it, but to the extent  
4 that that's done -- I think, your Honor, when the  
5 Congress said that your Honor is to take into  
6 consideration the characteristics of the individual  
7 in front of you, that's one of those  
8 characteristics, I submit, that merits consideration  
9 by your Honor.

10           The government has acknowledged, or  
11 suggested, that a variance is appropriate. It  
12 disputes whether Jim should be entitled to a  
13 guideline departure. Frankly, it's the destination,  
14 not the route of travel. We're asking that Jim not  
15 be incarcerated, that your Honor take into  
16 consideration his personal situation, his illness  
17 situation, the good works that he's done for others,  
18 the good works he's done for members of the bar, the  
19 good works he's done for the court, the difficulties  
20 he is facing and the loss he's experienced, much of  
21 it self-imposed, and that the complainant has  
22 expressed his perception, or his view, as to what  
23 the appropriate sentence is.

24           So I hope your Honor will take those  
25 things into consideration. This is a good and



1 decent man who, in his conduct in interacting with  
2 us, and, more importantly, interacting with others  
3 throughout the community, has displayed the type of  
4 character that we aspire to.

5 Thank you.

6 THE COURT: Thank you, Mr. Dow.

7 MR. BOWMAN: May it please the Court,  
8 44 years ago last month a very young 26-year-old  
9 lawyer walked into the Bridgeport U.S. Attorney's  
10 Office after serving two years in the Justice  
11 Department's honors program where he was a trial  
12 attorney trying drug cases across the country. He  
13 was coming home.

14 This young lawyer joined approximately  
15 11 others, where we tried cases in the entire  
16 district on a consistent basis, not at all like it  
17 is today. There was a camaraderie, a collegiality  
18 among young lawyers, all of whom had talent and  
19 respect for each other and for our system of  
20 justice.

21 Jim rose quickly through the ranks and  
22 became an acting U.S. attorney, and for a much  
23 longer period the chief assistant U.S. attorney. In  
24 one of the letters your Honor has received he was  
25 characterized as follows: "As an office supervisor

1 Jim fosters an environment of integrity, hard work,  
2 mutual support and family. He was always there to  
3 help when someone had a setback or a personal  
4 difficulty, quietly with no fuss. To be Jim's  
5 friend was to know absolutely that he had your best  
6 interests at heart."

7           You have testimony in these letters,  
8 your Honor, of the contributions Jim made when what  
9 seemed to be a run-of-the-mill drug case involving  
10 college students turned into a murder case where two  
11 witnesses were shot in the head and dumped in the  
12 East River. One survived, one died, and Jim stepped  
13 in to coordinate with New York and the FBI, and over  
14 the next 48 hours made a great contribution to the  
15 investigation and prosecution and trial of the  
16 responsible individuals who had kidnapped and shot  
17 these two young witnesses and those who assisted  
18 them.

19           That case included death threats to the  
20 trial prosecutor and the presiding judge, and it was  
21 Jim who sat with the mother of the victim in her  
22 grief and who stayed in touch with her over the  
23 years afterward.

24           In the context of that murder case it is  
25 written. "That case is representative of the things

1 most important to him, demonstrating his compassion  
2 for victims, his integrity in his dealings with  
3 defense counsel and their clients, and his  
4 willingness to spend all the time necessary to see  
5 that justice was done, far from the glare of  
6 publicity and for no reward except for the knowledge  
7 that he was doing the right thing."

8           As Jamie Cowdery said in his letter, "As  
9 always with Jim, the amplitude may have been a  
10 little high, but the pitch was perfect: Gracious, a  
11 little self-effacing, and very encouraging."

12           In another of the many letters, each of  
13 which creates a picture from a slightly different  
14 perspective, but always with the same theme, one  
15 person wrote: "Jim was a formidable adversary. He  
16 demonstrated the very best qualities of our  
17 profession, litigating fairly and aggressively on  
18 behalf of his client." And then he describes his  
19 personal relationship with Jim. "He was always  
20 relentless in the pursuit of what was fair in a  
21 particular case. Although lawyers are by their  
22 nature competitive and our system requires lawyers  
23 to be dedicated advocates to their clients' causes,  
24 Jim recognized the power of the federal government.  
25 Jim always made every effort to be fair, and I would

1 go so far as to say that as a prosecutor it was his  
2 sense of justice that was the overriding principle  
3 that Jim applied in his role as a federal  
4 prosecutor, and instilled that value and dedication  
5 in the men and women who worked with him during his  
6 tenure in that office."

7 I saw Jim's dedication to justice not  
8 only as a colleague, but for years afterward when I  
9 was the federal defender and my assistants would be  
10 in an adversarial relationship, as was I, with Jim  
11 and his assistants in the U.S. Attorney's Office.

12 What you see in this courtroom and in  
13 the letters people have written is an embrace by so  
14 many people to whom he has given so much over the  
15 years for his goodness, his guidance, and his sense  
16 of compassion that have touched as many lives.

17 I was struck by the letter of an  
18 administrative member of this court, not a judge and  
19 not a lawyer, who is a keen observer of the justice  
20 that was administered here and the conduct and  
21 professionalism of Jim. This person got to know Jim  
22 from his work on the CJA list. The list was not  
23 very large then, and so they were calling the same  
24 attorneys very frequently, and she said, "Jim  
25 answered our call for the initial presentment and

1 most of the time took on the case. I called him for  
2 one case in particular, only to find that most of  
3 the defendants had tuberculosis. He had to be  
4 tested, and he teased me about putting him in harm's  
5 way, but stayed with the defendant even though he  
6 had risk to his own health. I use to think, 'wow,  
7 if I ever needed a lawyer, I would like it to be  
8 him.'"

