

IN THE SUPREME COURT OF PENNSYLVANIA

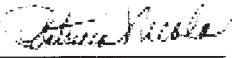
OFFICE OF DISCIPLINARY COUNSEL, : No. 2593 Disciplinary Docket No. 3
: :
Petitioner : No. 52 DB 2019
: :
v. : Attorney Registration No. 55887
: :
CRAIG COHEN, : (Montgomery County)
: :
Respondent :

ORDER

PER CURIAM

AND NOW, this 12th day of December, 2019, upon consideration of the Verified Statement of Resignation, Craig Cohen is disbarred on consent from the Bar of this Commonwealth, retroactive to April 4, 2019. See Pa.R.D.E. 215. Respondent shall comply with all of the provisions of Pa.R.D.E. 217, and pay costs to the Disciplinary Board pursuant to Pa.R.D.E. 208(g).

A True Copy Patricia Nicola
As Of 12/12/2019

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF
THE SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, : No. DD No. 3
Petitioner :
: No. 52 DB 2019
v. :
: Atty. Reg. No. 55887
CRAIG COHEN, :
Respondent : (Montgomery)

RESIGNATION
UNDER Pa.R.D.E. 215

Craig Cohen, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Rule 215, Pa.R.D.E. ("Enforcement Rules"), and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about November 13, 1989. His attorney registration number is 55887.

2. By Order dated April 4, 2019, the Supreme Court placed him on immediate temporary suspension until further definitive action by the Court. See Pa.R.D.E. 208(f)(1). A copy of the Order is attached hereto and made a part hereof as "Exhibit A."

3. He desires to submit his resignation as a member of said bar. He respectfully requests his resignation be applied retroactively to the date of April 4, 2019.

4. His resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress; and he is

FILED

11/27/2019

The Disciplinary Board of the
Supreme Court of Pennsylvania

fully aware of the implications of submitting this resignation.

5. He is aware that there are presently pending investigations into allegations that he has been guilty of misconduct, based upon his conviction of criminal charges as more fully set forth in the Information, a true and correct copy of which is attached hereto and made a part hereof as "Exhibit B."

6. On November 21, 2019, he entered a guilty plea and was convicted in the United States District Court for the Eastern District of Pennsylvania of a criminal offense relating to one count of mail fraud in violation of 18 United States Code § 1341, which conviction constitutes a per se ground for discipline under Enforcement Rule 203(b)(1). A true and correct copy of his Guilty Plea Agreement is attached hereto and made a part hereof as "Exhibit C."

7. He submits the within resignation because the said conviction stands as a per se ground for discipline under Enforcement Rules 214(e) and 203(b)(1), and because he is guilty of the crimes.

8. He submits the within resignation because he knows that if charges were predicated upon the conviction, he could not successfully defend against them.

9. He is fully aware that submission of this

Resignation Statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b) and (c).

10. He is aware that pursuant to Enforcement Rule 215(c), the fact that he has tendered this resignation shall become a matter of public record immediately upon delivery of the resignation statement to Disciplinary Counsel or the Secretary of the Board.

11. Upon entry of the order disbaring him on consent, he will promptly comply with the notice, withdrawal, resignation, trust accounting, and cease-and-desist provisions of subdivisions (a), (b), (c) and (d) of Enforcement Rule 217.

12. After entry of the order disbaring him on consent, he will file a verified statement of compliance as required by Enforcement Rule 217(e)(1).

13. He is aware that the waiting period for eligibility to apply for reinstatement to the practice of law under Enforcement Rule 218(b) shall not begin until he files the verified statement of compliance, and if the order of disbarment contains a provision that makes the disbarment retroactive to an earlier date, then the waiting period will be deemed to have begun on that earlier date.

14. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant

proceeding. He has retained, consulted with and acted upon the advice of counsel, Samuel C. Stretton, Esquire, in connection with his decision to execute the within resignation.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S., Section 4904 (relating to unsworn falsification to authorities).

Signed this 25th day of November, 2019.


