

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA)

Government)

NO: 3:18CR193(JCH)

November 29, 2018

vs.)

3:15 p.m.

LOUIS GOLDBERG)

Defendant.)

141 Church Street
New Haven, Connecticut

SENTENCING HEARING

B E F O R E:

THE HONORABLE JANET C. HALL, U. S. D. J.

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

For the Government : Christopher W. Schmeisser
U.S. Attorney's Office
157 Church St., 25th Floor
New Haven, CT 06510

For the Defendant : Hugh F. Keefe
Rosalie D. Louis
Lynch, Traub, Keefe & Errante
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1 THE COURT: We're here this afternoon in the
2 matter known as the United States of America versus Louis
3 Goldberg, 3:18CR193. I have a couple of things I want to
4 take up with counsel if I could at sidebar for just a
5 minute.

6 (Beginning of sidebar.)

7 THE COURT: I'm sorry with the courtrooms but
8 there's two things. One there's a 5k motion. I presume
9 we don't have to do that under seal, but I want to give
10 you the opportunity.

11 MR. SCHMEISSER: It is in a public record
12 document. We don't think it is necessary.

13 THE COURT: Then the second thing, Attorney
14 Keefe, your favorite District Court Judge T.F. Gilroy
15 Daly reputed the saying sometimes when he came on the
16 bench, if you would like to proceed, defense attorney, go
17 right ahead, persuade me. However two things I need to
18 know. I will take that approach if the Government wasn't
19 going to stand up and say Judge, that's not the right
20 sentence of probation.

21 MR. SCHMEISSER: Your Honor, what I will get up
22 and say is that under the 5K memorandum, you have been
23 provided with the Government's position and the
24 Government is not going to take a position on sentence.

25 THE COURT: The reason I didn't want to say that

1 in public to you with everybody, I know people wanted to
2 speak and I don't know whether they would prefer avoiding
3 the need to speak or they would want to speak because
4 they think they are supporting Mr. Goldberg. You need to
5 make that call. I will sit here and listen to it all.
6 I'm not Judge Daly. If you think they would rather not
7 have to get up. They are doing it out of a sense of
8 devotion, then you tell me and I will make some remark
9 that tips my hand, so they know why they are not being
10 invited to you.

11 MR. KEEFE: Only because they came a long way.
12 I would like to invite one or two.

13 THE COURT: So you put on everything you want to
14 put on. That's fine. I will sit and listen. It is not
15 a problem.

16 MR. KEEFE: He's not here. He was downstairs.

17 THE COURT: Thank you, Diahann. We'll wait.
18 Everybody can go back and sit down.

19 MR. SCHMEISSER: The last is a housekeeping
20 matter. The \$105,000 has been paid. We'll request that
21 the order of restitution be presented.

22 THE COURT: That's fine. Diahann, did you hear
23 that?

24 (End of sidebar.)

25 MR. KEEFE: Your Honor, the defendant is here

1 now.

2 THE COURT: All right. Very good. So I know
3 that I have upset things by having to move across the
4 alleyway here to this building for the proceeding, so I
5 would like inquire, Attorney Keefe, is everyone you think
6 is going to come has arrived or been able to make their
7 way over here?

8 MR. KEEFE: Yes, Your Honor. I do.

9 THE COURT: I'm not certain. I think I
10 announced the case, but I don't think I called for the
11 appearances. If I can start with the Government please.

12 MR. SCHMEISSER: Christopher Schmeisser for the
13 United States. With me at counsel table is IRS Special
14 Agent Nick Sforza.

15 THE COURT: Good afternoon, Attorney Schmeisser
16 and good afternoon, Agent.

17 MR. KEEFE: Attorney Hugh Keefe for Louis
18 Goldberg.

19 THE COURT: Good afternoon to you.

20 MS. LOUIS: Good afternoon, Your Honor.
21 Attorney Rosalie Louis for the defendant.

22 THE COURT: Yes, Attorney Louis, good afternoon
23 to you and good afternoon to you, Mr. Goldberg.

24 We're here this afternoon in connection with the
25 sentencing of Mr. Goldberg following his plea of guilty

1 to one count of aiding and assisting the filing of the
2 false tax return in violation of federal law.