9           You didn't have to be a lawyer or a  
10 judge to know the quality of this man.

11           In April of '99 Jim's youngest son took  
12 his own life as a result of heroin addiction. Jim  
13 never recovered and is haunted by his son's death to  
14 this day. For him, it was devastating, and no one  
15 could shake his sense of guilt and responsibility.  
16 He had done everything he could do, including  
17 placing his son in a drug rehabilitation program out  
18 of state which was highly recommended to him, and it  
19 was at the sponsor's house that his son obtained the  
20 gun and killed himself.

21           You have the psychiatric reports, and I  
22 only wish we could have gotten Jim the help he  
23 needed to deal with his son's death, but he never  
24 had the help, and it's always because sometimes  
25 those of us, as Eric Breslin said, that focus on

1 helping others overlook the most important person.

2           As a result, Jim vowed that he would do  
3 anything to ensure that this would never happen to  
4 any of his remaining children. As a result, he  
5 incurred tremendous financial expense with the best  
6 of intentions that put him in what he perceived to  
7 be an insurmountable financial and emotional deficit  
8 which led ultimately to the commission of this  
9 offense. He was never the same, assuming all of the  
10 burdens of his family and being careful not to let  
11 on the desperation and helplessness that he was  
12 feeling and experiencing in a very real way. It was  
13 a wound that has never healed.

14           Four years later, in 2003, he was  
15 diagnosed with prostate cancer. He was treated with  
16 a regimen of radioactive seeds, but in May of 2012  
17 the disease returned. Surgery is not an option, and  
18 he is now faced with what his doctors say must be  
19 aggressive monitoring and treatment, and that over  
20 time this disease will become metastatic and  
21 eventually lead to his death. Although there is no  
22 timetable, as the government points out, right now  
23 for this 70-year-old man, as the doctor states in  
24 his report, ultimately it is likely he will succumb  
25 to this aggressive and progressive

1 castrate-resistant prostate cancer.

2 I say this to you because the  
3 requirements of sentencing in this -- in our time  
4 now, there must be support for the reasons that we  
5 are asking the Court to vary its sentence from the  
6 guidelines. The Court has already heard the  
7 considerations with respect to Jim's family  
8 circumstances.

9 Finally, to put this in the context of  
10 Section 3553(a) and policy statement 5K2.0 of the  
11 sentencing guidelines, we submit there is ample  
12 support for a non-confinement, below guidelines  
13 sentence, whether by departure or variance, and  
14 whether for a single factor or a combination of  
15 factors not adequately taken into consideration by  
16 the sentencing commission. It cannot be said that  
17 the sentencing commission was so omniscient and  
18 could foresee so many different individual  
19 defendants and their characteristics as to be able  
20 to reduce a just decision to the intersection of an  
21 X and Y axis.

22 It is only this Court who is in a  
23 position to evaluate the history and characteristics  
24 of Jim Pickerstein, balanced against the offense he  
25 has committed, to be able to judge the impact of the

1 tragedies of this man's life and his continuing  
2 medical and emotional challenges has had on his  
3 judgment, and the challenges of those who depend  
4 upon him, as well as the great goodness that  
5 emanated from his soul, manifested by his  
6 compassion, his sense of community, and his  
7 generosity of spirit.

8           It is not an overstatement to say that  
9 this man's decency has enriched and even saved  
10 people's lives over a period of more than 40 years.  
11 We have attempted to provide your Honor with all of  
12 the information relevant and material to your  
13 consideration of a just sentence in this case. We  
14 hope we have not failed in our presentation for  
15 Jim's sake and for the sake of all of us, large and  
16 small, professional and lay people, in all of us who  
17 are here in support of this fine man, once proud and  
18 noble, and now publicly shamed by his own conduct.  
19 We ask the Court for a non-confinement sentence that  
20 will be consistent with justice.

21           THE COURT: Thank you.

22           Anything further from defense?

23           MR. BOWMAN: No. Mr. Pickerstein will  
24 address the Court, but I would -- whatever your  
25 Honor's pleasure.



1           THE COURT:   Why don't we have him  
2 address me now.

3           THE DEFENDANT:   Thank you, your Honor.  
4 Your Honor, I first want to make apology to those  
5 people who I have hurt by my action.   Specifically  
6 to Mr. Keefe's client and to others, I want to say  
7 that I'm solely responsible for this offense.   I  
8 want to express my gratitude, my deep, heartfelt  
9 gratitude to the people who have supported me during  
10 this process, and my sense of shame and sorrow at  
11 putting everyone through this ordeal, especially my  
12 family, and most especially my dear, dear wife of  
13 almost 48 years.

14           To her, Marjorie, to my boys who are  
15 here today -- I think my eldest son is sitting in  
16 the back of the courtroom because he's wearing his  
17 scrubs and he doesn't want to be seen, but that's my  
18 son -- to all of those who have written to you and  
19 are here today, I only hope you know I am truly  
20 sorry for what I've done.   I'm sorry for what I've  
21 done and I'm ashamed for what I've done, and to each  
22 of you, I would like to express how sorry I am and  
23 how grateful I am to each of you for the generosity  
24 of spirit that you have shown toward me.   I don't  
25 deserve it, but I appreciate it.