CRAIG COHEN

WITNESS: 

PRINT NAME: Gayle Cohen

IN THE SUPREME COURT OF PENNSYLVANIA

In the Matter of : No. 2593 Disciplinary Docket No. 3
CRAIG COHEN : File No. C1-19-190
: Attorney Registration No. 55887
: (Montgomery)

ORDER

PER CURIAM

AND NOW, this 4th day of April, 2019, upon consideration of the Joint Petition for Immediate Temporary Suspension filed with this Court, the Joint Petition is granted, and Craig Cohen is placed on immediate temporary suspension until further definitive action by this Court. See Pa.R.D.E. 208(f)(1). It is further provided that:

1. Respondent shall comply with all the provisions of Pa.R.D.E. 217;
2. The President Judge of the Court of Common Pleas of Philadelphia County shall enter such orders as may be necessary to protect the rights of Respondent's clients or fiduciary entities with which he is involved, see Pa.R.D.E. 217(g); and
3. All financial institutions in which Respondent holds fiduciary funds shall freeze such accounts pending further action.

Respondent's rights to petition for dissolution or amendment of this Order and to request accelerated disposition of charges underlying this order are specifically preserved. See Pa.R.D.E. 208(f)(4) and (f)(6).

This Order constitutes an imposition of public discipline pertaining to confidentiality. See Pa.R.D.E. 402.

A True Copy Patricia Nicola
As Of 04/04/2019

Attest: 
Chief Clerk
Supreme Court of Pennsylvania

JD

INFORMATION

19-02-599

DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106-4476

Post Office: Philadelphia

County: Philadelphia

City and State of Defendant: Philadelphia, Pennsylvania

County: Philadelphia

Register Number: N/A

Place of accident, incident, or transaction:

Eastern District of Pennsylvania

Post Office: Philadelphia

County: Philadelphia

RELATED CASE, IF ANY:

Criminal cases are deemed related when the answer to the following question is "yes".

Does this case involve a defendant or defendants alleged to have participated in the same action or transaction, or in the same series of acts or transactions, constituting an offense or offenses? **NO**

Case Number:

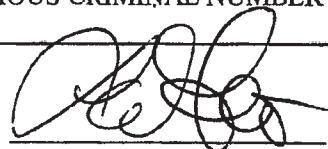
Judge:

CRIMINAL: (Criminal Category - FOR USE BY U.S. ATTORNEY ONLY)

- 1. Antitrust
- 2. Income Tax and other Tax Prosecutions
- 3. Commercial Mail Fraud
- 4. Controlled Substances
- 5. Violations of 18 U.S.C. Chapters 95 and 96 (Sections 1951-55 and 1961-68) and Mail Fraud other than commercial
- 6. General Criminal
18 U.S.C. § 1341 (mail fraud) – 1 count
Notice of forfeiture

(U.S. ATTORNEY WILL PLEASE DESIGNATE PARTICULAR CRIME AND STATUTE CHARGED TO BE VIOLATED AND STATE ANY PREVIOUS CRIMINAL NUMBER FOR SPEEDY TRIAL ACT TRACKING PURPOSES)

DATE: September 30, 2019



Louis D. Lappen
Deputy United States Attorney

File No. 2019R00235
US v. Craig A. Cohen



**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	CRIMINAL NO.
v.	:	DATE FILED:
CRAIG A. COHEN	:	VIOLATION:
	:	18 U.S.C. § 1341 (mail fraud – 1
	:	count)
	:	Notice of Forfeiture
	:	

INFORMATION

COUNT ONE

THE UNITED STATES ATTORNEY CHARGES THAT:

1. Defendant CRAIG A. COHEN was an attorney who worked for approximately eight years, first as an associate, and then as counsel, for a Philadelphia, Pennsylvania law firm (“the Law Firm”) known to the United States Attorney.

2. Defendant CRAIG A. COHEN’s practice at the Law Firm focused on representing insurance companies in subrogation matters, particularly those matters involving losses generated by water damage.