3 As I say, Mr. Goldberg pled guilty to that and
4 as a result, a Presentence Report and investigation was
5 done and a Presentence Report prepared. The first thing
6 I would like to ask has Mr. Goldberg had the opportunity
7 to review the Presentence Report in its final form and to
8 discuss it with his counsel and to have his questions
9 about the report answered by his counsel?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you have any questions currently
12 about the report?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Then does the Government have any
15 objection to the Presentence Report to the extent it sets
16 forth facts relevant to sentencing and to the extent it
17 proposes a guideline calculation?

18 MR. SCHMEISSER: No, Your Honor.

19 THE COURT: From the defense anything,
20 objection?

21 MR. KEEFFE: No, Your Honor, no corrections.

22 THE COURT: I would ask the probation officer --
23 I will adopt the Presentence Report as it sets forth
24 facts relevant to sentencing. I think that paragraph 20
25 under offense level computation describes that the

1 November 1, 2016 manual is being used. I think it should
2 be '18. You say that later on. That's probably a typo.

3 So with that correction, the Court adopts the
4 Presentence Report including the calculation of the
5 guidelines. The Court finds that given the tax loss of
6 \$40,490 that puts Mr. Goldberg in a Base Offense Level of
7 14. There are no other adjustments so his adjusted
8 offense level is 14.

9 Does the Government recommend the acceptance of
10 responsibility reduction for Mr. Goldberg?

11 MR. SCHMEISSER: Yes, Your Honor.

12 THE COURT: Then the Court agrees with the
13 Government that Mr. Goldberg has accepted responsibility
14 for this offense and awards him the two level reduction
15 resulting in Offense Level of 12.

16 Mr. Goldberg has no criminal history at all.
17 Therefore, he has zero criminal history points which
18 places him in Criminal History Category I. Level 12 and
19 Criminal History Category I calls for a guideline range
20 of 10 to 16 months. Is there any objection to that?

21 MR. SCHMEISSER: No, Your Honor.

22 MR. KEEFE: No objection to that calculation,
23 Your Honor.

24 THE COURT: All right then. The reason I
25 calculated the guidelines, of course, counsel is aware

1 but there's a requirement in the law that the Court
2 consider a number of factors today in making a
3 determination about Mr. Goldberg's sentence.

4 One of those factors is the guidelines.
5 Therefore I'm required to calculate them if I can. It is
6 a guideline range that Congress thinks is the appropriate
7 range for the offense as committed by Mr. Goldberg in
8 light of his criminal history or in this case, lack of
9 criminal history.

10 However, there are a number of other factors
11 which I'm going to address now, and I will address in the
12 context of counsel's arguments I'm sure and in stating my
13 reasons for the sentence here today and all of those
14 factors are important, not just the guidelines, but I
15 will consider the guideline range as well.

16 I think before I turn to Attorney Keefe, the
17 Government has a motion which it filed on the docket. Am
18 I correct?

19 MR. SCHMEISSER: Actually, Your Honor, to be
20 technically accurate, the Government did not file the
21 motion on the docket. I was going to make an oral motion.

22 THE COURT: I see my note. If you want to do
23 that at this point before I turn to Attorney Keefe.

24 MR. SCHMEISSER: Yes, Your Honor. The
25 Government formally moves for a downward departure under

1 the provisions of 5K1.1.

2 THE COURT: Yes. And obviously the reasons for
3 that are set forth in your sentencing memorandum,
4 Document Number 20, is that correct?

5 MR. SCHMEISSER: That's correct.

6 THE COURT: Attorney Keefe, do you wish to be
7 heard on that briefly? I'm aware of the related
8 defendant having already sentenced Mr. Goldberg's nephew
9 Mr. Malkin.

10 MR. KEEFE: No, Judge. It is addressed in our
11 memo.

12 THE COURT: The Court finds that the filing on
13 the 5k motion was appropriate in this case and that the
14 factors that the Court is required to consider are amply
15 met in this instance. Therefore, the Court grants the
16 5k1.1 motion.

17 The first factor is the Court's evaluation of
18 the significance and usefulness of the defendant's
19 assistance. Obviously I have to rely on the Government
20 in that respect but and the Government has made it clear
21 that the defendant, Mr. Goldberg, took the appropriate
22 steps and took them very early on to provide information
23 and to cooperate with the Government and in addition I
24 think and this goes more to the next factor of
25 significance and usefulness, the Government rates and I

1 would agree it an extremely important component of Mr.
2 Malkin's decision to plead guilty was the fact that Mr.
3 Goldberg was willing to cooperate and even testify if a
4 trial was necessary against Mr. Malkin.

