

# SENTENCING SUBMISSION

United States v. Vadim Trincher

No. 13-Cr-268-JMF-2



well as financial, to help others even while he was engaging in the conduct for which he has pled guilty and fully accepted responsibility. His personal history and character, *see* Section I(C), *infra*, the fact that he has no prior criminal record, in combination with the highly atypical nature of his offense conduct, which centered on bookmaking which, in the words of the government, “catered to Russian millionaire and billionaires,” many of whom were friends from his youth in Kiev and all of whom were extremely wealthy individuals who could well afford to lose the amounts wagered, as contrasted to its being focused on bettors in the United States who risked losing sums they could not afford, *see* Section I(B), *infra*, as well as his shame and remorse at having engaged in conduct which violated United States criminal laws, constitute factors that the Court can consider in determining an appropriate sentence.

**I. THE 18 U.S.C. §3553(a) FACTORS WARRANT CONSIDERATION OF A SENTENCE SUFFICIENT BUT NOT GREATER THAN REQUIRED BY BOTH THE SENTENCING GUIDELINES AND 18 U.S.C. §3553(a)(1).**

Mr. Trincher has fully accepted responsibility for this conduct. At the change of plea hearing, he admitted that, as a member of what is referred to in the indictment as the “Taiwanchik-Trincher” organization, he agreed to receive sports bets in New York City which, on any given day, exceeded \$5,000 a day, that he used a Cyprus shell company to unlawfully transfer proceeds of the offense to the United States to conceal the source, nature, and ownership of the funds, and that he participated in the affairs of the enterprise knowingly and willfully. Tr. 11/14/13 at 30-31.

**A. Sentencing Guidelines.**

Because Mr. Trincher pled guilty to Count One, charging him with RICO conspiracy, the parties stipulated in the plea agreement that the applicable guidelines sentencing range (“GSR”) is 21-27 months, based on the applicability of the guideline set for RICO offenses, USSG §2E1.1, which provides for a base offense level of 19, reduced by three levels for acceptance of responsibility, for a total offense level of 16.<sup>1</sup> The underlying racketeering activity consisted of sports gambling in violation of 18 U.S.C. §1955 and the laundering of the proceeds of that activity. Mr. Trincher’s guilty plea to a RICO count, as opposed to one to gambling or money laundering, or even both, exceeds the base offense levels that would have applied were he to have entered pleas only to the core gambling or money laundering activity alleged. *See* PSR ¶44.

**B. The Nature and Circumstances of the Offense Are Atypical.**

The conduct which brings Mr. Trincher before the Court for sentencing had its origins in Kiev, where Mr. Trincher met many of the men who later placed sports bets through him, men who, in the aftermath of the dissolution of the Soviet Union, became fantastically wealthy. Mr. Trincher is an admitted sports bookmaker, but there are significant factors which distinguish his offense from the typical bookmaking case which comes before the federal courts. The following information is provided to the Court not to excuse or justify Mr. Trincher’s conduct, for which he accepts full responsibility, but rather to provide essential background for the Court’s consideration in determining the sentence which is sufficient, but not greater than necessary, to satisfy the goals of sentencing.

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<sup>1</sup> The Presentence Report concurs with this guidelines calculation. *See* PSR ¶¶48, 80.

Sports betting in Russia and the Ukraine is a way of life. In Russia, sports betting is a legal and hugely profitable industry; it is regulated and licensed, and bettors can place their bets at licensed betting shops. *See, e.g., Betting in Russia*, <http://www.frixi.com/sbook/regions/russia.asp> (last visited February 12, 2014).<sup>2</sup> While bookmaking is not legal in the Ukraine, it is punishable only by fine and forfeiture of

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<sup>2</sup> Sports betting has also become endemic in the United States. For example, the cover of the February 2, 2014, *New York Times Sunday Magazine* labeled sports betting “our new national pastime,” and the accompanying article stated:

One in five American men polled by researchers at Fairleigh Dickinson University (and nearly one in 10 women) said they bet on sports in 2012. In Nevada, where it is legal to bet via licensed bookmakers, the industry collected \$3.4 billion in wagers in 2012, nearly twice as much as a decade ago. Around the country, vastly more sports wagering is estimated to take place illegally, through unlicensed bookies in person or, increasingly, online and through offshore websites, which by law are not allowed to take bets from United States residents. (Experienced online gamblers, however, claim that they have never heard of the law actually being enforced.) Sports economists say it’s impossible to know how much money is spent on illegal gambling; the National Gambling Impact Study Commission cited an estimate of somewhere between \$80 billion and \$380 billion annually.

Sports betting is so widespread that several economists I spoke with suggested that gambling was fueling the rise in N.F.L. viewership, rather than the other way around. “Betting and fantasy sports are extremely important to the popularity of the N.F.L.,” says Rodney Paul, a sports economist at Syracuse University. Todd Nesbit, an economist at Ohio State University, has found that fantasy-league participants watch 35 percent more professional football on television each week and attend 57 percent more games in person per year than nonparticipants. When money is at stake, every game — even preseason ones, tedious blowouts and humdrum matchups between nonmarquee teams — becomes must-see TV. “People will watch Peyton Manning versus Tom Brady, but why do you watch Jake Locker versus Andy Dalton if you’re not from their cities?” says Colin Cowherd, an ESPN Radio host. “The N.F.L. never wants to mention this, but one of the reasons that ratings continue to skyrocket is because of fantasy football and betting. Betting gives games juice.”