3. In his subrogation practice, defendant CRAIG A. COHEN sought recoveries on behalf of insurance companies, through settlements or litigation, for losses caused by defective products. In each of those matters, the insurance company first paid the insured individual or entity for losses caused by water damage. Following the insurance company’s payment, defendant COHEN and other attorneys with whom he worked attempted, on behalf of the

insurance company, to recover funds from the manufacturer of the defective product that ultimately was responsible for the losses. In some instances, rather than pursuing actions directly against manufacturers, defendant COHEN and his colleagues sought recoveries from settlement funds generated by class action lawsuits against product manufacturers.

4. As an attorney for the Law Firm, defendant CRAIG A. COHEN held a position of trust with the Law Firm, characterized by professional discretion and, given his position, was not subject to significant supervision in his day-to-day performance of his duties.

THE SCHEME

5. Beginning in or around February 2015, and continuing until in or around January 2019, in Philadelphia, in the Eastern District of Pennsylvania, and elsewhere, defendant

CRAIG A. COHEN

devised and intended to devise a scheme to defraud and to obtain money and property by means of false and fraudulent pretenses, representations, and promises; that is, unknown to the Law Firm, defendant COHEN, acting solely for his own financial benefit, fraudulently sought and obtained numerous financial recoveries from product manufacturers and class action settlement funds, based on (1) entirely fabricated subrogation claims; and (2) legitimate subrogation claims to which an insurance company client of the Law Firm, and not defendant COHEN, was entitled to the financial recovery.

MANNER AND MEANS

It was part of the scheme that:

6. Defendant CRAIG A. COHEN operated the scheme primarily from his home in Blue Bell, Pennsylvania.

7. Defendant CRAIG A. COHEN created and registered with the Commonwealth of Pennsylvania a legal entity, WLSP, PLLC (“WLSP”), listing its primary place of business at the same address in Philadelphia as that of the Law Firm. Defendant COHEN used this entity to file fabricated claims purportedly on behalf of insurance companies against product manufacturers and class action settlement funds.

8. Defendant CRAIG A. COHEN opened a post office box in Philadelphia, Pennsylvania, for WLSP and created internet domains and email addresses (craig@waterlosssubro.com and andy@waterlosssubro.com as well as an internet address that used the name of the Law Firm) so that his fraudulent business could function effectively and appear legitimate.

9. Defendant CRAIG A. COHEN opened a bank account in the name of WLSP at TD Bank in Blue Bell, Pennsylvania, using his home address for the account. He used this account to deposit checks and receive wire transmissions to collect proceeds from the fraudulent claims.

10. Defendant CRAIG A. COHEN created fake subrogation claims by modifying the paperwork from legitimate claims that he and other attorneys had already successfully resolved on behalf of clients of the Law Firm. Defendant COHEN’s fake paperwork for each claim made it falsely appear that losses to the insured were caused by one manufacturer’s defective product, when in fact, a different manufacturer’s product caused those losses.

11. In addition to fabricating the paperwork for the fraudulent claims, defendant CRAIG A. COHEN took photographs of defective plumbing or other similar products that he maintained in storage from prior cases. Defendant COHEN then submitted those photographs to

support the fraudulent claims and falsely make it appear that the losses suffered by the insured individual or entity were caused by the defective product of the manufacturer against whom defendant COHEN was filing the fraudulent claim.

12. In some cases, defendant CRAIG A. COHEN physically damaged the plumbing products before photographing them so that the photograph would support the allegations of liability set forth in the fake claims.

13. To further support some of his fraudulent claims, defendant CRAIG A. COHEN engaged an expert engineer to examine the defective product and issue a report describing the defect that would entitle defendant COHEN's purported client to a recovery against the product manufacturer or settlement fund. Defendant COHEN did not disclose to the expert that the claim was fraudulent.

14. In addition to submitting entirely fake claims as described above, defendant CRAIG A. COHEN also used legitimate, unresolved claims from insurance company clients of the Law Firm and submitted those claims through WLSP, generating financial recoveries entirely for himself. In each of these cases, defendant COHEN convinced the Law Firm's client and the Law Firm that the claims were not viable and should not be pursued, when in fact, the claims were viable.

15. In converting these legitimate claims to his own company's name and pursuing them solely for his own benefit, defendant CRAIG A. COHEN defrauded the insurance company clients of the Law Firm that were entitled to a recovery as well as the Law Firm that was entitled to a contingency fee if defendant COHEN or another Law Firm attorney had legitimately settled the claim on behalf of the client. defendant COHEN generally resolved these claims for

substantially less than they were worth to obtain a quick and certain settlement.