1 Thank you, your Honor.

2 THE COURT: Thank you, sir.

3 Mr. Nardini.

4 MR. NARDINI: Thank you, your Honor.

5 It's safe to say, this is a very sad day. It's a  
6 sad day for Mr. Pickerstein, as it is a sad day for  
7 every defendant who comes before the Court for  
8 sentencing, because it represents a point in their  
9 life where there has been a break down, where  
10 something they did is so wrong that it brings into  
11 play the criminal justice system.

12 What I'd like to do is start really  
13 where I'm going to end up so there is no surprises  
14 here, which is that, as the government said in its  
15 sentencing memorandum, we believe that the starting  
16 point here should be the guidelines range, which is  
17 33 to 41, but we recognize that there is a -- the  
18 various factors that Mr. Bowman and Mr. Dow have  
19 identified in their sentencing memo may justify a  
20 variance from that. But I'd like to say up front we  
21 think it should be a modest variance and that it  
22 would be unjust and unfair if the Court were to  
23 impose a sentence that did not include at least some  
24 component of incarceration.

25 So I'd just like to get that out there.

1 I'm not going to put a number on that; I think it's  
2 the Court's job, and it's a difficult job, and it's  
3 one I certainly don't envy the Court, because here,  
4 in Mr. Pickerstein's case, there are a number of  
5 competing considerations on both sides of the  
6 ledger. I think that Mr. Bowman and the various  
7 people who have spoken for Mr. Pickerstein have done  
8 an eloquent job of pointing out many of the things  
9 relating to the nature and characteristics of the  
10 defendant that do matter and that the Court very  
11 much appropriately should take into consideration  
12 when determining the penalty here.

13 But what I'd like to do here is talk  
14 about the offense, because the reason why we've all  
15 come together here is not a birthday party, it's not  
16 a retirement dinner. We're here together today  
17 because Mr. Pickerstein committed a crime, and I  
18 think we need to talk about that crime because that  
19 is why your Honor is here, to consider what is the  
20 proper penalty.

21 And it bears repeating what happened  
22 here. He stole more than half a million dollars.  
23 He stole \$600,000. Because all of us who work in  
24 the federal courts generally work in cases involving  
25 big dollar amounts, I think that we sometimes become

1 inured to just how big those dollar amounts are.  
2 Because we have high prosecution thresholds, you are  
3 not dealing in cases in federal court where people  
4 steal 1,000, 2,000 dollars. We're dealing in the  
5 hundreds of thousands, the millions, and I think  
6 sometimes we become jaded and forget just how much  
7 money that is and how the public will perceive that  
8 to be an enormous amount of money.

9           And to give a sense of perspective, the  
10 figure I'd like to use when I'm talking, whether  
11 it's sentencing or otherwise, is what the median  
12 household income is in this country. It's under  
13 \$54,000 a year. Mr. Pickerstein stole more than 11  
14 times the median household income in this country.  
15 And I think that that gives us a sense of scale when  
16 we're thinking about this, to think that we're not  
17 talking about a small amount.

18           We're also -- there were a couple of  
19 references made, as generally are naturally made,  
20 about this mistake that Mr. Pickerstein made. This  
21 was not a mistake. A mistake is something you do by  
22 accident, a mistake is on oversight, a mistake is an  
23 aberration, a mistake is an accident. I think Mr.  
24 Pickerstein has fully accepted responsibility for  
25 the fact that this is not a mistake. This was a

1 crime, and it was one that he committed over more  
2 than two years.

3           What he did was he had a trust fund as a  
4 lawyer that he was holding with sole signatory  
5 authority for one of his clients who was in prison,  
6 who couldn't look out for that money, who needed  
7 somebody to be trusted on the outside to take care  
8 of it, and that was Mr. Pickerstein. So not only  
9 was he in the normal position of trust that a lawyer  
10 and client are in, but he was the sole signatory  
11 authority of this. This wasn't the IOLTA account  
12 for the firm. In over at least 42 occasions he  
13 dipped into that bank account like it was his  
14 piggybank. Over and over, nearly every month,  
15 sometimes more than twice a month, he would write a  
16 check against that. Sometimes it was made out to  
17 H.J. Pickerstein; it went into his bank account.  
18 About 50-some percent of it went to pay his taxes,  
19 which in some senses we think of as laudable or less  
20 culpable in the sense he wasn't spending it on  
21 gambling or, you know, wine, women and song, but he  
22 was spending it on himself for his own tax  
23 liabilities and for his living expenses.

24           And, again, you have to think of this  
25 from the standpoint of most citizens.

1 Unfortunately, there are a lot of people in the  
2 world who live in debt. There are a lot of people  
3 out there who run up against hard financial times.  
4 There are people who run out of money. There are  
5 people who do this for the most legitimate reasons,  
6 not because they're living it up, but just because  
7 they run into financial problems. They don't steal  
8 as a reaction. What you do is you negotiate with  
9 your creditors. You talk to the IRS and you say, I  
10 don't have the money, can I go into a payment plan.  
11 And the worst case scenario is we have the  
12 bankruptcy code. You come into court. It requires  
13 a certain amount of public humiliation and shame to  
14 admit you have not been able to live up to your  
15 debts, but that is what we do. We don't steal half  
16 a million dollars from someone else. Most people  
17 don't.

18                   And that's why we're here today, because  
19 his reaction to these stresses and to this  
20 convergence of terrible circumstances in his life  
21 that led him to be in a horrible financial  
22 situation, his reaction was to steal. And it really  
23 is striking because it seems out of character for  
24 him, and I think that is a consistent message from  
25 all of the people who have spoken today, that

1 throughout much of his life he did live to be  
2 helpful to other people, and there are countless  
3 instances, which I think are heartfelt and sincere,  
4 where he truly was generous to other people.