James Vlahos, “Money on the Game,” February 2, 2014, available at <http://www.nytimes.com/2014/02/02/magazine/the-super-bowl-of-sports-gambling.html> (last visited February 17, 2014).

proceeds. *See* Gambling in Ukraine, [http://en.wikipedia.org/wiki/Gambling\\_in\\_Ukraine](http://en.wikipedia.org/wiki/Gambling_in_Ukraine) (last visited February 12, 2014), *citing* On Prohibition of Gambling Business in Ukraine, <http://zakon3.rada.gov.ua/laws/annot/1334-17> (as translated on Google Translator, <http://translate.google.com/>). There exist, however, hundreds of online bookmakers that accept bets from individuals located in the Ukraine. *See* Betting in Ukraine, <http://www.frixo.com/sbook/regions/ukraine.asp> (last visited February 12, 2014).<sup>3</sup> The central locus of the sports betting operation in this case was in the Ukraine, overseen by a woman named Yulia, with whom, as the wiretaps revealed, Mr. Trincher spoke at a Ukrainian telephone number. *See* Affidavit of March 1, 2014, at 32 (affiant recounts conversation between Mr. Trincher and Yulia in which Yulia reported “the bets that were placed overseas”); Affidavit of March 30, 2014, at 6 (listing targets who are “all believed to participate in the *operation of the Russian sports gambling operation* and the laundering of proceeds *from that operation*” (emphasis added)); *id.* (listing targets who “are all bookies in the Ukraine working for Vadim Trincher”); *id.* at 7 (listing targets who are “all high stakes sports gamblers in the Ukraine that bet millions of dollars with Vadim Trincher and Anatoly Golubchik”); PSR ¶34 (sports gambling operation “catered primarily to Russian oligarchs living in the Ukraine and Moscow”); *id.* (gambling operation laundered “proceeds from the gambling operation from Russia and the Ukraine . . . .”); PSR ¶36 (“The sports gambling bets were typically placed with bookies working in Russia . . . .”). The extensive electronic surveillance conducted by the government, and the Russian/Ukrainian telephone numbers to which calls were placed and from which

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<sup>3</sup> In conversations intercepted during the government’s electronic surveillance of his cell phone, Mr. Trincher was overheard discussing the fact that certain large sports bookmakers were licensed and therefore operated legally in Russia.

calls were received, as well as the fact that the betting focused far more on soccer than on the usual sports on which Americans bet, fully confirm the centrality of the Russia/Ukraine location for much of the sports betting activity at issue. Thus, the normally negative economic impact on the United States and its inhabitants from sports bookmaking operations (protecting American sports bettors from the risks of gambling was one of the objectives motivating Congress when in 1970 it enacted federal gambling laws such as 18 U.S.C. §1955) was, here, at most, modest.

The individuals who placed bets with Mr. Trincher were predominantly located in Russia or the Ukraine. As the government stressed throughout the applications for authorization to intercept conversations over Mr. Trincher's cell phone, the sports betting operation "catere[d] to Russian millionaires and billionaires." Affidavit of February 1, 2012, at 5, 17; Affidavit of March 1, 2012, at 5; *see also* Affidavit of December 1, 2011, at 17 (reporting that Mr. Trincher "operate[d] a sports gambling business that caters to Russians and Ukrainians"). Mr. Trincher attempted to avoid accepting sports bets from Americans having made the erroneous assumption that if he refrained from taking bets from Americans, he might avoid the full sanctions of United States' law.<sup>4</sup> That assumption, as he now knows, was mistaken, at least in part, because his extraterritorial sports betting activities were conducted in part from his home in New York and utilized American interstate commerce facilities and, in any case, because 18 U.S.C. §1955 (like

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<sup>4</sup> Had Mr. Trincher gone to trial, he would have contended that §1955 does not apply extraterritorially. *See, e.g., Morrison v. National Australia Bank Ltd.*, 561 U.S. 247, 130 S.Ct. 2869 (2010), *United States v. Vilar*, 729 F.3d 62, 70 (2d Cir. 2013). He has, of course, waived such legal defenses by voluntarily and intelligently entering his unconditional plea to the RICO count of the indictment.

18 U.S.C. §1084) does not require a specific intent to violate the law, and ignorance of the law is, of course, no excuse, nor does Mr. Trincher seek to excuse his conduct.<sup>5</sup>

Unlike the typical bookmaking operation which is open to all comers and does a high volume of business with United States bettors, only five to eight people a day placed bets directly or indirectly with Mr. Trincher on sporting events (often on soccer results rather than the sports more popular with United States bettors) and only about fifteen people in total. These people were known by Mr. Trincher to be extremely wealthy individuals for whom sports betting was a recreational pursuit carried out with funds that, if lost, would be a mere drop in their enormous bucket of their wealth. One such individual, for example, was Roma, full name Roman M.,<sup>6</sup> a man who made and spent prodigious fortunes in real estate investments and who could well afford the frequent large bets he placed.<sup>7</sup> Another bettor was Igor S., a friend of 30 years, who owns one of the largest sports franchises in the Ukraine. Mr. Trincher was not, therefore, the

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<sup>5</sup> The full and detailed knowledge of the requirements of United States law which Mr. Trincher has gained since his arrest will go far towards ensuring that he never again engages in such conduct, particularly as he will be struggling to redeem the damage he has done to his family and to his reputation and to regain the trust and esteem of those affected by the knowledge of his criminal conduct. Thus, a substantial period of incarceration is not necessary “to protect the public from further crimes of the defendant,” §3553(a)(2)(C), nor is it necessary to serve the ends of specific deterrence, §3553(a)(2)(B).