16. In total, defendant CRAIG A. COHEN submitted approximately 83 completely fake and fraudulent claims to product manufacturers and settlement funds from whom he obtained recoveries. In doing so, defendant COHEN generated approximately \$2,394,615 in fraud proceeds. Defendant COHEN submitted approximately 21 additional fraudulent claims to class action settlement funds, valued at approximately \$1,098,909 that were not paid.

17. In addition, while falsely purporting to represent five different insurance companies, defendant CRAIG A. COHEN successfully resolved six “legitimate” claims against product manufacturers. For these claims, defendant COHEN negotiated settlements from which he obtained recoveries totaling approximately \$420,000.

18. In converting these legitimate claims to his own use, defendant CRAIG A. COHEN caused approximately \$609,384 in additional losses to the Law Firm arising from the Law Firm reimbursing its clients for their losses based on the actual value of the claims. Defendant COHEN also caused additional unreimbursed losses to the insurance company clients of the Law Firm resulting from their efforts to redress the fraudulent activity perpetrated by defendant COHEN.

19. Considering defendant CRAIG A. COHEN’s entire fraud scheme, defendant COHEN caused actual losses to numerous victims, including product manufacturers, class action settlement funds, insurance companies, and the Law Firm, totaling at least approximately \$3,463,538. Accounting for additional claims that defendant COHEN pursued but were not paid, his fraud involved intended losses of at least approximately \$4,620,862.

THE MAILING

20. On or about July 31, 2017, in the Eastern District of Pennsylvania and elsewhere, defendant

CRAIG A. COHEN,

for the purpose of executing the scheme described above, knowingly caused to be delivered by United States Postal Service Priority Mail, according to the directions thereon, the following: a fraudulent claim for approximately \$228,589 in the Z.P. class action lawsuit, brought against a product manufacturer, sent from defendant COHEN and WLSP in Montgomery County, Pennsylvania to the Z.P. Claims Administrator for the class action settlement fund in Portland, Oregon.

All in violation of Title 18, United States Code, Section 1341.

NOTICE OF FORFEITURE

THE UNITED STATES ATTORNEY FURTHER CHARGES THAT:

1. As a result of the violation of Title 18, United States Code, Section 1341 set forth in this information, defendant

CRAIG A. COHEN

shall forfeit to the United States of America any property constituting, or derived from, proceeds traceable to the commission of such offense, including but not limited to \$3,463,538 in United States currency (money judgment).

2. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred to, sold to, or deposited with a third party;
- c. has been placed beyond the jurisdiction of this Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intention of the United States, pursuant to Title 28, United States Code, Section 2461(c) incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 981(a)(1)(C), and 28 U.S.C.

Section 2461.


for WILLIAM M. McSWAIN
UNITED STATES ATTORNEY

No. _____

UNITED STATES DISTRICT COURT

Eastern District of Pennsylvania

Criminal Division

THE UNITED STATES OF AMERICA

vs.

CRAIG A. COHEN

INFORMATION

Count(s)

18 U.S.C. § 1341 (mail fraud - 1 count)

Notice of forfeiture

^ true bill.

Foreman

Filed in open court this _____ day,

Of _____ A.D. 20_____

Clerk

Bail, \$ _____

*Count N^o 2
g/w
11/21/2019*

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA :
v. : **CRIMINAL NO. 19-599**
CRAIG A. COHEN :

GUILTY PLEA AGREEMENT

Under Rule 11 of the Federal Rules of Criminal Procedure, the government, the defendant, and the defendant's counsel enter into the following guilty plea agreement. Any reference to the United States or the government in this agreement shall mean the Office of the United States Attorney for the Eastern District of Pennsylvania.