5           The problem, and what brings us here  
6 today, is that for over two years he was not  
7 generous to the victim of his crime. He pilfered  
8 his bank account for more than half a million  
9 dollars from a position of trust, and he did it  
10 repeatedly. He did it until the litigation ended;  
11 he had to transfer this money over and wire it to  
12 the victim after the litigation was over. And  
13 almost immediately, that same month, when all of the  
14 wires went out, the victim contacted him and said:  
15 Wait a minute, there's a whole chunk of money  
16 missing. There is about \$700,000 missing. Where is  
17 my money?

18           And Mr. Pickerstein did not tell where  
19 it went. He said, oh, it went to pay legal bills,  
20 and he gave him a whole story, which was a lie and  
21 which he has admitted is a lie. He sent an e-mail  
22 and then he sent him a formal letter on his legal  
23 letterhead, parcelling out this false story. And it  
24 was only after the victim got out of jail and  
25 confronted Mr. Pickerstein that he admitted the

1 truth. And, in fact, he admitted the truth,  
2 unbeknownst to him, in a taped conversation, that  
3 the victim at that point had lost all trust of the  
4 defendant and had taped it and then brought that  
5 tape to the attention of the law firm where Mr.  
6 Pickerstein was exposed for having committed this  
7 crime.

8           So I think it is important as the Court  
9 thinks about all of these laudable characteristics  
10 that have been brought out by Mr. Pickerstein, and I  
11 that agree, again, are relevant, that just as much  
12 the Court has to think about the offense, because  
13 that's why we are here today, we have to talk about  
14 the length of time, meaning two years and over 42  
15 instances where he stole the money, the substantial  
16 amount of \$600,000, the betrayal of trust, and we  
17 have to then talk about 3553(a), and I just want to  
18 touch on a couple of them.

19           Specific deterrence is not an issue  
20 here. This was clearly a crime of opportunity. Mr.  
21 Pickerstein committed this crime because he was not  
22 being watched. There were so many instances that  
23 matter here for the Court that describe how Mr.  
24 Pickerstein did good things for people and took no  
25 credit, he did things when he wasn't being watched.



1 This, unfortunately, is on the other side of the  
2 ledger. He stole this money while he was not being  
3 watched. Precisely because he wasn't being watched,  
4 that's why he got away with it for two years and  
5 then nearly a year after the victim got out of  
6 prison.

7           So this was a crime of opportunity that  
8 is inconceivable that it could recur, and,  
9 therefore, I think there is no reason for this Court  
10 to give any weight to specific deterrence when it  
11 comes time to choose a sentence.

12           But general deterrence is a different  
13 matter. Every day in this court the judges see a  
14 parade of people in positions of trust who have  
15 stolen money from people in whose interests they're  
16 supposed to be acting. We see financial advisors,  
17 bookkeepers and trusted employees, and,  
18 unfortunately, we see all too often lawyers. The  
19 lawyers tend to follow a certain pattern. They tend  
20 to be having problems with their legal practice,  
21 they can't meet the bills, and conveniently enough  
22 there is a trust fund that they're supposed to be  
23 managing for someone's benefit. And the thefts tend  
24 to occur when they steal from the funds of someone  
25 who can't look out for their own interests. It

1 could be an elderly victim who is incapable of  
2 monitoring their funds, it could be a probate estate  
3 where the person has died and no one really knows  
4 what's in there, or, in this case, it could be a  
5 client who is in prison and who doesn't have access  
6 to the records, can't monitor things, and has  
7 entrusted someone else.

8           So it's important that whatever sentence  
9 this Court imposes achieve the goal of general  
10 deterrence so that other lawyers who are out there  
11 see that they cannot think about raiding their  
12 clients' funds without receiving a consequence that  
13 is meaningful.

14           The last two concepts that I think are  
15 worth focussing on here are the need to promote  
16 respect for the law and the need to avoid  
17 unwarranted sentencing disparities. And they really  
18 come back to that same fundamental point, that the  
19 Court here, and in other seats in Connecticut,  
20 unfortunately sees a parade of people who have  
21 committed crimes like this all of the time. Mr.  
22 Pickerstein, many things about him, as his speakers  
23 have demonstrated, are different, are exceptional  
24 and warrant consideration by the Court. But the  
25 circumstances that drove him to commit this crime,

1 being hard-pressed financially, are all too common.  
2 The way in which he committed this crime is all too  
3 common, and it is important that those commonalities  
4 at least be viewed and weighed similarly in  
5 different cases.

6           This Court is going to have another  
7 defendant in two, three, four months, however long  
8 it is before a case comes off the wheel, and it will  
9 be another lawyer who has embezzled from someone's  
10 estate and lied about it. The circumstances will be  
11 different, the sentence inevitably will be  
12 different, for what reasons I don't know. There may  
13 be factors that are more sympathetic about those  
14 defendants, there may be factors that are less so,  
15 and I'm not saying that any of those people are  
16 identical to Mr. Pickerstein, I just don't know, but  
17 the common core of the offense is fairly and sadly  
18 typical, and that, I think, needs substantial  
19 weight.

20           Whatever sentence this Court imposes,  
21 the Court is going to have the difficult task of  
22 balancing all of these factors and ensuring that  
23 it's promoting respect for the law in two ways: One  
24 of ensuring that Mr. Pickerstein -- anybody who is  
25 here today understands that the sentence has been

1 fashioned in light of Mr. Pickerstein's personal  
2 circumstances and is appropriately taking care of  
3 all of the things that make his case different, but  
4 the public and everyone here also needs to know that  
5 the things that make his case the same also got  
6 weight and that there is no special, more lenient  
7 brand of justice for legal insiders.