5 Given the Court's view that Mr. Malkin was more
6 culpable in this matter than Mr. Goldberg that was -- but
7 Mr. Goldberg was nonetheless knowledgeable about the
8 circumstances of the overall criminal conduct, the Court
9 finds that his cooperation was significant and useful
10 particularly in the fact that it caused a guilty plea.

11 The Government has advised me that Mr.
12 Goldberg's cooperation was truthful, complete and
13 reliable and he did not seek to minimize his behavior,
14 his criminal conduct and that it bases its conclusion
15 about the truthfulness upon the fact of much of what he
16 said to the extent it could be, was corroborated by
17 records. The Court shares the Government's views in this
18 respect.

19 The next factor is timeliness of the defendant's
20 cooperation. In this case, as I said, having read I
21 believe it was a report of the agents when they first
22 went to the company, I think probably Mr. Goldberg was
23 initially overwhelmed by the presence of federal agents,
24 but it is pretty clear he was forthcoming. He didn't
25 wish to have -- not that he had a right to a lawyer. He

1 didn't wish a lawyer. He didn't wish to leave. He
2 wished to stay and assist the agents and uncover what's
3 going on at his company. So from the beginning his
4 cooperation was timely. Therefore, that factor is met.

5 The last factor is the risk of injury to a
6 defendant from cooperating. In this case, I don't think
7 that's a risk. It is not because of Mr. Goldberg. It is
8 just the nature of this crime. Obviously in other crimes
9 where cooperators cooperate against violent criminals,
10 the risk of injury and the actual injury to a cooperator
11 is very great. But that factor is not present here. But
12 it is not that it is a negative. It is not present. We
13 can be grateful that I don't think it is present.

14 Taking all the factors together, the Court
15 concludes there is more than an adequate basis to grant
16 the 5k motion and to depart from what are the determined
17 advisory guidelines.

18 The other factors I need to consider including
19 the now departed from guidelines are the nature and
20 circumstance of Mr. Goldberg's offense, his history and
21 characteristics, the need for the sentence to reflect the
22 seriousness of the offense and to provide deterrence and
23 to protect the public, to provide care and treatment as
24 appropriate, consideration of the kinds of sentences in
25 policy statements of which I'm not aware of any and to

1 provide restitution and to avoid unwarranted sentencing
2 disparities between and among other defendants than Mr.
3 Goldberg.

4 With those factors in mind, I guess I will turn
5 now to Attorney Keefe to make his presentation on behalf
6 of Mr. Goldberg. I would ask, obviously I'm sure,
7 Attorney Keefe, you have spoken to Mr. Goldberg about his
8 right to address the Court at this hearing today and if
9 he wishes to address the Court, I would ask you to let me
10 know that and I will leave it to you to let me know when
11 you would like to call him forward.

12 If he doesn't wish to address the Court, that's
13 fine and it won't impact his sentence in any way.

14 MR. KEEFE: I have, Your Honor, and I will. I
15 have decided to curtail the presentation, Your Honor, and
16 I would like to call a couple of people who traveled
17 great distances to come here.

18 THE COURT: Glad to hear from them.

19 MR. KEEFE: Rabbi Whitman. Rabbi Whitman came
20 here from Montreal, Canada.

21 THE COURT: Good afternoon, Rabbi.

22 I don't think I have ever met you, but I know of
23 you by reputation which is a good one.

24 THE WITNESS: Thank you, Your Honor. My name is
25 Michael Whitman. I'm the Senior Rabbi of Adath Israel

1 Congregation in Montreal, an adjunct professor at McGill
2 University Faculty of Law and a Vice President of the
3 RCA, Rabbinical Council of America.

4 I met Lou when we moved here to New Haven in
5 1987. For 14 years, I served as the Rabbi of the Young
6 Israel of New Haven, the Orthodox Rabbi at Yale
7 University. For seven of those years, I taught at Yale
8 University Law School.

9 Among other responsibilities, I was a member of
10 the City of New Haven Board of Ethics. And I'm the past
11 president of DESK, Downtown Evening Soup Kitchen.