1. The defendant agrees to plead guilty to an information, waiving prosecution by indictment, charging him with one count of mail fraud, in violation of 18 U.S.C. § 1341, and not to contest forfeiture as set forth in the notice of forfeiture charging criminal forfeiture under 28 U.S.C. § 2461(c) and 18 U.S.C. § 981(a)(1)(C), arising from the defendant's scheme to defraud product manufacturing companies, class action settlement funds, and insurance companies by filing fraudulent subrogation claims for recoveries in product liability matters. The defendant further acknowledges his waiver of rights, as set forth in the attachment to this agreement.

2. At the time of sentencing, the government will:

a. Make whatever sentencing recommendation as to imprisonment, fines, forfeiture, restitution, and other matters which the government deems appropriate.



b. Comment on the evidence and circumstances of the case; bring to the Court's attention all facts relevant to sentencing including evidence relating to dismissed counts, if any, and to the character and any criminal conduct of the defendant; address the Court regarding the nature and seriousness of the offense; respond factually to questions raised by the Court; correct factual inaccuracies in the presentence report or sentencing record; and rebut any statement of facts made by or on behalf of the defendant at sentencing.

c. Nothing in this agreement shall limit the government in its comments in, and responses to, any post-sentencing matters.

3. The defendant understands, agrees, and has had explained to him by counsel that the Court may impose the following statutory maximum sentence: Count One (mail fraud), 20 years' imprisonment, a three-year period of supervised release, a \$250,000 fine, and a \$100 special assessment. Full restitution of as much as \$3,463,538 also shall be ordered. Forfeiture of as much as \$3,463,538, representing all proceeds from the offense also may be ordered.

4. The defendant further understands that supervised release may be revoked if its terms and conditions are violated. When supervised release is revoked, the original term of imprisonment may be increased by up to 2 years. Thus, a violation of supervised release increases the possible period of incarceration and makes it possible that the defendant will have to serve the original sentence, plus a substantial additional period, without credit for time already spent on supervised release.

5. In order to facilitate the collection of the criminal monetary penalties to be imposed in connection with this prosecution, the defendant agrees fully to disclose all income, assets, liabilities, and financial interests, held directly or indirectly, whether held in his own

name or in the name of a relative, spouse, tenants by the entireties, associate, another person, or entity, and whether held in this country or outside this country. Accordingly:

a. The defendant will submit a completed Financial Statement of Debtor to the U.S. Attorney's Office, in a form it provides and as it directs, within 14 days of execution of this plea agreement. The defendant promises that his financial statement and disclosures will be complete, accurate, and truthful.

b. The defendant expressly authorizes the U.S. Attorney's Office to obtain a credit report on him in order to evaluate the defendant's ability to satisfy any monetary penalty imposed by the Court.

c. Upon request by the United States, the defendant also agrees to submit to a financial deposition or interview prior to sentencing, and provide all documents within the defendant's possession or control as requested by the U.S. Attorney's Office regarding the defendant's financial resources and that of the defendant's household.

d. The defendant agrees not to transfer, assign, dispose, remove, conceal, pledge as collateral, waste, or destroy property with the effect of hindering, delaying, or defrauding the United States or victims. The defendant otherwise shall not devalue any property worth more than \$1,000 before sentencing, without the prior approval of the United States.

e. The defendant also agrees to execute any documents necessary to release any funds held in any repository, bank, investment, other financial institution, or any other location in order to make partial or total payment toward any monetary penalty that the Court may impose.

f. If the defendant fails to comply with this paragraph of the plea agreement or if any of the defendant's representations pursuant to the requirements set forth in this

paragraph are false or inaccurate, the government may elect to: void this agreement; and/or argue that the defendant is not entitled to a downward adjustment for acceptance of responsibility under Guideline Section 3E1.1. The government may also elect to: void the forfeiture portion of the agreement and try the forfeiture before the Court and seek a larger forfeiture; and/or pursue any and all forfeiture remedies available at law or equity. The defendant agrees to waive any right to a trial by jury on all forfeiture issues, and to waive any claim at trial based on any statute of limitations.

6. The defendant agrees to pay a fine as determined by the Court and restitution of \$3,463,538 (with a potential reduction for any losses incurred by insurance company victims for remedying the fraud if the Court determines that such reduction is appropriate). The defendant agrees that any restitution or fine imposed by the Court shall be due and payable immediately and on such terms and conditions that the Court may impose. In the event the Court imposes a schedule for the payment of restitution or fine, the defendant understands and agrees that such a schedule represents a minimum payment obligation and does not preclude the United States Attorney's Office from pursuing any other means by which to satisfy the defendant's full and immediately enforceable financial obligation under applicable federal and/or state law.

