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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

21 CR 746 (MKV)

5 CHRIS RECAMIER,

6 Defendant.

7 -----x

8 New York, N.Y.

9 June 15, 2022

12:00 p.m.

10 Before:

11 HON. MARY KAY VYSKOCIL,

12 District Judge

13
14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
Southern District of New York

17 BY: DANIEL G. NESSIM

JULIANA N. MURRAY

Assistant United States Attorneys

18 QUINN EMANUEL URGUHART & SULLIVAN

19 Attorney for Defendant

20 BY: MICHAEL LINNEMAN

TAI PARK

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(Case called)

THE DEPUTY CLERK: Starting with the government,
please state your name for the record.

MR. NESSIM: Good afternoon, your Honor. Daniel
Nessim for the government.

THE COURT: Good afternoon, Mr. Nessim.

MR. LINNEMAN: Michael Linneman of Quinn Emanuel
Urquhart & Sullivan on behalf of Chris Recamier. Also with me
is Tai Park, also of Quinn Emanuel.

MR. PARK: Good afternoon, your Honor.

THE COURT: Good afternoon, Mr. Park.

Good afternoon, Mr. Linneman.

Mr. Park, I didn't realize you were at Quinn Emanuel.

MR. PARK: Just for one year.

THE COURT: Just for the record, Mr. Park and I know
each other, generally from practicing in the New York legal
community. We also served together on the Magistrate Judge
Selection Panel for the Southern District of New York before I
went on the bench on the bankruptcy court. I do not in any way
view that as presenting any kind of a conflict, but I want the
record to reflect that I have made that disclosure.

Anything from the government?

MR. NESSIM: No, your Honor. I just want to note for
the record that I've been joined by my colleague, Juliana
Murray, at counsel table.

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1 THE COURT: OK. Your name.

2 MS. MURRAY: Juliana Murray.

3 THE COURT: Good morning.

4 All right. Nothing from you on my disclosure?

5 MR. NESSIM: No, your Honor.

6 THE COURT: Good morning, Ms. Franko, our court
7 reporter. Thank you for being here.

8 Assuming there is no comment or objection from
9 Mr. Recamier or from co-counsel with regard to my disclosures?

10 MR. LINNEMAN: No, your Honor.

11 MR. PARK: Your Honor, just so it is clear for the
12 record, I'm only substituting for my partner, Mark Greenwald,
13 who has charge of this case along with Mr. Linneman, because he
14 was unavailable today.

15 THE COURT: Yes, I understand that. I appreciate your
16 being here actually, Mr. Park.

17 Before we move on, let me just confirm for the record,
18 Mr. Recamier, you speak and understand English clearly?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: You do not need an interpreter?

21 THE DEFENDANT: I don't.

22 THE COURT: Second, just in terms of housekeeping,
23 under the new COVID protocols, when you're addressing the
24 court, you are allowed to remove your mask. But then please
25 put it back on after you finish speaking to the court.

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1 We're here today for a change of plea hearing for
2 Mr. Recamier, but we were last here, I believe it's just over a
3 week ago, maybe two weeks ago. Mr. Recamier wrote to the court
4 directly and requested that counsel be changed because he was
5 dissatisfied with his then counsel, among other reasons,
6 counsel's view that he should enter into a plea.

7 So I would just like, for the record, to speak
8 directly to Mr. Recamier to ask you, sir, have you --

9 You can remove your mask when you address the court
10 and use the microphone. If you would speak into the
11 microphone, please.

12 Sir, have you had ample time and opportunity to talk
13 to your new counsel?

14 THE DEFENDANT: Yes, I did.

15 THE COURT: All right. You've fully discussed what it
16 is that we're assembled here to do?

17 THE DEFENDANT: Yes.

18 THE COURT: And you are ready to proceed?

19 THE DEFENDANT: I am.

20 THE COURT: And you do, in fact, wish to change your
21 plea and enter a plea of guilty?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: All right. Let me ask the government, are
24 there victims that you've identified?

25 MR. NESSIM: Yes, your Honor.

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1 THE COURT: Have you provided notice to them of
2 today's proceeding?

3 MR. NESSIM: The notice is in progress. I don't know
4 if it reached them. We notified some in person directly about
5 today's proceeding. Otherwise, there is a letter in process,
6 but they have been notified that pleas can happen on short
7 notice.

8 THE COURT: Did you give them notice of today's plea?
9 I mean, we talked about this last week, didn't we?

10 MR. NESSIM: Yes, your Honor. So our notice is in
11 progress. I don't know --

12 THE COURT: I don't know what that means. I told you
13 that two weeks ago. We're here today for a plea. Victims have
14 a right to be heard.