12 Lou was an active member in our congregation.
13 He and I worked closely together on every aspect of
14 synagogue life and Jewish life in New Haven. We were
15 neighbors. We and our families became and remain close
16 personal friends. I have many occasions to work together
17 with Lou at his business, GoodCopy, while
18 printing various pieces for our synagogue. GoodCopy
19 Printing is an important force for good in this
20 community.

21 I saw firsthand how Lou used his business to
22 mentor young people, giving them a chance with a job,
23 constructive feedback and a path to advancement. I saw
24 this many times with many people. Some of whom no one
25 else would help. Many times including after we left, Lou

1 would turn to me to ask me questions or advice especially
2 in the area of business ethics. What should I do?
3 What's the right choice? How can I be a better person, a
4 better father, a better husband and that makes the events
5 that bring us here today especially serious. But at the
6 same time, especially incongruous, contradictory to who
7 Lou is.

8 Speaking personally, I am most grateful for what
9 Lou has done for my children. For years our kids went to
10 the same school and Lou did the carpool. Carpool is much
11 more than transportation. Carpool can frame the day. It
12 can set the mood for how children will do in school that
13 day. Lou used the time in the car with his children and
14 my children to sing them songs.

15 And before he dropped them off every day, he
16 would say do something good today. He cared about my
17 children and he was a mentor to them especially our third
18 child, Yaacov. Yaacov was born in New Haven just after
19 we arrived. As a young boy, he was especially close to
20 Lou. Every Saturday afternoon, Yaacov would come with me
21 to the synagogue and he would help Lou setting up the
22 light Saturday meal that we would serve. Just one of the
23 countless jobs Lou would do behind the scenes that no one
24 else knew about. For my son it was transformational.
25 While Lou and Yaacov were working, Yaacov would talk

1 about his week, whatever was on his mind and Lou listened
2 and cared.

3 One time Yaacov did something at school. His
4 teachers used to give out points for good behavior and
5 you could redeem the points for candy that the teacher
6 kept on a table. One day I guess my son felt that he
7 deserved more points than he actually had. And he took a
8 package of candy without permission. A box of
9 Lemonheads. Later he felt guilty. And that Saturday he
10 told Lou when they were working together. And Lou said
11 you have to admit to your teacher what you did. You have
12 to return it and apologize and say I accept whatever
13 punishment you give me.

14 Twenty-five years later my son Yaacov has not
15 forgotten that lesson. Good people make mistakes. When
16 they do, they need to take responsibility and we, as a
17 society, need to hold them accountable.

18 But we also have to remember that they are good.
19 Lou Goldberg is a good man. And whatever else he has
20 done, he has earned that we remember that today. Thank
21 you very much, Your Honor.

22 THE COURT: You're very welcome. Thank you for
23 coming, and I'm sure Mr. Goldberg appreciates your
24 support.

25 MR. KEEFE: Thank you, Rabbi. Your Honor, may I

1 call Hadassah Lieberman from New York City, formerly from
2 Connecticut.

3 THE COURT: I have met Mrs. Lieberman. Good
4 afternoon. How are you?

5 THE WITNESS: A pleasure, good. The difference
6 is I now need glasses to read. Well, here I am. Lou and
7 Eddie and I go back a long time. She was my roommate in
8 college and there for key moments. I still remember how
9 we frequently double dated and analyzed laughingly
10 multitudinous scenes. So when Eddie met Lou, I met him
11 shortly thereafter. What struck me as I got to know him
12 better is how he was a lovely man and liked him. I
13 really do. As I met his friends, I liked him even more.
14 His honesty, directness was most apparent.

15 When they announced their engagement to marry, I
16 was most pleased. Had it not been for their introduction
17 of me to Joe Lieberman, I would never have met him. They
18 knew Joe and when Eddie told me he was a politician but
19 an honest one and I should meet him, I smiled and agreed.

20 I watched their family grow. Heard all about
21 how much Lou cared about his employees. I used to hear
22 the stories. I was always impressed with how he helped
23 those in need keep their jobs in the midst of difficult
24 struggles which included alcohol abuse and drug abuse.

25 I was impressed with Lou's deep concerns about

1 people in their business. They always felt that
2 responsibility acutely. I was proud of their commitment
3 to community.

4 I am here today for both my husband and me who
5 joins me and would be here if he weren't busy, in
6 supporting a good, honest, upstanding citizen we have
7 known for a long time. Lou Goldberg, a friend. It
8 brings tears to my eyes. Love him.