7. The defendant agrees that forfeiture, restitution, fine, assessment, tax, interest, or other payments in this case do not constitute extraordinary acceptance of responsibility or provide any basis to seek a downward departure or variance from the applicable Sentencing Guideline range, except that the government understands that the defendant may elect to seek a downward variance based on his intention to pay substantial restitution prior to sentencing. The government reserves the right to take whatever position it deems appropriate in response to any such motion.

8. The defendant agrees to pay the special victims/witness assessment in the amount of \$100 before the time of sentencing and shall provide a receipt from the Clerk to the government before sentencing as proof of this payment.

9. The parties agree to the following with respect to the forfeiture of assets:

a. The defendant agrees to forfeit his right, title, and interest in \$2,814,615, which represents the proceeds that he obtained from the offense of mail fraud charged in Count One of the information in this case, as explained in the Notice of Forfeiture in the information, and agrees to the entry of a money judgment against him in this amount. The defendant agrees that, due to the defendant's acts or omissions, all of these proceeds are not currently available to the government for forfeiture, and that the government is entitled to the forfeiture of substitute assets because one or more of the conditions in 21 U.S.C. § 853(p) have been met.

b. The defendant agrees to the entry of a preliminary order of forfeiture pursuant to Federal Rule of Criminal Procedure 32.2(b) as soon as possible after the guilty plea and before sentencing. Pursuant to Rule 32.2(b)(4), the defendant further agrees that, upon the request of the government, the preliminary order of forfeiture may be made final before his sentencing. The defendant waives all statutory deadlines, including but not limited to deadlines set forth in 18 U.S.C. § 983.

c. The parties agree that the U.S. Attorney's Office will recommend to the Attorney General that any payments by the defendant toward the money judgment be remitted or restored to eligible victims of the offense, pursuant to 18 U.S.C. § 981(e), 28 C.F.R. Pt. 9, and other applicable law, it being understood that the U.S. Attorney's Office has authority only to recommend such relief and that the final decision of whether to grant relief rests with the Department of Justice, which will make its decision in accordance with applicable law.

10. The defendant agrees to waive any claims, defenses, or challenges arising under the Double Jeopardy or Excessive Fines Clauses of the Eighth Amendment, resulting from any forfeiture imposed in this case and/or any pending or completed administrative or civil forfeiture actions, and stipulates that such forfeiture is not grossly disproportionate to his criminal conduct.

11. The defendant may not withdraw his plea because the Court declines to follow any recommendation, motion, or stipulation by the parties to this agreement. No one has promised or guaranteed to the defendant what sentence the Court will impose.

12. Pursuant to USSG § 6B1.4, the parties enter into the following stipulations under the Sentencing Guidelines Manual. It is understood and agreed that: (1) the parties are free to argue (except as stated below) the applicability of any other provision of the Sentencing Guidelines, including offense conduct, offense characteristics, criminal history, adjustments, and departures; (2) these stipulations are not binding upon either the Probation Office or the Court; and (3) the Court may make factual and legal determinations that differ from these stipulations and that may result in an increase or decrease in the Sentencing Guidelines range and the sentence that may be imposed:

- a. The parties agree and stipulate that, under U.S.S.G. § 2B1.1(a)(1), the base offense level for the defendant's conduct is 7.
- b. The parties agree and stipulate that under U.S.S.G. § 2B1.1(b)(1)(J), the fraud loss caused and intended to be caused in furtherance of the criminal activity undertaken by the defendant was more than \$3,500,000 but less than \$9,500,000, resulting in an 18-level increase to the base offense level; this amount was reasonably foreseeable to the defendant in connection with his scheme; and the defendant's Guideline range should be calculated based on this amount pursuant to U.S.S.G. § 1B1.3.