15 MR. NESSIM: Yes, your Honor. The way the notice --
16 it's mailed. This plea was scheduled two days ago. I don't
17 know that it's reached every victim that's receiving those
18 notices. We have alerted some victims directly of today's
19 proceeding, and to the extent the victims have not reached the
20 notice that's on its way to them right now, they are aware that
21 the pleas can happen on very short notice. And that is, you
22 know, under the Victim Rights Act, they've been given notice of
23 at least that much. And we're doing everything we can to keep
24 them notified of events in this case.

25 THE COURT: Well, you're apparently not doing

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1 everything you can, if last time you were here you told me it's
2 in progress, and that's all you can tell me today. I'm telling
3 you right now, if we go forward and I accept the plea and
4 Mr. Recamier is adjudicated guilty and we set a sentencing
5 date, I want assurances at sentencing that victims have been
6 given proper notice and know they have an opportunity to be
7 heard on that day.

8 Do you understand?

9 MR. NESSIM: Yes, your Honor. Absolutely. Just to
10 clarify, the last notice that we discussed about the trial date
11 has been made to the victims.

12 THE COURT: OK.

13 MR. NESSIM: I'm just speaking about the notice of
14 today's proceeding.

15 THE COURT: OK. All right.

16 So I am informed, Mr. Recamier, as confirmed, that
17 he has an application to withdraw his plea of not guilty and
18 pursuant to a written agreement with the government entering a
19 plea of guilty to Count One of a six-count indictment in this
20 case. That indictment is filed at ECF number six.

21 Count One charges the defendant with major fraud
22 against the United States, in violation of Title 18, United
23 States Code, Section 1031. In particular, the government
24 alleges that the defendant, along with others, engaged in a
25 scheme to obtain by means of false and fraudulent pretenses

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1 more than \$7 million in government guaranteed loans for
2 companies purportedly controlled by the defendant and
3 coconspirators through loan programs administered by the small
4 business administration, which were designed to provide relief
5 to small businesses during the COVID-19 pandemic.

6 Is that, in fact, accurate, Mr. Nessim?

7 MR. NESSIM: Yes, your Honor.

8 THE COURT: All right. Is that consistent with
9 defendant's understanding?

10 MR. LINNEMAN: That is correct, your Honor.

11 THE COURT: All right. I have a copy of an agreement.
12 It is a June 11 letter, on the letterhead of the United States
13 Department of Justice, the U.S. Attorney for the Southern
14 District of New York, addressed to Mark Greenwald and Michael
15 Linneman. It's a seven-page letter that is, as the court
16 understands it, the plea agreement between the parties. And
17 that will be marked as Government Exhibit 1 in this matter.

18 Now, Mr. Recamier, before we proceed and I accept your
19 plea of guilty, I need to ask you a number of questions. You
20 need to be under oath when I do that. I'm asking you these
21 questions to assure that your plea is, in fact, a valid one.
22 I may, at times, cover a point more than once, and I may cover
23 matters that were addressed in various forms or agreements that
24 you've previously signed. If I do that, I'm doing so because
25 it's very important that you understand what's happening here

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1 today.

2 So I'm going to just caution you, if you do not
3 understand something that I say or that I ask you, please tell
4 me that, and I will pause and you can either speak with your
5 counsel or you can ask me to clarify.

6 All right. Do you understand?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: You will do that, sir?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. Ms. Dempsey, would you please
11 administer the oath.

12 THE DEPUTY CLERK: Yes, your Honor.

13 (Defendant sworn)

14 THE COURT: All right. Sir, you can remove your mask.
15 As I say, I'm going to be asking you a number of questions, and
16 it's easier for us to communicate that way.

17 Do you understand, sir, that you have just solemnly
18 promised to tell the truth, and that if you answer any of my
19 questions falsely, your false or untrue answers may later be
20 used against you in another prosecution for perjury or making a
21 false statement?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Can you tell me, sir, how old are you?

24 THE DEFENDANT: 59.

25 THE COURT: And how far did you go in school?

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1 THE DEFENDANT: 11 grade.

2 THE COURT: I'm sorry?

3 THE DEFENDANT: 11 grade.

4 THE COURT: Eleventh grade?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: You've told me you do speak and understand
7 English perfectly clearly?

8 THE DEFENDANT: I do.

9 THE COURT: Are you a citizen of the United States?

10 THE DEFENDANT: No, I am not.

11 THE COURT: You've never been a citizen?

12 THE DEFENDANT: Never.

13 THE COURT: Are you now or have you recently been
14 under the care of a medical doctor or other healthcare
15 professional?

16 THE DEFENDANT: No.

17 THE COURT: Are you now or have you recently been
18 under the care of a mental health professional?

19 THE DEFENDANT: No.

20 THE COURT: Have you ever been treated or hospitalized
21 for any mental illness?

22 THE DEFENDANT: No.

23 THE COURT: Have you ever been treated or hospitalized
24 for any type of addiction, including to drugs or to alcohol?

25 THE DEFENDANT: Yes.

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1 THE COURT: When did that happen?