8 Thank you.

9 THE COURT: Thank you very much.

10 Anything further, Mr. Bowman?

11 MR. BOWMAN: Yes, your Honor.

12 THE COURT: Okay.

13 MR. BOWMAN: A deficit, the economic  
14 deficit, your Honor, arose before his tax  
15 liabilities. It was a direct result of the vow that  
16 he had taken that he could never allow what happened  
17 to his youngest son happen to his two remaining  
18 sons. It was a result of that overspending, it was  
19 a result of that commitment, which was unrealistic  
20 financially, that caused him to get into problems  
21 with the Internal Revenue Service. So it wasn't  
22 just that all of a sudden he had this tax liability  
23 arise, it started years before.

24 Secondly, general deterrent  
25 considerations, they're tricky because there is this

1 idea that the anonymous public, those people who we  
2 don't see and who are not here in the courtroom and  
3 who may only learn about a case from the newspaper  
4 or the radio or television, those people with less  
5 control, less understanding and appreciation of the  
6 facts of the case, are the people that we are most  
7 concerned about impressing in a general deterrent  
8 context.

9 Yes, this is a -- not a random community  
10 here, but it's a large community here in this  
11 courtroom today, and there are people who know this  
12 man, and I know your Honor has heard them and has  
13 appreciated what they have had to say.

14 I do want to address the legal insider  
15 argument. I don't think the argument is worthy of  
16 this courtroom. Do we punish those of us who have  
17 given our lives, dedicated the best parts of  
18 ourselves in service of this court, our sense of  
19 justice, and, therefore, we're afraid that if we  
20 give credit to someone who is truly deserving that  
21 we will be seen as giving a break to an insider?  
22 It's a very cynical argument and I urge the Court to  
23 reject it.

24 The only reason Jim Pickerstein has been  
25 a lawyer in this court for more than 40 years is

1 because the quality -- it is because of the quality  
2 of his integrity and the quality of his advocacy and  
3 his dedication.

4 I hope your Honor will seriously take  
5 into consideration the other matters that we have  
6 presented. It would not be a disservice to justice  
7 if this man, with all of his challenges, with all of  
8 the background you have heard today, were not sent  
9 to prison.

10 Thank you.

11 THE COURT: Thank you, Mr. Bowman.

12 Anything further, Mr. Nardini?

13 MR. NARDINI: No, your Honor.

14 THE COURT: Okay. All right, I've heard  
15 the arguments of both sides. I appreciate the  
16 advocacy from both sides; it's been helpful to the  
17 Court. I'm going to take a brief recess and then  
18 come back and impose sentence.

19 (Recess)

20 THE COURT: Please be seated.

21 We are now ready to turn to the  
22 imposition of a sentence.

23 Mr. Pickerstein, I'm required to  
24 consider quite a number of factors before deciding  
25 on a sentence in your case. These factors -- you

1 can be seated. These factors are set forth in a  
2 statute called 18 U.S.C. Section 3553, and include:  
3 Your background and characteristics; the nature and  
4 circumstances of this crime; the various purposes of  
5 a criminal sentence, which are punishment,  
6 deterrence, rehabilitation, and incapacitation; the  
7 sentencing guidelines and the advice they give me  
8 about how to sentence you; the need to avoid  
9 unwarranted sentencing disparities among defendants  
10 with similar records who have been found guilty of  
11 similar conduct; the need to provide restitution to  
12 any victims of the offense, and a variety of things.

13 In short, I have to consider everything  
14 I know about you, good or bad, and weigh that  
15 information to determine a sentence that is fair,  
16 just and reasonable in your individual case, and  
17 that is sufficient but not greater than necessary to  
18 serve the purposes of sentencing. So, Mr.  
19 Pickerstein, while I have taken into account all of  
20 these factors, I would like to explain more  
21 particularly how I've reached a decision as to the  
22 appropriate sentence in your case.

23 I recognize that I have the discretion  
24 to depart from the range provided by the sentencing  
25 guidelines on the basis of circumstances not already

1 factored into the guidelines or to impose a sentence  
2 outside the guideline scheme. I do choose to impose  
3 a non-guideline sentence, and do so for the  
4 following reasons. First, looking at your  
5 background and characteristics, there is no question  
6 that you have lived an impressive professional life  
7 before this criminal conduct, having risen to the  
8 top of your profession in the state of Connecticut,  
9 both in the U.S. Attorney's Office and in practicing  
10 at prominent law firms. From the various  
11 submissions written on your behalf, there is no  
12 question that you have been, and even after your  
13 admission of guilt continue to be, revered by many  
14 in the state.

15           You also have shown yourself to be  
16 incredibly generous. Time and time again you have  
17 been there when others needed it, not just your  
18 family, but friends and those in need, including  
19 former clients. You have helped make better the  
20 lives of others around you, and you have done so not  
21 in large and showy ways, but in those small but  
22 significant ways that transform lives. You have  
23 visited the sick, stood by those who mourn, and  
24 provided support in any way you possibly could to  
25 those in need. Just as importantly, it appears that



1 time and time again you were there for others and  
2 expected nothing in return.