<sup>6</sup> Because bettors are outside the parameters of 18 USC 1955, counsel has abbreviated their last names in the publicly filed submission; he has, however, provided the Government with a draft containing the last names of the two bettors identified herein.

<sup>7</sup> For example, intercepted conversations show Roma buying two \$20 million homes, call no. 2346, and buying a business in London from which he expected to earn \$50 million. Call no. 3382. He was also reported in the media to have purchased a Mercedes sedan for \$720,000 in an article which identifies the bettor’s last name and has been specifically identified for the Government.

prototypical bookmaker who takes money from anyone who wishes to place a bet heedless of the possible disastrous financial consequences for losing bettors and their families. Quite the contrary: sports betting was a recreation to those betting with Mr. Trincher. Providing a sports betting service to Russian and Ukrainian oligarchs who possessed more money than they and their descendants could spend in several lifetimes is a far cry from taking money from working class and middle class bettors who can ill afford their losses. Mr. Trincher did, to be sure, make a great deal of money from these activities and as part of his plea agreement, he has agreed to the forfeiture of money and property worth in excess of ten million dollars, *see* Consent Preliminary Order of Forfeiture as to Specific Properties (Doc. 453). *See United States v. Peters*, 732 F.3d 93, 98 (2d Cir. 2013)(“Criminal forfeiture is a form of punishment.”).<sup>8</sup>

**C. The History and Character of the Defendant Warrant Significant Consideration in the Imposition of the Sentence**

But, surely, if ever a man is to receive credit for the good he has done, and his immediate misconduct assessed in the context of his overall life hitherto, it should be at the moment of sentencing, when his very future hangs in the balance. This elementary principle of weighing the good with the bad, which is basic to all the great religions, moral philosophies, and systems of justice, was plainly part of what Congress had in mind when it directed courts to consider, as a necessary sentencing factor, “the history and characteristics of the defendant.”

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<sup>8</sup> Mr. Trincher, on the advice of counsel, has asserted his Fifth Amendment privilege against self-incrimination in declining to provide a full and complete financial statement including a listing of his assets and expenditures. The government informed counsel that at the time of the plea negotiations that there was an ongoing criminal tax investigation. Because counsel was unable to negotiate full and unconditional immunity from prosecution for tax offenses for Mr. Trincher, they considered assertion of the Fifth Amendment privilege to be imperative. *See Garner v. United States*, 424 U.S. 648 (1976).

*United States v. Adelson*, 441 F.Supp.2d 506, 513 (S.D.N.Y. 2006), *aff'd* 327 Fed. Appx. 713 (2007). Mr. Trincher's personal history and characteristics militate in favor of a merciful sentence for Mr. Trincher.

**1. Mr. Trincher's personal history.**

Mr. Trincher is a 53 year old Russian immigrant who came to this country in 1989 and became a naturalized American citizen in 2000. The history of Mr. Trincher's life in the Ukraine forms a critical backdrop for evaluating and assessing both Mr. Trincher as an individual and the criminal conduct which brought Mr. Trincher before the Court for sentencing. This information is provided not to excuse or justify his conduct, for which he is deeply remorseful and accepts full responsibility, but rather to provide essential explanation, background, and context for the offense conduct to which he pled guilty.

Born in Kiev, Ukraine, Mr. Trincher was from an early age a science and math prodigy, qualified to attend the best universities in the country. Because he is Jewish, however, he was relegated to a backwater polytechnic school, from which he was expelled after only a year, as his family was denounced as enemies of the state because he wished to emigrate to Israel. His parents lost their jobs for the same reason, and it fell to Mr. Trincher to support his family. Unable to obtain other meaningful employment because of his religion and his family's interest in leaving Ukraine, he turned to playing cards and backgammon to bring in money for the family. As described by Anna Shoukhet, a close life-long friend with personal knowledge of these events:

I remember he was a prodigy in mathematics from a very early age. At age eight he was able to beat any adult in a game of chess. His mind was not only bright in math, but also in the sciences, and from an early age he dreamed of being a research scientist. Because of the extreme Anti-Semitism that existed in Kiev during the ruling of the Soviet Union,

Vadim was forced to move far away from his home to attend Polytechnic Institute in the city of Cherkasy. There he was an excellent student, but was expelled after a year because his family was reported as traitors to their country because they were thinking of moving to Israel. His parents were also fired from their jobs at this time, which left the family in an awful financial position; there was not nearly enough money to get food on the table. Determined to pull his family through these hard times, Vadim began playing chess and backgammon for money. It was only due to this that his family and he were able to survive.