2 THE DEFENDANT: 2019, 2020.

3 THE COURT: Can you tell me the specifics?

4 Are we talking drugs or alcohol or both?

5 THE DEFENDANT: Drugs.

6 THE COURT: What kind of drugs?

7 THE DEFENDANT: Heroin.

8 THE COURT: I'm sorry?

9 THE DEFENDANT: Heroin.

10 THE COURT: And when and where were you hospitalized?

11 THE DEFENDANT: I was hospitalized a few times in
12 2018. 2018, 2019, 2020. Rikers Island and Capital Hospital in
13 Manhattan.

14 THE COURT: All right. So you consider yourself
15 addicted to heroin?

16 THE DEFENDANT: Right now, I'm not doing any drugs.

17 THE COURT: OK. You consider yourself sober at this
18 time?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: And you've never had an addiction to
21 alcohol?

22 THE DEFENDANT: No.

23 THE COURT: In the last 24 hours, am I correct in my
24 understanding that you have not taken any drugs or alcohol?

25 THE DEFENDANT: No, I didn't.

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1 THE COURT: OK. Does that include any kind of
2 medication?

3 THE DEFENDANT: I'm not taking any medication.

4 THE COURT: OK. Is your mind clear today, sir?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: You understand what we are doing?

7 THE DEFENDANT: Yes, I do.

8 THE COURT: And physically, do you feel well?

9 Are you healthy?

10 THE DEFENDANT: I feel great.

11 THE COURT: I'm sorry?

12 THE DEFENDANT: I feel good, yeah.

13 THE COURT: OK. Are you represented by counsel?

14 THE DEFENDANT: Yes, I am.

15 THE COURT: Who is your counsel?

16 THE DEFENDANT: Mr. Linneman and Mr. Greenwald and
17 Mr. Tai Park.

18 THE COURT: All right. Are you satisfied with your
19 counsel?

20 THE DEFENDANT: I am.

21 THE COURT: You previously raised some issues and
22 concerns with the court.

23 Have those concerns been addressed by the appointment
24 of new counsel?

25 THE DEFENDANT: Absolutely.

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1 THE COURT: You've had a full and fair opportunity to
2 talk through with them the charges against you and any defenses
3 to those charges, the evidence against you?

4 THE DEFENDANT: Yes, several times.

5 THE COURT: And you are prepared to proceed today?

6 THE DEFENDANT: Yes, I am.

7 THE COURT: Do either counsel have any doubt as to
8 defendant's competence to plead at this time?

9 MR. NESSIM: No, your Honor.

10 MR. LINNEMAN: No, your Honor.

11 THE COURT: All right. Mr. Recamier, your attorneys
12 tell me that you wish to withdraw your plea of not guilty and
13 enter a plea of guilty to Count One of the indictment in this
14 case.

15 Is that what you wish to do this afternoon?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: You've fully discussed your case with your
18 lawyer, you told me, including the charges to which you intend
19 to plead guilty and any possibility defense to that charge?

20 THE DEFENDANT: Yes, we did.

21 THE COURT: Have you discussed with your lawyers the
22 consequences of entering a plea of guilty?

23 THE DEFENDANT: Yes, I did.

24 THE COURT: And you are satisfied with your attorneys
25 and their representation of you in connection with this case?

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1 THE DEFENDANT: Yes, I am.

2 THE COURT: All right. Based on Mr. Recamier's
3 responses to my questions and my observation of his personal
4 demeanor, I do find that he's fully competent to enter an
5 informed plea at this time.

6 Mr. Recamier, before we proceed for me to accept any
7 plea, I want to ask you certain additional questions. Those
8 questions are intended to satisfy me that you wish to plead
9 guilty because you are, in fact, guilty and that you fully
10 understand your rights and the consequences of entering a plea
11 of guilty.

12 I'm going to begin by describing to you certain rights
13 that you have under the Constitution and laws of the United
14 States. You will be giving up these rights if you enter a plea
15 of guilty. So please listen very carefully. And as I said
16 before, if you do not understand something I'm saying or
17 describing, please stop me, and either I or your attorneys will
18 explain to you more fully.

19 Will you do that, sir?

20 THE DEFENDANT: Yes, ma'am.

21 THE COURT: All right. First, under the Constitution
22 and laws of the United States, you have a right to a speedy and
23 a public trial by a jury on the charges against you which are
24 contained in the indictment.

25 Do you understand that?

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1 THE DEFENDANT: Yes, I do.

2 THE COURT: Do you understand that you have the right
3 to plead not guilty and to continue to plead not guilty to the
4 charges against you?