c. The parties agree and stipulate that, under U.S.S.G. § 3B1.3, the defendant abused a position of private trust and/or used a special skill in a manner that significantly facilitated the commission and concealment of the offense, resulting in a 2-level increase to the defendant's base offense level.

d. The parties agree and stipulate that, under U.S.S.G. § 2B1.1(b)(10)(C), the defendant's offense involved sophisticated means, resulting in a 2-level increase to the defendant's base offense level.

e. The defendant understands that the government will argue that, under U.S.S.G. § 2B1.1(b)(2)(A)(i), the defendant's offense involved 10 or more victims, resulting in a 2-level increase to the defendant's base offense level. The defendant intends to oppose this adjustment.

f. The parties agree and stipulate that, as of the date of this agreement, the defendant has demonstrated acceptance of responsibility for his offense, making the defendant eligible for a 2-level downward adjustment under U.S.S.G. § 3E1.1(a).

g. The parties agree and stipulate that, as of the date of this agreement, the defendant has assisted authorities in the investigation or prosecution of his own misconduct by timely notifying the government of his intent to plead guilty, thereby permitting the government to avoid preparing for trial and permitting the government and the court to allocate their resources efficiently, resulting in a 1-level downward adjustment under U.S.S.G. § 3E1.1(b).

13. If the defendant commits any federal, state, or local crime between the date of this agreement and his sentencing, or otherwise violates any other provision of this agreement, the government may declare a breach of the agreement, and may at its option: (a) prosecute the defendant for any federal crime including, but not limited to, perjury, obstruction of justice, and

the substantive offenses arising from this investigation, based on and using any information provided by the defendant during the investigation and prosecution of the criminal case; (b) upon government motion, reinstate and try the defendant on any counts which were to be, or which had been, dismissed on the basis of this agreement; (c) be relieved of any obligations under this agreement regarding recommendations as to sentence; and (d) be relieved of any stipulations under the Sentencing Guidelines. Moreover, the defendant's previously entered guilty plea will stand and cannot be withdrawn by him. The decision shall be in the sole discretion of the government both whether to declare a breach, and regarding the remedy or remedies to seek. The defendant understands and agrees that the fact that the government has not asserted a breach of this agreement or enforced a remedy under this agreement will not bar the government from raising that breach or enforcing a remedy at a later time.

14. In exchange for the promises made by the government in entering this plea agreement, the defendant voluntarily and expressly waives all rights to appeal or collaterally attack the defendant's conviction, sentence, or any other matter relating to this prosecution, whether such a right to appeal or collateral attack arises under 18 U.S.C. § 3742, 28 U.S.C. § 1291, 28 U.S.C. § 2255, or any other provision of law. As part of this knowing and voluntary waiver of the right to appeal or collaterally attack the conviction and sentence, the defendant expressly waives the right to raise on appeal or on collateral review any argument that (1) the statute to which the defendant is pleading guilty is unconstitutional and (2) the admitted conduct does not fall within the scope of the statute.

a. Notwithstanding the waiver provision above, if the government appeals from the sentence, then the defendant may file a direct appeal of his sentence.

b. If the government does not appeal, then notwithstanding the waiver provision set forth in this paragraph, the defendant may file a direct appeal or petition for collateral relief but may raise only a claim, if otherwise permitted by law in such a proceeding:

(1) that the defendant's sentence on any count of conviction exceeds the statutory maximum for that count as set forth in paragraph 3 above;

(2) challenging a decision by the sentencing judge to impose an "upward departure" pursuant to the Sentencing Guidelines;

(3) challenging a decision by the sentencing judge to impose an "upward variance" above the final Sentencing Guideline range determined by the Court; and

(4) that an attorney who represented the defendant during the course of this criminal case provided constitutionally ineffective assistance of counsel.

If the defendant does appeal or seek collateral relief pursuant to this subparagraph, no issue may be presented by the defendant in such a proceeding other than those described in this subparagraph.