9 THE COURT: Thank you very much.

10 THE WITNESS: Thank you, Your Honor.

11 MR. KEEFE: Your Honor, I'm not going to call
12 these people, but may I just name them and thank them for
13 coming?

14 THE COURT: Certainly.

15 MR. KEEFE: Emma Jones Burrows, David Miller,
16 Phillip Bogart, Joan Linde and Rabbi Joshua Shammon
17 (phonetic). Thank you.

18 THE COURT: I should note I'm sorry to interrupt
19 you, Attorney Keefe. But I received attached to your
20 memorandum I think by separate copy but I checked to make
21 sure they have been ones I read. A number of letters in
22 support by some people I see here today. Some of the
23 people you've mentioned and others and I have read all of
24 those along with your memorandum and the Government's
25 memorandum. I should have said that for the record.

1 MR. KEEFE: Mr. Goldberg would like to address
2 the Court.

3 THE COURT: Yes, please.

4 THE DEFENDANT: Your Honor.

5 THE COURT: Good afternoon, sir.

6 THE DEFENDANT: Good afternoon. Your Honor, I
7 made a terrible mistake. I didn't listen to reason. I
8 demonstrated poor judgment and poor business ethics. I
9 had a character flaw that I worked very hard to improve
10 upon and correct. I dishonored my wife. I embarrassed
11 her. I dishonored my children, my employees. I put my
12 business in jeopardy, and I hurt my reputation. This
13 will harm me for the rest of my life. I ask for
14 forgiveness from all those that I have hurt. I just hope
15 at some point I will be able to forgive myself. My
16 actions hurt a lot of people and I apologize to everyone
17 for what I did and I am so sorry. I apologize to my God,
18 to my wife, to my children, employees. Please forgive
19 me.

20 THE COURT: Thank you, sir.

21 MR. KEEFE: Your Honor, we submitted a
22 sentencing memorandum. I'm not going to repeat what I
23 said in there. We rest.

24 THE COURT: Thank you very much, Attorney Keefe.
25 Attorney Schmeisser.

1 MR. SCHMEISSER: Thank you, Your Honor. Much of
2 what I will say today has already been set forth in the
3 papers so I will keep this brief.

4 The reason why we're here today in large part is
5 because of the length of the conduct of which the
6 defendant participated in from 2003 to 2012 and frankly
7 his position at GoodCopy that could have substantially
8 mitigated the harm and the length of time that the harm
9 took place by the other defendant, Mr. Malkin, who the
10 Government has maintained throughout is the principal
11 wrongdoer between the two of them.

12 That said, Mr. Goldberg was the owner of the
13 business. He could have taken much greater steps to
14 prevent Mr. Malkin's ability to basically use GoodCopy as
15 a way of enriching Mr. Malkin's personal situation.

16 So it is the length of time and the nature of
17 his position that makes it important for the Government
18 to prosecute this defendant with a felony.

19 I would note, however, that the defendant did,
20 when confronted, come in and cooperated in the manner
21 that was indicated in the Government's sentencing
22 memorandum. Through the time that he did cooperate, the
23 Government saw him remorseful and contrite for what had
24 gone on and the nature of his cooperation again is
25 outlined in the government's memorandum.

1 As an actual point in terms of procedure here,
2 the Government notes that the parties have agreed to
3 restitution in the amount of \$40,490. The Government
4 would request that the Court enter that restitution order
5 in that amount. The Government would also note the
6 Government has repaid that amount plus additional
7 penalties and interest for a totally of \$105,000.

8 On the restitution order, the Government would
9 recommend that the Court indicate that the restitution
10 obligation had been satisfied. Thank you, Your Honor.

11 THE COURT: Thank you very much, Attorney
12 Schmeisser.

13 As I mentioned, Mr. Goldberg, at the beginning,
14 it is my obligation to impose a sentence upon you today
15 following your conviction of a felony as Attorney
16 Schmeisser points out, assisting in effect -- you can be
17 seated. I'm required to state on the record the reason
18 for the sentence that I will impose. At that time, I
19 will ask you to stand. You can be seated at this time.

20 As I mentioned at the beginning, there were a
21 number of factors that I must consider in determining
22 your sentence. Some of them play really little or no
23 role in today's determination. Things like the kinds of
24 sentences available. All sentences are available to me
25 today. I have great discretion. I have mentioned the

1 sentencing range which, of course, will be departed from.