Letter of Anna Shoukhet. Another close friend who knew Mr. Trincher during this time confirms:

Besides the fact that Vadim was a very brilliant student, winner of many math and science tournaments, being accepted to a university at Kiev, Ukraine was impossible due to anti-Semitism mentality in the Soviet Union, being Jewish was very looked down upon and hated. Vadim . . . had a very promising future in the science field, but when his family in 1979 decided to apply for a refugee status and wanted to leave the former Soviet Union, he was thrown out of his university as if he had betrayed his country and his parents were immediately fired from their jobs. . . . Because it was impossible to get a job . . . to support his family, he had to play chess, dominos, and cards for some change. This was the only way possible to make money in order to feed the family . . . . He and his family were denied to leave the former Soviet Union for 9 years, and during those years he was the only provider in the family.

Letter of Alexandra Fidman. *See also* Letter of Elena Trincher; Letter of Elena Limberis.

Those who knew Mr. Trincher in his Russian years believe that Mr. Trincher “was born to be a scientist, god gave him this talent and this was his dream. All of us who know Vadim are absolutely certain that if he was born in a normal democratic nation, he would have received a professional degree associated to his intellect, then he would have been a world renowned scientist.” Letter of Alexandra Fidman. *See* Letter of Elena Limberis (“If Vadim was born in another country, his life would have turned out differently.”). It was not, however, to be, given the reality of life in the former Soviet Union in the 1970s and 1980s for Jewish would-be emigres, and Mr. Trincher and his prodigious talents were forced to take a different path. In turning to playing games for money to support his family, Mr. Trincher’s mathematical mind and

potent analytical abilities stood him in good stead, and he quickly became an accomplished player. It was in that milieu that he met and became friends with several of the men who later became his sports betting customers, men who also later became fantastically wealthy after the break-up of the Soviet Union. *See* Section I(B), *supra*.

After finally being permitted to come to this country, in which he arrived with only \$350 to his name (the maximum he was permitted to take out of the Soviet Union), *see* Letter of Alexandra Fidman (a friend of Mr. Trincher for 35 years), Mr. Trincher again began to play backgammon for money to provide for his family; he was so skilled at the game that he was able to beat some of the best players in the world and could have been a world championship contender. *See* Letter of Mike Svobodny. However, once discovering poker, which he had never played before coming to this country, and quickly mastering the game, Mr. Trincher shifted his focus to the world of professional poker, in which he gained a reputation as a “genius.” *Id.* As one friend who knew him during this transition writes:

I have never seen anyone become a professional poker player as quickly as he did. Never in the history of poker did a person learn to play the game at 45 years old, and won a major poker tournament by 49. Vadim had a very aggressive and unique playing style. He discovered his own personalized style that I have never seen before. He showed a particular instinct and had a unique logical understanding of the game. His moves were always very calculated and decisive. Developing such skills often takes decades, however, Vadim has a natural talent for these kinds of games.

*Id.* Mr. Trincher progressed to become an internationally-known professional poker player, placing first in the Foxwoods Poker Classic in 2009 and winning \$731,079. Mr. Trincher later branched out into sports betting, believing, at the start, that if he were careful, as he was, not to accept bets from individuals located in the United States, he would not fall afoul of American law. He now, to his present shame and regret, knows better.

**2. Mr. Trincher's family.**

Mr. Trincher met his wife Elena in the Soviet Union, where they fell in love. Marriage was, however, an impossibility at that time because "Elena's mom . . . was the mayor of the city and her father was colonel of the Soviet Union army, and the sister's husband was the consulate representative and served in Germany, but the fact that Vadim was Jewish and titled as someone who betrayed his country, his marriage to Elena would completely destroy the jobs and lives of Elena's family." Letter of Alexandra Fidman. Elena, who was the privileged child of the Ukrainian ruling elite, gave up everything to be with Mr. Trincher. As she movingly writes:

I met Vadim in 1983. My father was a retired colonel and worked as the Second Secretary of the Simferopol Regional Party Committee. My mother was a Deputy Chairman of the Executive Committee of Simferopol . . . . They were loyal to the Communists, brought up in devotion to the Communist ideology. And they were ardent anti-Semites. They could not imagine that their daughter could even stay next to a Jew. But I was raised in a very different spirit. . . . [M]y grandparents had a completely different ideology. I grew up in the ideology of my grandparents, not in the ideology of my mom and dad. And with such ideological background I met Vadim Trincher in 1983. From my side it was the family that represented the Communist ruling elite. From Vadim's side it was the family which, through many generations, dreamed to leave the Soviet Union, to gain freedom. . . . When we met, we have fallen in love immediately. In those days to get permission for departure for permanent residence abroad you should get a parental consent. When my parents learned about our plans, they publicly, via a newspaper, disavowed me. They got sympathy from people, but I was stigmatized. I knew that I was losing my parents and my sister but for the sake of Vadim I decided to abandon everything. Of course, I worried very much, I cried. I was then already pregnant with our first child Illya. But Vadim's family accepted me, they tried to replace my own parents. I was surrounded by care and warmth.

Letter of Elena Trincher. *See* Letter of Svetlana Ryback (Elena Trincher's sister).