5 THE DEFENDANT: I understand, yes.

6 THE COURT: Do you understand that if there were a
7 trial, you would be presumed innocent and the government would
8 be required to prove you guilty by competent evidence and
9 beyond a reasonable doubt?

10 Do you understand that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: Do you understand you would not have to
13 prove that you were innocent?

14 THE DEFENDANT: I understand that.

15 THE COURT: And do you understand that if there were a
16 trial, a jury made up of 12 people selected from this district
17 would have to agree unanimously in order to find you guilty?

18 THE DEFENDANT: Yes, I understand.

19 THE COURT: Do you understand that if there were a
20 trial, you would have the right to be represented by an
21 attorney at the trial and at all other stages of this
22 proceeding, and if you couldn't afford one, an attorney would
23 be provided to you free much cost of cost?

24 Do you understand that?

25 THE DEFENDANT: Yes, ma'am.

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1 THE COURT: Do you understand that if there were a
2 trial, you would have the right to see and to hear all of the
3 witnesses against you, your lawyers could cross-examine those
4 witnesses, you would have the right to have your lawyer object
5 to the government's evidence, and to offer evidence on your
6 behalf, if you so desired, you would have the right to have
7 witnesses required to come to court to testify in your defense,
8 and you would have the right to testify yourself, but you would
9 not be required to testify?

10 Do you understand all of that?

11 THE DEFENDANT: Yes, ma'am.

12 THE COURT: And do you understand that if there were a
13 trial and you decided not to testify, no adverse inference
14 could be drawn against you based on that decision?

15 And by that I mean, the jury would be instructed that
16 it could not assume that you did not testify because you were
17 guilty or because you were hiding something.

18 Do you understand that?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Do you understand that if you were
21 convicted at trial, you would have the right to appeal that
22 jury verdict?

23 THE DEFENDANT: I understand.

24 THE COURT: Do you understand each and every one of
25 these rights that I've just outlined for you?

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1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you have any questions about these
3 rights?

4 THE DEFENDANT: No questions.

5 THE COURT: Do you understand that by entering a plea
6 of guilty today, you will be giving up each and every one of
7 these rights, you will be waiving these rights?

8 Do you understand that?

9 THE DEFENDANT: I understand.

10 THE COURT: And do you understand that you'll be
11 waiving any possible claim that your constitutional rights may
12 have been violated and there will not be a trial?

13 THE DEFENDANT: I understand that.

14 THE COURT: Do you understand that by entering a plea
15 of guilty, you will also have to give up your right not to
16 incriminate yourself because in a few moments, I will ask you
17 questions about what you did in order to satisfy myself that
18 you are guilty as charged and you will have to admit and
19 acknowledge your guilt?

20 Do you understand that?

21 THE DEFENDANT: I do.

22 THE COURT: Do you understand that you can change your
23 mind right now and refuse to enter a plea of guilty?

24 THE DEFENDANT: I understand.

25 THE COURT: You do not have to enter this plea if for

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1 any reason you do not wish to do so.

2 You understand that, right?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: OK. All right. Mr. Recamier, have you
5 received a copy of the indictment in this matter that contains
6 the charges against you?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: And have you read it?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Did you discuss it with your lawyers?

11 THE DEFENDANT: I did.

12 THE COURT: Did you discuss it with your new lawyers
13 who are with you here today?

14 THE DEFENDANT: Yes, I did.

15 THE COURT: Do you need me to read that indictment out
16 loud at this time, or do you waive public reading?

17 THE DEFENDANT: I don't need to have it read.

18 THE COURT: OK. So you waive public reading?

19 THE DEFENDANT: Yes, I do.

20 THE COURT: All right. Just to summarize, sir, you're
21 charged in Count One of the indictment with major fraud against
22 the United States, in violation of Title 18, United States
23 Code, Section 1031. In particular, the government alleges that
24 you, with others, engaged in a scheme to obtain by means of
25 false and fraudulent pretenses more than \$7 million in

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1 government guaranteed loans for companies purportedly
2 controlled by you and your coconspirators through loan programs
3 of small business administration, which were designed to
4 provide relief to small businesses during the corner COVID-19
5 pandemic.

6 You're charged in Count Two of the indictment with
7 conspiracy to commit wire and bank fraud, in violation of Title
8 18, United States Code, Section 1349. In particular, in Count
9 Two, the government alleges that you, with others, known and
10 unknown, willfully and knowingly conspired to commit wire fraud
11 and bank fraud.

12 You're charged in Count Three of the indictment with
13 wire fraud, in violation of Title 18, United States Code,
14 Section 1343 and 2. In particular, the government alleges that
15 you engaged in a scheme using wires to fraudulently obtain
16 government guaranteed loans for companies purportedly
17 controlled by you and your coconspirators by making false
18 statements and submitting fraudulent documents in support of
19 loan applications.