3           Your good acts and otherwise outstanding  
4 character, though, must be considered along with the  
5 nature and circumstances of the crime you committed  
6 here. You violated one of the cardinal rules of the  
7 practice of law, treating funds entrusted to you as  
8 a lawyer as your own money. This crime occurred  
9 over the course of more than two years, from  
10 August 2011 to October 2013, when you took out  
11 nearly \$600,000 from a single client's fund and  
12 transferred them to a personal bank account. This  
13 happened over a period of time, but also on more  
14 than 40 separate instances.

15           Even more troubling, it appears that you  
16 did not have an intention to pay the funds back.  
17 Indeed, the mail and wire fraud that brings us here  
18 suggests a desire to sort of cover up the fact by  
19 writing your client and ensuring that the funds he  
20 suspected were missing actually were paid out to the  
21 law firm. It was not until later when the client  
22 confronted you did you begin to confess the crime at  
23 hand. I say "begin" because before admitting it you  
24 tried to bargain with the client hoping your theft  
25 would never become known to your law partners, much

1 less to anyone else.

2           So in terms of this particular crime,  
3 there is the victim, the client; there is also the  
4 law firm that was affected; and now the insurance  
5 company which has reimbursed the majority of funds  
6 to the law firm. But while the Court has not heard  
7 from either the Travelers Insurance Company or from  
8 McElroy Deutsch, the Court has received  
9 correspondence from the client indicating that he  
10 has no personal animosity towards you and does not  
11 wish you sent to prison.

12           This brings us to the various purposes  
13 of a criminal sentence, punishment, deterrence,  
14 rehabilitation, and incapacitation. There is no  
15 question that there should be punishment,  
16 particularly for those who know the law far better  
17 than most. The issue is not whether there should be  
18 punishment, of course there should. If anything, we  
19 are a nation of laws. The law must apply to  
20 everyone, and everyone must be held accountable for  
21 violating the law. The question, rather, is what  
22 should the punishment be and how much should that  
23 punishment be.

24           Given what you've been through, what  
25 your family has been through, there is no question

1 that there is very little, if any, need for specific  
2 deterrence. Although you should have gotten it  
3 before you wrote just one of those 40 or so checks  
4 you wrote from a client's account, I have little  
5 doubt, you get it now.

6           You also have shown yourself to be  
7 someone who not only understood the difference  
8 between right and wrong, but helped others  
9 understand that difference as well. Now here you  
10 are the teacher relying on the students, many  
11 students who you have taught. It must be more than  
12 humbling, it must be somewhat humiliating, not just  
13 to see the diminishment in their eyes, but to be  
14 diminished in the eyes of the law.

15           But if I understand the submissions,  
16 various submissions on your behalf, and your own  
17 words, I am convinced, as I said, you get it. You  
18 committed a grave wrong and have no intention of  
19 ever committing such a wrong again. Therefore, as I  
20 noted, there is little need, if any, for specific  
21 deterrence.

22           General deterrence, however, is another  
23 matter. The temptation to take from others who  
24 seemingly have more than they need, while you and  
25 others you love need so much, is an age-old problem,

1 and there is no suggestion that this problem will  
2 end with you. As a result, there is a need for  
3 general deterrence. The law requires, and I think  
4 rightly so, that there be punishment to send this  
5 message. The filings on your behalf have made me  
6 well aware of the challenging circumstances you have  
7 found yourself over the last several years. I,  
8 frankly, cannot imagine what it would be like to  
9 deal with the loss of a son the way you had to deal  
10 with or the other challenges with your children or  
11 other family matters that have brought considerable  
12 financial pressure on you.

13 But we cannot deal with it by resorting  
14 to crime or, even more troubling, deal with it by  
15 dissembling about our crime, trying to cover up  
16 deception by more deception. But, of course, the  
17 need for punishment must be balanced out by the need  
18 for rehabilitation. Is there really a need to  
19 incarcerate you in order to rehabilitate you? Other  
20 than to send a message of punishment, what is the  
21 rehabilitative purpose behind incarceration in your  
22 case? Other than to incarcerate as part of general  
23 deterrence, I have not been able to identify one. I  
24 also do not see a need to incapacitate you in terms  
25 of keeping you from society. You no longer -- you

1 don't pose a threat; your financial crimes and  
2 deceptions that went with it have been exposed and  
3 dealt with in the context of this proceeding.

4           Now, as you know, I must consider the  
5 sentencing guidelines and the advice they give me  
6 about your sentence. A total offense level of 20,  
7 with a criminal history category I, results in a  
8 range of 33 to 41 months, a fine range of 7,500 to  
9 75,000, and a supervised release term of one year to  
10 three years. Of course, as the Court recognized in  
11 U.S. v. *Booker*, the federal sentencing guidelines  
12 are to be treated as advisory rather than mandatory.  
13 I do have to consider the guidelines, and I have  
14 considered them.

15           In particular, I have also considered  
16 the need to avoid unwarranted sentencing disparities  
17 among defendants with similar records who have been  
18 found guilty of similar conduct. As U.S. Attorney  
19 Nardini pointed out, some of the statistics  
20 regarding other similar conduct, the data also  
21 indicates a significant number of the sentences for  
22 fraud were below guideline sentences, and that those  
23 sentences on average were half of the length of the  
24 guidelines minimum. The data would suggest that a  
25 significant number of judges feel that sentences

1 less than the guidelines range are sufficient to  
2 provide just punishment.