At the time of the Chernobyl explosion in 1986, Elena, who was then pregnant with their second son, Eugene, and 11-month old Illya were staying in a location 40 miles away from the explosion site. Soviet authorities evacuated Elena and Illya to a camp in the Crimea, where they were held for five months and forbidden contact with the outside world while the government

sought to conceal the extent of the disaster. Eugene was born in the camp, prematurely. *See* Letters of Elena Trincher, Alexandra Fidman and Svetlana Ryback. Mr. Trincher was granted political asylum and was finally able to come to this country in 1989; Elena joined him here on a tourist visa in 1990, at the cost of being forced to leave one child – Eugene – behind, essentially as a hostage to ensure her return to the Soviet Union. The couple married shortly after Elena came to this country, which infuriated Elena’s father, who threatened that he would never allow Elena to be reunited with Eugene. This was an extraordinarily difficult time for the couple, and it was two years before they were finally able to bring Eugene to this country. *See id.* Mr. and Mrs. Trincher have remained together through some exceedingly difficult times, and, although Mr. Trincher’s conduct as a husband, as he would be the first to admit, has been far from exemplary, the couple remains committed to each other. Mrs. Trincher has stood by and supported her husband since his arrest and will continue to do so, as she eloquently confirms:

I love my husband, and [my] husband loves me. We are a wonderful family. I believe in my husband. I believe in judges, in the American judicial system. And I am sure that whatever punishment will be given to him, he will return home a much better person. For many years, we went together through the difficulties of the immigrant’s life. And the most valuable, the most precious thing we have is our relationship. . . . I am ready to share his fate, whatsoever would happen to him. And he’s ready to share his fate with mine. Our lives are shared, and our fate will also be shared. We are relatively young people. And when Vadim comes home, we will have a chance to open a new page of our life in America.

Letter of Elena Trincher. *See* PSR ¶61; *see also* Letter of Svetlana Ryback (“Elena and Vadim have been through so much in their lives, that this will not shred their devotion to each other. No matter what happens, my sister will always support her husband.”).

Mr. Trincher has also been a devoted father to Illya and Eugene, as described by his wife:

He showed endless patience in conversations with our children. . . . He loved our children immensely, whatever they did. But, on the other hand, he has always adhered to certain principles. Probably, it was this that made him such a wonderful father.

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His patience, his understanding of their needs and problems, his conversations with them has had an enormous influence on them. And even when he was away on business, he was constantly in contact with them by phone. He had so much respect for those little personalities, he talked with them as equals, and children listen to him. They repaid him with the same love and care.

Letter of Elena Trincher. Now, as he reflects upon his life, Mr. Trincher recognizes that here, too, he has not always been the unconditionally positive role model he wished to be and thought he had been, given his sons' likely observations from a relatively young age of his involvement in the world of gambling and their subsequent involvement in their own gambling-related activities which led to their being indicted along with him. The arrest of his sons has been a devastating and profoundly sobering experience for Mr. Trincher. *See* Letter of Mykola Ishchuk (long-time friend writes that in the months following his indictment, Mr. Trincher "became even more reflective to how his actions influenced others, especially those close to him").

Mr. Trincher also has a third son, [D], who is ten years old, born of an extramarital relationship, to whom he has been an active and involved father, doing everything he could to integrate [D] into his family.

Especially his parental qualities were manifested toward his third child - [D]. Today, as a father of two adult sons, Vadim understands what mistakes were made in the process of education of our children. Vadim is making now every effort to ensure that those mistakes wouldn't be repeated in the education of [D]. It's my fault that my elder son Illya suffered an imbalance between sporting activities and study. When he was 8 years old, he received a full scholarship in the Nick Bolletieri Tennis Academy in Florida. In addition to 8 hours of sporting activities in the Academy, I burdened him with additional 2-3-hour workouts at home. I am a former sportswoman; I myself went through such training and believed that it will only benefit my son. He practically did not have time to study in school. But it was mine, not Vadim's choice. Vadim tried to dissuade me, to stop bring up our son only as an athlete. But I have not listened to him, what I very much regret now. I only now I realized how I restricted the further Illya's career.

Now Vadim makes every effort to ensure that [D] will not repeat the fate of Illya. [D] is also involved in sports, but Vadim concentrates 70% of his attention on learning. Before his arrest he frequently visited his child, was actively involved in his life. From three to four days a week they socialized - went to concerts, played sport games. Vadim used to come to his school, watched him swimming, rooting for him during sports competitions.

When Vadim was arrested, their communication got broke, but he has put all his strength, reorganized all things in order to continue to communicate with his child. Now [D] together with his mother comes to our house one-two times a week. Vadim does his homework with him. Then they play chess or checkers. If Illya and Eugene are in the house, he sets out chess problems on three boards and arranges competition between them.

He also invites [DM], the son of my friend Yana, who is two years older than [D]. He also participates in the tournaments. Time passes quickly, because in the process of competition they don't notice the passage of time. And they still have time to fool around, to play Monopoly or other games.

That particular attention toward [D] is especially visible during the weekly dinners, when all members of our family gathers around a large round table - Vadim, our elder sons, [D] and his mother Tatiana, and I. Sometimes, Tatiana's brother and his wife join us. And during those dinners our older children concentrate all their attention on [D].

We asked him questions, and he tells us how things are going in school, shares with us his successes. We all support him. And you should see the happy face of this child who feels care that surrounds him. This atmosphere of happiness, mutual understanding was not easy to create. Vadim had to make great efforts to reach the hearts of all the people sitting at this table. He did a tremendous job.

Letter of Elena Trincher. *See* Letter of Alexandra Fidman; Letter of Irena Kogan Slootsky; Letter of Yana Markovski.