20 Count Four charges you with bank fraud, in violation
21 of Title 18, United States Code, Section 1344 and 2. In
22 particular, the government alleges that you engaged in a scheme
23 to obtain by false and fraudulent pretenses government
24 guaranteed loans for companies purportedly controlled by you
25 and your coconspirators from FDIC insured banks.

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1 Count Five charges you with aggravated identity theft,
2 in violation of Title 18, United States Code, Section 1028(a),
3 (a)(1), (b) and (c)(4) through (5) and 2. In particular, the
4 government alleges that you used the names and identities of
5 multiple real people in connection with the submission of
6 fraudulent loan applications and supporting documentation to
7 multiple financial institutions during and in relation to the
8 fraud offenses charged in Counts One through Four of the
9 indictment.

10 Finally, Count Six charges you with conspiracy to
11 commit money laundering, in violation of Title 18, United
12 States Code, Section 1956(h). In particular, the government
13 alleges that you conspired with others knowing that the
14 property involved in certain financial transactions represented
15 the proceeds of some form of unlawful activity to conduct
16 financial transactions knowing that those transactions were
17 designed to conceal and disguise the nature, location, source,
18 ownership and control of the proceeds of specified unlawful
19 activity.

20 Do you understand those charges against you, sir?

21 THE DEFENDANT: Yes, I do.

22 THE COURT: All right. Pursuant to the plea
23 agreement, the court's understanding is that the government
24 will accept a guilty plea to Count One of the indictment.

25 Is that accurate, Mr. Nessim?

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1 MR. NESSIM: Yes, your Honor.

2 THE COURT: Is that your understanding, Mr. Recamier?

3 THE DEFENDANT: Yes, it is.

4 THE COURT: All right. Let me ask the government's
5 counsel then, would you please state the elements of the major
6 fraud against the United States offense with which Mr. Recamier
7 has been charged in Count One of the indictment?

8 MR. NESSIM: Yes, your Honor. The elements of Count
9 One are as follows:

10 First, that there was a scheme to defraud the
11 United States or obtain money or funds from the United States
12 Government by means of materially false or fraudulent
13 pretenses, representations, or promises;

14 Second, that the defendant executed or attempted to
15 execute that scheme with the intent to defraud the United
16 States Government;

17 Third, that the scheme took place with respect to a
18 contract, loan, guarantee, or other form of federal assistance,
19 including through an economic stimulus recovery or rescue plan
20 provided by the government;

21 Fourth, the value of that loan, guarantee, or form of
22 federal assistance was at least \$1 million.

23 In addition to those elements, which must be proven
24 beyond a reasonable doubt, the government must also prove by a
25 preponderance of the evidence that venue is proper in the

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1 Southern District of New York.

2 THE COURT: All right. Thank you.

3 Mr. Recamier, do you understand that the government
4 would have to prove each and every part or element of the
5 offense as just outlined by Mr. Nessim with respect to Count
6 One beyond a reasonable doubt at trial if you did not plead
7 guilty?

8 THE DEFENDANT: I do.

9 But can I ask a question to my lawyer?

10 THE COURT: Yes, of course.

11 THE DEFENDANT: Thank you.

12 (Defendant confer was counsel)

13 Thank you.

14 THE COURT: Ready to proceed?

15 THE DEFENDANT: I am.

16 THE COURT: OK. All right. Sir, I want to talk to
17 you about the penalty, the potential penalty for the charge to
18 which you tell me you intend to plead guilty.

19 THE DEFENDANT: Um-hmm.

20 THE COURT: Do you understand that the maximum
21 possible term of imprisonment for the offense in Count One to
22 which you intend to plead guilty is a term of imprisonment of
23 ten years?

24 THE DEFENDANT: I understand.

25 THE COURT: Do you understand that Count One can also

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1 include a maximum term of supervised release after you are
2 released from prison of up to three years?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: In addition to these restrictions on your
5 liberty, do you understand that the maximum possible punishment
6 for Count One also includes certain financial penalties?

7 THE DEFENDANT: I do.

8 THE COURT: Specifically, do you understand that the
9 maximum fine allowed is \$1 million or twice the gross pecuniary
10 gain relate to the offense or twice the loss to people other
11 than yourself as a result of the offense, whichever is greater?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Do you understand that there is also a
14 mandatory special assessment of \$100 for each count to which
15 you plead guilty?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you understand that I must also order
18 you to pay restitution to victims of your crime?

19 THE DEFENDANT: Yes, ma'am.

20 THE COURT: Do you understand that as part of your
21 plea agreement, you've agreed to forfeit to the United States
22 the funds or assets stored in coin base account Robinhood
23 Markets, Inc. account and the Charles Schwab account that are
24 referenced in that plea agreement?

25 THE DEFENDANT: Yes, ma'am.

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1 THE COURT: Do you understand that the forfeiture
2 amount will not reduce any fine, restitution, costs of
3 imprisonment, or other penalties that the court may impose?