2 There are no policy statements in the guidelines
3 that relate to your case.

4 There is a factor known as avoidance of
5 unwarranted sentencing disparities. The concept being
6 that I ought not impose a sentence on one person and
7 impose a different one on another who committed
8 essentially the same crime with the same background.
9 That's a worthy principal but in practice the guidelines
10 are helpful in that respect, but they don't consider all
11 of the aspects of individual defendants as they present
12 themselves to a court. They only consider the criminal
13 history. There are many other things about individuals
14 that I will touch on in a few minutes in your case that
15 distinguish one person from another. The principal is a
16 good one. That is if there is nothing to distinguish two
17 people who commit the same crime, then they should
18 receive the same sentence because otherwise I think
19 anyone looking at the sentence would criticize the
20 justice system as being unfair.

21 I also need to consider a factor which is
22 categorized as the need for the sentence. In our
23 society, we don't punish people, sentence them, take away
24 their liberty or do other things to them merely because
25 we want to. We do it because we think it serves a

1 purpose. The primary purpose I think it serves is that
2 hopefully the penalty imposed will be just and in that
3 respect, it will promote respect for the law because it
4 will properly reflect the seriousness of the offense.

5 In this case, I have to tell you something that
6 I've said to every defendant who committed a tax offense
7 that I've sentenced in my 20 plus years as a judge and
8 that is I view tax offenses as very serious offenses. I
9 think historically many judges treated them as I don't
10 want to say bookkeeping errors. I think they are serious
11 because, first of all, it is hard for the Government to
12 prosecute these cases. There are probably a hundred,
13 maybe a thousand, maybe 10,000 tax frauds committed for
14 every prosecution the Government can successfully bring
15 and can afford to bring.

16 Second, to the extent people avoid their
17 obligations to pay their lawful taxes and people are
18 aware of it, it creates a distrust in the tax system
19 which I believe studies have shown lead to other people
20 violating the tax laws. If he can do it, why can't I do
21 that. I think we're in that dangerous situation right
22 now. I see many defendants in front of me, illegal
23 aliens mostly who are being removed from this country who
24 work very hard and work for businesses that don't report
25 them and don't ever pay taxes.

1 I think it is a serious offense because of the
2 lack of confidence it creates in other taxpayers that
3 everyone is paying their fair share as determined by
4 Congress.

5 The other need for the sentence is to provide
6 deterrence for criminal conduct. What that means is that
7 the penalty should be severe enough so that either if you
8 or another person were to look at it, they would have a
9 second thought about committing the crime that you
10 committed.

11 I don't think there's a need for deterrence in
12 your individual situation. I doubt you will be in front
13 of someone wearing a black robe again. However I do
14 think particularly with tax crimes and white collar
15 offenses generally there can be what's called general
16 deterrence when the message is out as to what sentence
17 was imposed. That's another need for the sentence here
18 today that I have to weigh.

19 Further, I have to -- this doesn't affect my
20 judgment here today. There's a need generally in
21 sentencing to protect the public from further crimes by a
22 defendant until he is deterred so that the public is
23 protected. I don't see that as an issue here as I
24 already suggested.

25 Lastly, the sentence needs to provide or take

1 care of appropriate treatment and care as is appropriate.
2 Again I don't find that's going to factor in here today.

3 That leaves me with the last two factors which
4 are probably the most serious ones to be weighed here
5 today. The first is the nature and circumstances of your
6 offense. Yours is not the largest tax crime that I had
7 in front of me. I might say it is probably the smallest
8 tax crime in terms of loss to the Government. That's
9 considering your particular offense of conviction.

10 The relevant conduct, though, of course, is in
11 the hundreds of thousands when you take into effect your
12 nephew's tax fraud. And of course, your conduct as you
13 appropriately recognize really allowed that conduct of
14 your nephew to occur. You characterized it as a terrible
15 mistake. It clearly was that. It was poor judgment. It
16 appears to me and I may misunderstand it, but the sense I
17 get between these two cases, in effect, you were willing
18 to look the other way, not be bothered by it, not
19 challenge him about his conduct or his desire to pad his
20 pocket taxfree.