In her letter to the Court, [D]'s mother Tatyana Guza describes Mr. Trincher as "an admirable father to my son":

He calls [D] every day, either after school or in the evening. Vadim has concern and participates in my son's major activities: swimming, academics and music. When Vadim is in the United States, he sees [D] between 2 and 3 times a week. I have observed that their time together is full of love and joy.

[D] participates in competitive swimming in the tri-state area and is actually ranked number one for his age group. Vadim often attends to watch [D] compete. My son also

plays the piano and Vadim attends those recitals as well. In my heart I know my son has been influenced to music by his father's interest in music and [D]'s piano playing.

Academically, my son excels in almost anything he puts his head to, and always tries his best in anything he tackles. I believe those traits have been nurtured by his father. Vadim is an extraordinary mathematician and always had a knack for problem solving. My son and his dad would always find interesting and challenging mind games to solve. Vadim has influenced [D] to become an amazing chess player. I believe that these qualities are at least partly from the inspiration of his dad. In short, Vadim has cared for [D] and been a good father. Together we want what is best for our son and his future.

Letter of Tatyana Guza.

Mr. Trincher remained close to his parents, who were able to come to this country in 1991, until their deaths. At the time of his arrest, Mr. Trincher's mother was 83 years old and in deteriorating health following a stroke. For Mr. Trincher, one of the most painful aspects of his arrest was his inability to be with his mother in her last days, for which he blames no one but himself, and, even worse, to later learn that his mother had become aware of his arrest and that of her grandsons before her death. The shame and humiliation he has brought upon his family and the damage his conduct has done to them have been punishment of the acutest kind, one he will suffer for the rest of his life. *See* Letter of Jolanta Kramarz (when Mr. Trincher discovered that his mother knew of his arrest, he said, "it was the worst punishment for what I did"); Letter of Svetlana Ryback (Mr. Trincher has "expressed the shame and embarrassment he felt especially because he has been such a role model to us"); Letter of Natalie Liberman ("Having had an opportunity to speak with Vadim, and I absolutely convinced that he has learned from this entire ordeal and quite remorseful."); Letter of Irena Kogan Slootsky ("The . . . embarrassment for him and his children, the difficulties to spend time with his mother, see his son [D] and spend time with him and other family members . . . are very painful. His punishment is already heavy and . . . [he is] regretful to his actions and the pain that he caused to his surroundings."); Letter of

Eugene Katchalov (Mr. Trincher is “extremely remorseful in regards to his actions and specifically illegal gambling. Not only does he now realize how other people may have been hurt by his actions, but also how much this whole experience has cost him in terms of his family. His mother, whom he was very close with, passed away last week and he is distraught that he wasn’t able to spend her final moments by her side. He is also very sad now that he’s unable to spend quality time with his youngest son . . . .”); Letter of Yana Markovski (Mr. Trincher “severely regrets what had happened,” which will “cause consequences not only for him, but also will cause suffering to others”); Letter of Mykola Ishchuk (Mr. Trincher is “[v]ery much conscious how his past actions and his recent infamy reputation affected his family and worst of all, his youngest son, how he became treated in school and by friends”).

### **3. Mr. Trincher’s Caring and Generosity.**

Perhaps the most consistent theme which emerges from the letters submitted on behalf of Mr. Trincher is his life-long history of giving of himself unstintingly to help others, whether with his time, his attention, his money, or his emotional support. One area of intense focus in helping others stems from his strong feelings about the dangers of drug use:

Vadim is categorically against drugs. He considers the use and sale of drugs an enormous vice. The fight against drug addiction has become the main principle of his life. In the period from 1994 to 2003, when we lived with our children in Brandeton, he actively participated in the activities for combating drug use – especially, by teenagers. He talked about the dangers of drugs and alcohol use, explained to our children and their friends how destructive drugs could be to the child’s body. He is a permanent fighter on the front of the battle against narcotics.

Letter of Elena Trincher. One of the most telling and eloquent letters comes from Marcus Gordon, a fatherless young African American man introduced to the Trincher family at the age of nine as a friend of Eugene Trincher’s, when he was living in a rough neighborhood in

Bradenton, Florida, where the Trinchers lived at the time, with his single-parent mother who struggled to make ends meet. As Marcus spent more and more time in the Trincher household, Mr. Trincher became a mentor and father figure for him, giving him “compassion and fatherly advice,” and being “someone that [he] could count on to be there for [him].” Letter of Marcus Gordon. He credits Mr. Trincher’s positive influence for his successes in life and, particularly, in helping him avoid falling into the drug scene which was so prevalent in his neighborhood and among his peers:

When you live in a small town like Bradenton, kids often found themselves getting into trouble while looking for something to occupy their time. In high school, drug use, oxycontin and marijuana, became a widespread problem amongst my friend group. This was particularly troubling to Mr. Trincher. He was consistently outspoken against the use of drugs when speaking to his sons and their friends. His constant lecturing on the issue might have seemed a chore to listen to at the time, but looking back I am so thankful that he cared enough to have that discussion with me. *Throughout high school, and even years after, I would hear his voice in my head advising me to stay away from that lifestyle. This has made it so easy for me to make the right decision whenever faced with the temptation.*