4 THE DEFENDANT: I do.

5 THE COURT: Do you understand that as part of your
6 plea agreement, you have agreed to make restitution to victims
7 of your crime in the amount of \$1,114,464?

8 THE DEFENDANT: Yes, ma'am.

9 THE COURT: All right. I now want to talk to you
10 about the supervised release aspect of your potential penalty.
11 Supervised release means that you'll be subject to monitoring
12 when you're released from prison. Certain terms and conditions
13 will be imposed. If you violate any of those terms and
14 conditions, you can be reimprisoned without a jury trial.

15 Do you understand that?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Do you understand that if you were on
18 supervised release and you do not comply with any of the set
19 terms or conditions, you can be returned to prison for up to
20 two years, and you will be given no credit for the time you
21 have served in prison as a result of your sentence and no
22 credit for any time spent on post-release supervision?

23 Do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: You should also understand, sir, there is

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1 no parole in the federal system. If you're sentenced to
2 prison, you will not be released early on parole. There is a
3 limited opportunity to earn credit for good behavior, but you
4 would have to serve at least 85 percent of the time to which
5 you are sentenced.

6 Do you understand that?

7 THE DEFENDANT: I understand.

8 THE COURT: Do you understand that if I accept your
9 plea of guilty and adjudge you guilty, that adjudication may
10 deprive you of certain valuable civil rights, including the
11 right to vote, the right to hold public office, the right to
12 serve on a jury, the right to possess any kind of firearm, if
13 you currently have or could otherwise attain such rights?

14 Do you understand that?

15 THE DEFENDANT: I understand.

16 THE COURT: Do you understand that as a result of your
17 plea, if I accept that plea and adjudge you guilty, there may
18 be adverse effects on your immigration status, including
19 further detention following completion of your sentence, and/or
20 removal or deportation from the United States?

21 Do you understand that?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Did you discuss your immigration situation
24 and possible immigration consequences of your plea with your
25 lawyers?

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1 THE DEFENDANT: Yes, ma'am, I did.

2 THE COURT: All right. Let me talk to you now, sir,
3 about something called the sentencing guidelines.

4 Under current law, there are what are called
5 sentencing guidelines that judges must consider in determining
6 your sentence. Have you spoken with your lawyers about the
7 sentencing guidelines?

8 THE DEFENDANT: Yes, ma'am, I did.

9 THE COURT: Do you understand that in addition to
10 considering the sentencing guidelines in imposing sentence, I
11 must consider various additional factors that are laid out in a
12 statute at 18, United States Code, Section 3553?

13 Do you understand that?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Do you understand that I have discretion,
16 while taking the guidelines into account, to sentence you for
17 the offense charged in Count One to any period of imprisonment
18 up to ten years?

19 THE DEFENDANT: I understand.

20 THE COURT: Do you understand that even though the
21 plea agreement includes a stipulated or agreed sentencing
22 guideline calculation, I cannot determine what your sentence
23 will be until after a presentence report is completed by the
24 probation department and you and your lawyers, the government
25 and its lawyers have a chance to review that draft report to

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1 challenge any of the facts reported by the probation office?

2 Do you understand that?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: According to the plea agreement, you have
5 agreed that the appropriate guidelines range for the offense in
6 Count One to which you intend to plead guilty is 108 to
7 120 months of incarceration.

8 Is that consistent with your understanding?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: And you've further agreed that the
11 applicable fine range for your case is \$30,000 to \$1 million,
12 is that your understanding?

13 THE DEFENDANT: It is.

14 THE COURT: Do you understand that this stipulation
15 does not bind the court or the probation office as to the facts
16 on which it is based, how to apply the guidelines to the facts,
17 or what an appropriate sentence will be in your case?

18 THE DEFENDANT: I understand.

19 THE COURT: Do you understand that I may decide to
20 impose a sentence that is outside of the guidelines range?

21 THE DEFENDANT: I understand.

22 THE COURT: In addition, do you understand that I must
23 order you to pay restitution to any person or entity injured as
24 a result of your criminal conduct?

25 THE DEFENDANT: Yes, ma'am.

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1 THE COURT: Is there, from the government, a proposed
2 forfeiture order or restitution order?

3 MR. NESSIM: No, your Honor. There is not a
4 forfeiture allegation for Count One, so the defendant is
5 agreeing not to file a claim for forfeiture, but he is not
6 actually being assessed forfeiture as part of the plea. A
7 restitution order will be entered at the time of sentencing.

8 THE COURT: All right. I would like it before
9 sentencing.

10 MR. NESSIM: Yes, your Honor.

11 THE COURT: All right. Not that morning, in other
12 words.

13 MR. NESSIM: Understood.

14 THE COURT: All right. Thank you.

15 Sir, do you understand that if your lawyer or anyone
16 else has attempted to estimate or predict for you what your
17 sentence will be, that estimate or prediction could be wrong?