15. The defendant acknowledges that filing an appeal or any collateral attack waived in the preceding paragraph may constitute a breach of this plea agreement. The government promises that it will not declare a breach of the plea agreement on this basis based on the mere filing of a notice of appeal, but may do so only after the defendant or his counsel thereafter states, either orally or in writing, a determination to proceed with an appeal or collateral attack raising an issue the government deems barred by the waiver. The parties acknowledge that the filing and pursuit of an appeal constitutes a breach only if a court determines that the appeal does not present an issue that a judge may reasonably conclude is permitted by an exception to the

waiver stated in the preceding paragraph or constitutes a “miscarriage of justice” as that term is defined in applicable law.

16. The defendant waives any claim under the Hyde Amendment, 18 U.S.C. § 3006A (Statutory Note), for attorney’s fees and other litigation expenses arising out of the investigation or prosecution of this matter.


17. The defendant waives all rights, whether asserted directly or by a representative, to request or receive from any department or agency of the United States any records pertaining to the investigation or prosecution of this case, including without limitation any records that may be sought under the Freedom of Information Act, 5 U.S.C. § 552, or the Privacy Act, 5 U.S.C. § 552a.

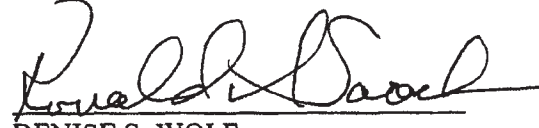
18. The defendant is satisfied with the legal representation provided by the defendant’s lawyer; the defendant and this lawyer have fully discussed this plea agreement; and the defendant is agreeing to plead guilty because the defendant admits that he is guilty.

19. It is agreed that the parties’ guilty plea agreement contains no additional promises, agreements, or understandings other than those set forth in this written guilty plea agreement, and that no additional promises, agreements, or understandings will be entered into

unless in writing and signed by all parties. In addition, the prior off-the-record proffer letter dated March 12, 2019, is revoked as of the date this plea is entered.

WILLIAM M. McSWAIN
United States Attorney


CRAIG A. COHEN
Defendant


DENISE S. WOLF
Chief, Criminal Division
Assistant United States Attorney


HOPE C. LEFEBRE
Counsel for Defendant


LOUIS D. LAPREN
Deputy United States Attorney

Date: 11/21/19

g. that I could testify in my own defense if I wanted to and I could subpoena witnesses to testify in my defense if I wanted to; and

h. that I would not have to testify or otherwise present any defense if I did not want to and that if I did not present any evidence, the jury could not hold that against me.

4. I understand that if I plead guilty, there will be no trial and I would be giving up all of the rights listed above.

5. I understand that if I decide to enter a plea of guilty, the judge will ask me questions under oath and that if I lie in answering those questions, I could be prosecuted for the crime of perjury, that is, for lying under oath.

6. I understand that if I plead guilty, I have given up my right to appeal, except as set forth in the appellate waiver provisions of my plea agreement.

7. Understanding that I have all these rights and that by pleading guilty I am giving them up, I still wish to plead guilty.

8. I acknowledge that no one has promised me what sentence the Court will impose. I am aware and have discussed with my attorney that, at sentencing, the Court will calculate the Sentencing Guidelines range (including whether any departures apply), and then, in determining my sentence, will consider the Guideline range and all relevant policy statements in the Sentencing Guidelines, along with other sentencing factors set forth in 18 U.S.C. § 3553(a), including

(1) the nature and circumstances of the offense and my personal history and characteristics;

(2) the need for the sentence imposed-- (A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from further crimes of the defendant; and (D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

(3) the kinds of sentences available;

(4) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(5) the need to provide restitution to any victims of the offense.



CRAIG A. COHEN
Defendant



HOPE C. LEFEBBER
Counsel for the Defendant

Dated: 11/21/19

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of the foregoing Government's Plea Memorandum to be served by e-mail upon the following counsel for the defendant:

hope@hopelefeber.com

Hope C. Lefeber, Esq.
1500 John F. Kennedy Blvd., Ste. 1205
Two Penn Center
Philadelphia, Pennsylvania 19102-1751

A handwritten signature in black ink, appearing to read "Louis D. Lappen", written over a horizontal line.


LOUIS D. LAPPEN
Deputy United States Attorney

Date: November 18, 2019

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Office of Disciplinary Counsel

Signature: 

Name: Mark F. Gilson, Disciplinary Counsel

Attorney No.: 46400