21 For whatever reason you did that which I really
22 I'm not sure I understand, but you allowed it to happen
23 and then you went along by signing forms and not paying
24 the corporate taxes on those wages. Clearly you knew
25 better and you alluded to why you might have allowed this

1 to happen. Why you made this bad judgment. I would hope
2 that you will continue to reflect on that. I don't see
3 you as a serious risk in the future, but it's also I
4 guess the Rabbi's word of it is incongruous with the rest
5 of your life would cause me to wonder why it happened.
6 It clearly was allowed to go on for a very long time.
7 You were willing to look the other way. As the person
8 responsible for the activities of the corporation, you
9 have to take responsibility as you have by your guilty
10 plea.

11 The last factor I need to consider is your
12 history and characteristics. And there really is a lot
13 of positive to be said there. I'm not going to go on at
14 great length. It is recounted in the Presentence Report.
15 A lot of it is laid out in the letters that I received
16 from people who wrote in support of you, employees,
17 former employees, community leaders, people you know from
18 the community, people you have helped, other religious
19 leaders. Obviously there is a consensus, I would say,
20 among those who have known you over the many years that
21 you have been in New Haven that you have -- while much
22 has been given to you in life, you have given much to
23 many people. You're obviously a very generous person. I
24 particularly am struck by your willingness to help
25 persons in need, especially by giving them a place to

1 work. I think there's no greater gift than that. There
2 are many business owners, people who own companies in New
3 Haven who do not hire ex-felons, do not hire people with
4 substance abuse problems, et cetera. Clearly you have
5 done that. And that to me speaks a lot about the type of
6 person you are putting aside events that bring you in
7 front of me today.

8 Also you obviously have had a wonderful family,
9 raised a family, children and been active in religious
10 and community affairs, all of which are positive things
11 in your favor here today.

12 I guess and the last thing under history and
13 characteristics is your cooperation with the Government
14 in connection with this investigation. While it might
15 surprise you not every person who is confronted by the
16 IRS when they appear on the doorsteps of people around
17 the country, has the same reaction you have which I
18 understood by reading those reports to be basically come
19 on in which, of course, you knew you had to let them.
20 But you didn't try to avoid their questions. You
21 answered their questions and was very forthright and
22 cooperative. I have had many defendants who have -- I
23 had one recently, destroyed records, crashed a computer,
24 did things like that thinking they would get away with
25 it. Silly but people do it.

1 So I think also under your history and
2 characteristics factor which I have to consider here
3 today, I weigh that and the cooperation as well as the
4 Government's motion very heavily.

5 At this time, Mr. Goldberg, I would ask if you
6 would please rise. It is the sentence of this Court to
7 impose upon you a sentence of probation of one year. The
8 Court imposes the standard conditions of probation. In
9 addition, the Court imposes the mandatory conditions of
10 probation. One, that you not commit another crime.
11 Diahann, I don't have the others, but we'll put them in
12 the judgment.

13 In addition, the Court imposes the following
14 special conditions. You must provide the probation
15 office with access to any requested financial information
16 and authorize the release of any financial information.
17 The probation office may share that financial information
18 with the U.S. Attorney's Office.

19 Must cooperate with the IRS to pay all
20 outstanding taxes, interest and penalties and you must
21 file lawfully and timely all tax returns required by law
22 and provide copies to the probation office within 15 days
23 of filing.

24 Lastly, you must pay restitution in the amount
25 of \$40,490 which is imposed by this judgment joint and

1 several with the codefendant Ira Malkin in that lump sum
2 immediately. I understand that has been paid, but it
3 will be reflected in the judgment it is imposed but paid.

4 Further, the Court imposes a fine of \$25,000 and
5 a special assessment of \$100. Is there anything about
6 that sentence that's unlawful or I have overlooked?

7 MR. SCHMEISSER: Yes, Your Honor. I will say in
8 terms of clarifying facts, the restitution that was
9 agreed to by the defendant that related to tax harm to
10 the IRS caused by the company, but it was separate from
11 the tax harm that's calculated for Ira Malkin so the
12 Government would request that the --

13 THE COURT: It is not joint and several.

14 MR. SCHMEISSER: Not be joint and several.

15 THE COURT: Mr. Malkin was the amount he
16 failed to pay on personal income taxes. It did not
17 include this amount?

18 MR. SCHMEISSER: That's correct. This amount he
19 already paid. If you entered a joint and several.

20 THE COURT: Mr. Malkin would get credit for
21 something I didn't impose.

22 MR. SCHMEISSER: That's correct.

23 THE COURT: I didn't remember you are telling me
24 his restitution was solely his personal income taxes.

25 MR. SCHMEISSER: Personal income taxes, not

1 related to this.