18 THE DEFENDANT: I understand that, yes.

19 THE COURT: Do you understand that no one, not your
20 lawyer, not the government or its lawyers, can or should give
21 you any assurance as to what your sentence will be since that
22 sentence cannot be determined until after the probation office
23 report is completed and I have ruled on any challenges to the
24 report and I've determined what the appropriate sentence is?

25 Do you understand that?

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1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: Do you also understand that if your
3 sentence is different from what your attorney or anyone else
4 told you it might be or if it's different from what you expect
5 or you might hope or if you're surprised or disappointed by
6 your sentence, if I accept your guilty plea today, you will be
7 bound to that guilty plea and you will not be allowed to
8 withdraw your plea?

9 THE DEFENDANT: I understand that.

10 THE COURT: Do you understand that even if the
11 government doesn't oppose or take a position on what your
12 attorneys will ask me to impose as your sentence, I'm obligated
13 to impose whatever sentence I believe is appropriate under the
14 circumstances and the applicable law, and once your plea is
15 entered and accepted, you will have no opportunity or right to
16 withdraw that plea?

17 Do you understand that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Do you understand that you may have the
20 right to appeal your sentence under certain circumstances, even
21 if your plea agreement provides that you're waiving your right
22 to appeal?

23 Do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Are you currently serving any state or

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1 federal sentence?

2 THE DEFENDANT: No, I'm not.

3 THE COURT: Are you currently being prosecuted for any
4 offense other than the ones we have discussed today that are
5 laid out in the indictment?

6 THE DEFENDANT: No, I am not.

7 THE COURT: All right. Let's talk about your plea
8 agreement, sir.

9 As I stated earlier, I have a copy of a June 11, 2022,
10 letter addressed to Mr. Greenwald. Do you have a copy of that
11 in front of you, sir?

12 THE DEFENDANT: Yes, I do.

13 MR. LINNEMAN: One item, your Honor, I want to address
14 with respect to any prior ongoing state. He does have a prior
15 state charge.

16 THE COURT: Take your mask off.

17 MR. LINNEMAN: Mr. Recamier does have a prior state
18 charge. However, that's currently being resolved through a
19 cooperation agreement, so he's not currently under any state
20 charges. Just so the record is clear, he was charged, pled
21 guilty, and that's being reduced pursuant to a cooperation
22 agreement.

23 THE COURT: OK. No sentence then?

24 MR. LINNEMAN: No sentence.

25 THE COURT: Is it related to the offenses here?

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1 MR. LINNEMAN: It is not, no.

2 THE COURT: Is that in New York?

3 MR. LINNEMAN: It is.

4 THE COURT: All right. Thank you.

5 Are we ready to move on?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you have a copy of the June 11 plea
8 agreement in front of you?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: All right. Is your signature; have you
11 signed this document?

12 THE DEFENDANT: Yes, I did.

13 THE COURT: And did you read the agreement before you
14 signed it?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Did you discuss it with your lawyers
17 before you signed it?

18 THE DEFENDANT: Yes, I did.

19 THE COURT: Did your lawyers explain to you all of the
20 terms and conditions of this agreement?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Did you fully understand the agreement
23 before you signed it?

24 THE DEFENDANT: I did.

25 THE COURT: Do you have any questions at all about the

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1 agreement before we proceed?

2 THE DEFENDANT: No, I don't.

3 THE COURT: All right. Do you understand that the
4 plea agreement provides that you're giving up or waiving your
5 right to appeal or to litigate or challenge your sentence under
6 statute known as 28, United States Code, Section 2255 and/or
7 2241, if I sentence you within or below the guidelines range
8 set forth in that letter agreement?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do you understand you're under no
11 obligation to waive your rights to appeal or otherwise litigate
12 your sentence?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Do you understand that your plea agreement
15 provides that you are waiving your right to appeal or to attack
16 your conviction on the basis that the government didn't provide
17 you with discovery material, exculpatory material, except
18 information establishing factual innocence, or material to
19 impeach the government's witnesses against you?

20 THE DEFENDANT: Yes, I understand.

21 THE COURT: Do you understand you're under no
22 obligation to waive those rights?

23 THE DEFENDANT: Yes, ma'am.

24 THE COURT: Do you understand your agreement provides
25 that you will not move for a downward departure under the

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1 sentencing guidelines or seek any adjustment under the
2 guidelines that is not described in the plea agreement, but you
3 may make arguments for a lower sentence under the general
4 sentencing statute that I mentioned to you earlier, that is
5 known as Section 3553(a)?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: Do you understand you're under no
8 obligation to enter into any such agreement?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do you understand that your plea agreement
11 provides that you're waiving any challenges to your guilty
12 plea, your conviction or your sentence based on any immigration
13 consequences of your plea regardless of any advice that you may
14 have received about immigration consequences?