3 In this case, even more importantly,  
4 there is agreement by both the government as well as  
5 the defense that given all of the factors in this  
6 case with you, this particular defendant, that  
7 something less than the guideline range is  
8 appropriate. And as I indicated earlier, the Court  
9 agrees that a non-guideline sentence should be  
10 imposed. Indeed, both sides agree that your serious  
11 health condition that certainly requires ongoing  
12 treatment should be a factor in reducing the  
13 sentence below the guideline. As I understand the  
14 submission from one of your doctors, it states that  
15 you will now be faced with an aggressive treatment  
16 regimen and over time it is expected that your  
17 prostate cancer will spread.

18 Both sides also agree that you have an  
19 essential role with regard to family members who  
20 have encountered serious challenges in their life.  
21 In particular, the Court is aware of and concerned  
22 about the impact any lengthy incarceration may have  
23 on the family and believes such considerations  
24 warrant adjusting considerations of imprisonment  
25 accordingly.

1                   There, of course, is no question that  
2                   restitution is warranted to address the remaining  
3                   economic impact to Mr. Pickerstein's former client  
4                   and former law firm, as well as the insurance  
5                   company that insured the law firm.

6                   Also, I will say any sentence imposed by  
7                   me must be tempered by the knowledge that, at  
8                   bottom, what I have before me is a good person. I  
9                   should correct that, an exceptional person. I  
10                  cannot help not being impressed by the countless  
11                  unseen efforts you have taken on behalf of others  
12                  and in service to your community, including your  
13                  synagogue. But it also seems you have neglected  
14                  yourself. To put it more plainly, you may not have  
15                  loved yourself as much as you should, and certainly  
16                  not as much as all of the people around you clearly  
17                  do. One of the most profound, but perhaps  
18                  underappreciated sentiments expressed by the  
19                  Reverend Dr. Martin Luther King, Jr., is that while  
20                  love of others is very important, before you can  
21                  love other people adequately, you have to love your  
22                  own self properly. He goes on to say, "Many people  
23                  have been plunged into the abyss of emotional  
24                  fatalism because they didn't love themselves  
25                  properly."

1           So as I prepare to render your sentence,  
2 regardless of what it is, I urge you to love  
3 yourself, sir. You have been loving to others, but  
4 now is the time for you to love yourself, truly love  
5 yourself. You can begin by fully appreciating the  
6 difference you've already made in this world and use  
7 that knowledge to propel yourself to continue making  
8 a difference in this world.

9           You also can love yourself by letting  
10 all of those people whose lives you have touched  
11 throughout the years show their support for you in  
12 this time of need, just as you've shown support for  
13 them in their time of need. They cared about you  
14 when you were in your dire place of need, but  
15 perhaps you felt trapped and could not reach out to  
16 them. They care about you now, and I have no reason  
17 to believe that they will not always care about you.  
18 So let them care about you, let them show their love  
19 for you, but if you need it and it does not seem to  
20 be there, although I have no doubt that it is, ask  
21 for it and it will be there. With that love, a  
22 greater love for yourself and a willingness to let  
23 those who love you show you that they love you  
24 unabashedly, you'll make it through the darkest of  
25 the days and live the rest of your days even more



1 fully than you have the days before it, and you will  
2 contribute even more to this world than you have  
3 contributed to this world when you were a lawyer.  
4 You see, this nation, this state, does not lack for  
5 lawyers. It does lack for people who, like you,  
6 have the capacity to touch the lives of people the  
7 way you have and the way you still can.

8           So with all of that, and with all of the  
9 concerns that I've focussed and expressed on, I am  
10 now ready to pronounce your sentence. I would ask  
11 you to please stand, sir.

12           For the reasons I've explained, Mr.  
13 Pickerstein, I hereby sentence you to a 30-day term  
14 of imprisonment. To the extent that your medical  
15 condition requires it, the Court will recommend to  
16 the Bureau of Prisons that you serve your sentence  
17 at a medical facility. Otherwise, you should serve  
18 your sentence as a minimum-security facility  
19 sufficiently close to your family, taking into  
20 consideration any security concerns warranted by  
21 your previous employment.

22           After imprisonment, you shall be placed  
23 on a supervised release period for three years. The  
24 first six months of that term shall be on home  
25 detention with location monitoring. You shall

1 comply with all of the program requirements and  
2 instructions provided. While in home detention, you  
3 shall be restricted to your residence at all times  
4 except for the following: Education, employment,  
5 religious services, medical or mental health  
6 treatment, care or appointments or treatment related  
7 to the grandchild who currently lives with you,  
8 appointments with counsel, court appearances,  
9 appointments with the U.S. Probation Office,  
10 appointments at the direction of the U.S. Probation  
11 Office, court-ordered obligations, and other  
12 activities as are approved by the probation office.  
13 The defendant is to pay all or a portion of the cost  
14 of the program based on your ability to pay as  
15 determined by the probation office and approved by  
16 the Court.

17           As conditions of supervised release, I  
18 order the following: The following mandatory  
19 condition of supervised release in Guideline Section  
20 5D1.3(a), that the defendant shall not commit  
21 another federal, state or local offense; that the  
22 defendant shall not unlawfully possess a controlled  
23 substance; that the defendant shall make restitution  
24 in accordance with 18 U.S.C. Sections 2248, 2259,  
25 2264, 2327, 3663, 3663A and 3664; and pay the

1 assessment imposed in accordance with 18 U.S.C.  
2 Section 3013.

3 The defendant shall cooperate in the  
4 collection of a DNA sample from the defendant at the  
5 direction of the United States Probation Office if  
6 the collection of such sample is authorized, and the  
7 standard conditions of release set forth in the  
8 policy statement at Guideline 5D1.3(c).