Not all of us were fortunate enough to have a strong influence like Mr. Trincher in their lives. I can recall a classmate and friend named Justin who sadly overdosed on oxycontin around my senior year of high school. No one took this news lightly, especially Mr. Trincher. This was exactly what he warned us about. . . . Not wanting to be involved in the drama of it all, a group of us, including myself, Mr. Trincher’s son, and a few other friends decided that we would stay home and mourn privately. Mr. Trincher was not going to let that happen. He quite literally dragged us there by force to bear witness to Justin’s funeral service and pay our last respects. Images of that day will forever be ingrained in my mind. Although it was difficult to sit through, I think it was a true wake up call for my entire group of friends. The grief that was so clearly displayed on Justin’s mothers face is something that I will never forget. I would never want to put my mother through that. *I think that was Mr. Trincher’s goal in bringing us that day. It was one of those life-changing moments.*

*Id.* (emphasis added). Marcus’ mother too believes that her son “has grown into the successful young man that he is today because of the guidance he received from Mr. Trincher over the years.” Letter of Linda Gordon.

I started to notice a positive change in Marcus' behavior shortly after his relationship with Mr. Trincher started. He would come home and tell me about all of the exciting things that they had done over the weekend. He seemed to keep them active, always stimulating their minds. Marcus became engaged in sports and other activities that he had not had the chance to learn about prior to spending time with him. I especially appreciated Mrs. Trincher taking my son and the other boys to church on Sunday mornings. . . .

Aside from all of the invaluable advice and love that my son received from Mr. Trincher, he also helped ease the financial burden that raising two boys on your own can have on you. Mr. and Mrs. Trincher would often host Marcus for dinner or offer to take him to a movie or amusement park. Those were not things that I could necessarily do for my boys on a regular basis, so I felt blessed when he was able to have those experiences with them.

. . . . He has been nothing but kind and compassionate to my son, and for that, I am forever thankful to him.

*Id.* After his arrest, Mr. Trincher "repeatedly asked for [Marcus'] forgiveness," which Marcus granted "without hesitation" because Mr. Trincher "been such a strong positive force in [his] life and [he] could not imagine where [he] would be without his guidance over the years." Letter of Marcus Gordon. This is but a single example of the many young people to whom Mr. Trincher has offered a helping hand over the years. Eugene Katchalov, a young man who spent summer vacations with the Trinchers in his youth, writes feelingly of Mr. Trincher's kindness and generosity to him, as well as to others who were welcomed into the Trincher home, and the career advice and assistance with which Mr. Trincher provided him in later years. Letter of Eugene Katchalov.

After a friend's daughter was nearly killed by a drunk driver and left permanently disabled, the friend and her daughter, along with Mr. Trincher's sons, decided that they wanted to do something to help eradicate substance abuse, an effort to which Mr. Trincher

enthusiastically contributed his time, money, and advice. When Illya approached his father for financial help in establishing a rehab center,

Vadim was more than happy to help, he showed his concern about the younger generation. During the long hours in a hospital we discussed how to help and prevent tragedies. There Vadim paid a big amount of attention to show how strong the family can be with the right attitude and how much it can help to survive hardships. He wanted to help out more and spent long hours talking and explaining about how important it is to help people understand that drinking under the influence kills and destroys lives.

Vadim was talking to his sons and my daughter explaining how important sobriety is for young people. He was very exceptionally surprised when our children decided to organize Drug and Alcohol Rehabilitation Center. I spend a lot of time during this period with the Trincher family. Vadim and I did some research, and went to LA, where Vadim helped find a Program Director and Program Contractor who could help establish [the] Center. We visited different Rehabs to get a better understanding and Vadim explained his high interest as positive influence on his sons' development and future. He showed himself as a deep person who understands the human weakness to alcoholism and was willing to help in any way possible to support the Drug and Alcohol rehab center, he did so by granting us the donation of \$150,000 in order to open the center.

Letter of Flora Yankelevich. Mr. Trincher was particularly grateful that his son Eugene performed volunteer work at the center, Serenity Manor East, which opened in 2007. *Id.* Recessionary pressures forced the center to close in 2009, but in the two years it was in existence, it helped 20 people achieve sobriety and turn their lives around. The center was featured in an Emmy Award winning television show. *See* [www.tv.com/shows/intervention/joey-1282190/](http://www.tv.com/shows/intervention/joey-1282190/) (last visited February 10, 2014). *Id.* Mr. Trincher reaped no financial benefit from his contributions to the founding and ongoing work of Serenity Manor East. *Id.*

When another friend, Anna Shoukhet, became involved with children with Autism Spectrum Disorder,

Vadim was excited to join me in helping these children. He took the opportunity to help these children very seriously, putting his entire soul and mind into the project. Together we spent many of hours putting together a business plan, collecting money (a large portion of which he donated himself), and opening the non-profit organization Autism

Can Be Cured. His considerable donations established my company:  
[www.autismcanbecured.org](http://www.autismcanbecured.org).

Vadim's involvement in the organization continued and was very active and helpful. Without Vadim's generous donation of \$50,000, endless hours, and committed work, Autism Can Be Cured would not have been able to achieve the results that it has so far. . .