2 THE COURT: My understanding is that Mr.
3 Goldberg has paid \$105,000 and change which is a
4 reflection of the 40,000 I mentioned plus interest and
5 penalties I'm assuming.

6 MR. SCHMEISSER: That's correct. He's actually
7 executed the civil paperwork.

8 THE COURT: Civil agreement. The restitution in
9 the criminal judgment is \$40,490.

10 MR. SCHMEISSER: That's correct, but he gets
11 credit for the payment.

12 THE COURT: The judgment will reflect that. Is
13 there anything you would comment on about the sentence,
14 Attorney Keefe, as far as I have overlooked or made a
15 mistake or unlawful?

16 MR. KEEFE: No, Your Honor. Thank you.

17 THE COURT: Mr. Goldberg, that is the sentence
18 that I impose upon you. It is the judgment of this Court
19 that will be your sentence.

20 Is there anything I've overlooked?

21 THE PROBATION OFFICER: Yes, just probation
22 requests that Your Honor waive the mandatory drug
23 condition.

24 THE COURT: It is not my courtroom. I didn't
25 have the list that I usually have here. There's a

1 mandatory condition of drug testing. There's no basis in
2 the record to justify that so the Court does waive that
3 mandatory condition. Other applicable mandatory
4 conditions will be imposed in the written judgment.

5 That is the sentence of this court, Mr.
6 Goldberg. I will say that I have a very good friend who
7 also made a mistake in his life and was sentenced by a
8 judge who sat in this court. And I have watched him over
9 the 30 years since and I know how hard it is. You
10 touched on it when you talked about you didn't think you
11 could make it up in effect. I'm not using your eloquent
12 words. I'm using my colloquial ones to your family, your
13 wife and those in the community. I'm sorry, sir.

14 MR. SCHMEISSER: I'm reminding the court there's
15 appellate waiver.

16 THE COURT: I will get to that in a minute.

17 MR. SCHMEISSER: I'm sorry, Your Honor.

18 THE COURT: It is always good to remind me.
19 Just based upon my experience with that friend of mine, I
20 would just say to you I would hope that when you have
21 satisfied all of your obligations under this sentence and
22 the sentence is complete that you understand that that is
23 your obligation to society and that it doesn't define who
24 you are as an individual. You are all the other things
25 that all these fine people came here to say to me. Both

1 by their words and by their presence. I hope you can
2 continue to make a contribution to your community.

3 You do have a right to appeal this sentence.
4 However I believe there was a waiver of appeal in the
5 plea agreement.

6 MR. KEEFE: There was, Your Honor.

7 THE COURT: The waiver said if I impose less
8 than 16 months of imprisonment, one year of supervised
9 release, \$100 special assessment and a fine of \$30,000
10 and the restitution agreed to that you would give up your
11 right to appeal or in any way attack this sentence.

12 In my view, the sentence does not exceed any of
13 those limits, so I do not think you have a right to
14 appeal. However, I would urge you to speak to Attorney
15 Keefe about whether you have a right to appeal and
16 whether you have one or not, whether you want to try to
17 appeal if you do. I would listen to him and his advice.
18 But at the end, it is your decision whether you want to
19 appeal your sentence. If you do, the only thing I need
20 you to understand is you have to give direction to
21 Attorney Keefe in the short period of time such that he
22 can file the Notice of Appeal within 14 days of today.
23 If he doesn't get that filed in 14 days, you've lost any
24 right to argue that you might have a right to appeal. Do
25 you understand there's this short time period?

1 THE DEFENDANT: Yes. I understand it.

2 THE COURT: All right. Anything further?

3 MR. SCHMEISSER: No, thank you, Your Honor.

4 MR. KEEFE: No, thank you.

5 THE COURT: We'll stand adjourned.

6 (Whereupon, the above hearing adjourned at 4

7 p.m.)

8

9 COURT REPORTER'S TRANSCRIPT CERTIFICATE.

10 I hereby certify that the within and foregoing is a true
11 and correct transcript taken from the proceedings in the
12 above-entitled matter.

13

14 /s/ Terri Fidanza

15 Terri Fidanza, RPR

16 Official Court Reporter

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25