9 And as further conditions of supervised  
10 release, I order that the defendant shall  
11 participate in a program recommended by the  
12 probation office for mental health treatment. The  
13 defendant shall pay all or a portion of the costs  
14 associated with the treatment based on the  
15 defendant's ability to pay as recommended by the  
16 probation office and approved by the Court. You  
17 shall make available to the probation office any  
18 requested financial information, and you shall pay  
19 any restitution that is imposed by this judgment.  
20 You shall pay what remains unpaid at the  
21 commencement of the term of supervised release at a  
22 rate of no less than \$500 per month. This schedule  
23 pay be adjusted based on the defendant's ability to  
24 pay as determined by the probation officer and  
25 approved by the Court.

1           If you violate any of these conditions  
2 during your supervised release, the Court will be  
3 free to sentence you to additional time in prison of  
4 up to two years. So the consequences of a failure  
5 to behave properly during supervised release are  
6 extremely serious. The Court would not hesitate to  
7 sentence you to additional time in prison if you  
8 violate the terms of supervised release.

9           Do you understand, sir?

10           THE DEFENDANT: Yes, I do, your Honor.

11           THE COURT: All right. And under 18  
12 U.S.C. 3143(a), the Court may approve an application  
13 for voluntary surrender. Based on what I've  
14 reviewed, there does not appear to be any reason  
15 that Mr. Pickerstein should not be able to surrender  
16 voluntarily on a date to be determined in the near  
17 future.

18           What's the position of the government,  
19 Mr. Nardini?

20           MR. NARDINI: No objection.

21           THE COURT: All right. Mr. Bowman, do  
22 you have a position on date, or do you want to get  
23 back to the Court on a date?

24           MR. BOWMAN: Your Honor, I think if we  
25 could have 45 days.

1 THE COURT: That's fine.

2 MR. BOWMAN: And if I could ask the  
3 Court for a recommendation. Since the sentence is  
4 30 days, I'm concerned about where the Bureau of  
5 Prisons may place him. So if you could recommend  
6 the federal prison camp at Otisville. I have had a  
7 client who was there who had -- recently had  
8 angioplasty there for a condition, so they have  
9 access to medical facilities there, and I believe he  
10 would be safe there.

11 THE COURT: All right.

12 MR. DOW: If your Honor could just state  
13 those reasons, I think that influences the BOP when  
14 they make a designation.

15 THE COURT: Yes. I'm happy to in the  
16 statement of reasons recommend that he be placed in  
17 Otisville, the Otisville, New York facility.

18 PROBATION OFFICER WACKERMAN: Excuse me,  
19 your Honor. I'm sorry, I may not have heard this,  
20 did you waive the drug testing?

21 THE COURT: I didn't, but I intended to.  
22 Yes, I do waive the drug testing.

23 All right. Oh, also with respect to a  
24 fine, I'm not ordering you to pay a fine or the  
25 costs of imprisonment because your financial status,

1 as I understand, is such that you are unable to pay  
2 the fine or costs, and it is not likely you will  
3 become able to pay them. As well, the imposition of  
4 a fine may very well impair your ability to pay  
5 restitution to victims of your offense.

6 You shall pay the mandatory special  
7 assessment of \$100.

8 Do either counsel know of any reason the  
9 sentence I described cannot legally be imposed by  
10 the Court?

11 Mr. Nardini?

12 MR. NARDINI: No, your Honor.

13 THE COURT: Mr. Bowman?

14 MR. BOWMAN: No, your Honor.

15 MR. NARDINI: Your Honor, are you  
16 getting to restitution?

17 THE COURT: Yes. I referenced -- I did  
18 reference restitution, but yes, there is an order of  
19 restitution in the amount -- actually I had stated  
20 it earlier. It's 600. I did put the amount on the  
21 record. There it is. Yes, there is an order of  
22 restitution in the amount of \$633,410.04.

23 MR. NARDINI: Thank you, your Honor.

24 And with the Court's permission, I can prepare a  
25 restitution order, a draft one, and submit it to the

1 parties for the Court's consideration.

2 MR. BOWMAN: There is no objection.

3 THE COURT: Yes, that would be fine.

4 All right, Mr. Pickerstein, the sentence  
5 I set forth is hereby imposed as the sentence in  
6 your case. The judgment of the Court will be  
7 prepared for my signature by the clerk's office in  
8 consultation with the United States Probation  
9 Office.

10 Mr. Pickerstein, you have the right to  
11 appeal the sentence that I've just imposed. If you  
12 wish to appeal, you must file a written notice of  
13 appeal within 14 days of the entry of this judgment.

14 Do you understand the time limit for  
15 filing a notice of appeal, sir?

16 THE DEFENDANT: Yes, I do, your Honor.

17 THE COURT: If you wish to appeal, but  
18 cannot afford to do so, you may apply for leave to  
19 appeal in forma pauperis. If that motion is  
20 granted, the court will waive the filing fee for  
21 your appeal and appoint a lawyer to represent you at  
22 no cost to you. Do you understand, sir?

23 THE DEFENDANT: Yes.

24 THE COURT: Anything further, Mr.  
25 Nardini?

1 MR. NARDINI: No, your Honor.

2 THE COURT: Mr. Bowman?

3 MR. BOWMAN: No.

4 THE COURT: All right, we are adjourned.

5 (Proceeding concluded 4:35)

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1  
2 I certify that the foregoing is a correct  
3 transcript from the record of proceedings in the  
4 above-entitled matter.

5  
6 6/9/16

7 Date

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9 /s/ Sharon Montini

10 Official Reporter  
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