Letter of Anna Shoukhet. Another friend writes of the ongoing emotional support she has received from Mr. Trincher, especially at particularly difficult times in her life, when Mr. Trincher gave freely of his psychological and financial support:

I ALWAYS knew that I could count on him for his support and guidance. Vadim became pillar of my strength in one of my most personally devastating periods of my life. There are a multitude of examples that can demonstrate Vadim's character. For example, when my mother was hit by a vehicle when she was crossing a street near her home, she had suffered severe and life threatening intracranial injuries . . . . During these dark days, which turned into weeks, and then months, Vadim was a constant source of vital and invaluable support for me, as well as my two siblings. . . . [T]hat period of time was the darkest, and most frightening time of my life. Not only Vadim was able to provide us with financial resources to assist us with her rehabilitative process, but even more importantly, he was able to provide invaluable psychological support, without which coping and dealing with tragedy of such a magnitude would have been simply agonizing.

Letter of Natalie Liberman.

Elena Limberis also writes feelingly of the kindness, care, and support which Mr. Trincher, whom she met in 1987, has extended to her and her family over the years:

In 2004, Cayman Islands were hit by hurricane Ivan. My son Sasha hadn't the opportunity to evacuate and in time and was hurt. He lost everything he had. The boy came back to New York with empty hands.

Vadim immediately responded to his distress. He gave Sasha money to buy textbooks, a computer, clothes. The school my son attended was transferred to the state of Maine. But there were not enough classrooms for students; they all had problems with housing. The harsh winter, snow . . . . Ordinary sedans cannot drive in such surroundings. Vadim bought for my son a car that can drive in any weather and over any snow. Half the school used the car. By this Vadim helped not only my son but other guys.

Letter of Elena Limberis. Mr. Trincher helped her financially and provided invaluable emotional support while she was caring for her ill and severely incapacitated mother:

Vadim helped me a lot with money. And not for a day or two, but for five years. Thanks to the kindness of Vadim, the care of my mother was at the highest level, and my life became calmer. His material support was found in everything. Three years passed from the death of my mom but her neighbors still remembered how kind and generous Vadim was. Several months before my mother's death, I got an apartment. To live in it was impossible – there were only walls and broken doors. All the money I earned went to help my mother. . . . [Vadim] helped me not only with repairs, but also gave me money for equipping my furniture and appliances.

*Id.* For yet another friend, Mr. Trincher advised them in making difficult decisions regarding their son's future and helped them when their home burned down and in caring for her mother-in-law, who was in poor health. Letter of Viktoriya Ishchuk. He helped Elena's sister emotionally and financially when she was going through a divorce. "During this time," she writes, "we became the best of friends and I cannot imagine where I would be without his support." Letter of Svetlana Ryback. *See also* Letter of Alexander Melamed ("I have always known Vadim to be an honest and decent man, he has helped my family and others as well. Looking back at how much he has done for us, I think that only a few people could do what he had done.").

Alexandra Fidman writes about her gratitude to Mr. Trincher for his persistence in seeking to convince her that she should permit her daughter's father, who had abandoned her upon learning of the pregnancy, to have a role in her daughter's life, the result of which has been an enriched family life, more love, and security for her daughter. "If it was not for Vadim, Michelle and I would not have a bigger family, we are very strong together. Now I am very calm about my daughter's future, I know that if anything was to happen to me, she always has somewhere to call home, and someone dear to care for her." Letter of Alexandra Fidman. Mr.

Trincher also was instrumental in reuniting another family as well. Yana Markovski met Mr. Trincher after she and her then one-month-old son had been thrown out of their apartment by her father and stepmother, as the result of which there was no contact between her son [DM] and his grandfather.

Vadim knew about this life story and always tried to change my mind about reconnecting with my father. He advised me to reconnect with my father so that [DM] would have a grandfather. Moreover, [DM] was in limited communication with his biological father. Vadim saw that as an unfair circumstance for the child not to have a father and grandfather at the same time. On one occasion Vadim encountered [DM]'s father and spent several conversations with him. . . . After these conversations, [DM]'s father introduced Vadim to my father. As a result of Vadim's effort and passion to help others, my son [DM] now has his father back, and I got my father back. Vadim has been an extraordinary influence and has played an indispensable part in mine and my son's life by changing my life and reconnecting with my family members.

Letter of Yana Markovski.

These are just a handful of the people whose lives have been touched and enriched through the kindness, caring, and generosity of Vadim Trincher. As the letters submitted to the Court demonstrate, Mr. Trincher has, over the course of many years, consistently provided advice, care, comfort, and emotional and financial support to friends and other people who he knew or came into contact with who were in need of his assistance, and he has done so with no thought of any gain to himself beyond the satisfaction of helping others.

### **CONCLUSION**

For all the reasons addressed herein, Mr. Trincher asks the Court to impose a merciful sentence "sufficient but not greater than necessary" to meet the purposes of sentencing as set forth in 18 USC 3553(a). He is a man who has shown remorse, has fully accepted the wrongfulness of his past conduct, and has engaged in a lifetime of decent and selfless conduct.

Respectfully Submitted,  
Vadim Trincher,  
By His Attorney

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Dated: April 15, 2014

**CERTIFICATE OF SERVICE**

I, Martin G. Weinberg, hereby certify that on April 15, 2014, this document has been served, via electronic filing, upon Assistant U.S. Attorneys, Harris Fischman and Joshua Arditi Naftalis.

**/s/ Martin G. Weinberg**  
Martin G. Weinberg, Esq.