15 THE DEFENDANT: Yes, ma'am.

16 THE COURT: Do you understand you're under no
17 obligation to make this waiver?

18 THE DEFENDANT: I do.

19 THE COURT: And finally, do you understand that your
20 agreement provides that should the conviction following your
21 plea of guilty pursuant to that plea agreement be vacated for
22 any reason, any prosecution that is not barred by the statute
23 of limitations on the date that you signed that agreement may
24 be commenced or reinstated against you notwithstanding that the
25 statute of limitations may have run between the signing of the

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1 plea agreement and the commencement or reinstatement of any
2 such prosecution?

3 THE DEFENDANT: Yes, ma'am.

4 THE COURT: Do you understand you're under no
5 obligation to enter into that agreement?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. Let me ask you, sir, does this
8 letter agreement that you have in front of you reflect your
9 complete and total understanding of the entire agreement
10 between the government and its lawyers and you and your
11 lawyers?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Is everything that you understand about
14 your plea and your sentence up to this point covered in this
15 agreement?

16 THE DEFENDANT: It is, yes.

17 THE COURT: Has anything been left out?

18 THE DEFENDANT: Not that I know of.

19 THE COURT: Do you need to consult with your lawyers?

20 THE DEFENDANT: No, I don't.

21 THE COURT: Is there anything you have in mind that
22 you think might have been left out?

23 THE DEFENDANT: No.

24 THE COURT: Apart from what's contained in the
25 agreement, have any promises been made to you in order to get

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1 you to plead guilty today?

2 THE DEFENDANT: No.

3 THE COURT: Knowing everything that we've just talked
4 about, do you still wish to plead guilty pursuant to this
5 agreement?

6 THE DEFENDANT: Yes, I do.

7 THE COURT: Let me ask counsel, do you know of any
8 valid reason why your client would prevail at trial, or do you
9 know of any reason why he should not be permitted to plead
10 guilty today?

11 MR. LINNEMAN: I do not, your Honor.

12 THE COURT: All right. Mr. Recamier, I told you
13 earlier that you would have to give up the right not to
14 incriminate yourself because I need you to tell me what it is
15 that you did that makes you guilty of the crime to which you're
16 pleading guilty.

17 At this time, I need you to tell me what you did, when
18 you did it, where you did it, with whom you did it. Are you
19 prepared, sir?

20 THE DEFENDANT: Yes, I am.

21 THE COURT: All right. Give me one moment then.

22 All right. Whenever you're ready.

23 THE DEFENDANT: OK. From about August 2020 to the
24 time of my arrest, I submitted numerous application to PPP
25 loans using fake IDs and company names, mostly Manhattan.

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1 THE COURT: Mostly what?

2 THE DEFENDANT: In Manhattan.

3 I did receive over \$1 million from PPP loans.

4 THE COURT: You received how much, sir?

5 THE DEFENDANT: Over a million dollars.

6 THE COURT: OK. At the time that you did that, did
7 you know knowingly attempt to defraud the government?

8 THE DEFENDANT: Yes, I knew it was illegal. Yes.

9 THE COURT: And were you attempting to mislead and
10 defraud the government in order to obtain those funds?

11 THE DEFENDANT: Yes, I did.

12 THE COURT: And you were intentionally trying to
13 mislead the government?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: Where did you get the identities that you
16 used?

17 THE DEFENDANT: On the dark web.

18 THE COURT: Give me one moment, please.

19 (Pause)

20 Did you do this in concert with or acting with other
21 people?

22 THE DEFENDANT: No, ma'am.

23 MR. LINNEMAN: Your Honor, respectfully, I don't
24 believe that there are -- this is not a conspiracy charge, so I
25 don't think that him working with anyone else is necessary for

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1 this allocution.

2 THE COURT: I think that's correct.

3 All right. Sir, when you did what you just told me
4 you did, did you know that it was wrong?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Did you know that it was illegal?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: Is there anything further that the
9 government wishes me to address in terms of factual matters in
10 connection with the defendant's allocution?

11 MR. NESSIM: No, your Honor. Thank you.

12 THE COURT: Anything counsel that you believe should
13 be addressed that hasn't been addressed?

14 MR. LINNEMAN: No, your Honor.

15 THE COURT: All right. Mr. Nessim, would you please
16 outline for us the evidence that the government would introduce
17 if this case were to go to trial.

18 MR. NESSIM: Yes, your Honor. The government's
19 evidence at trial would consist of, among other things, the
20 loan applications that the defendant and his codefendant,
21 Adedayo Ilori, submitted to fraudulently obtain government
22 loans; the financial records and other business records for
23 accounts created in furthering that loan scheme and also to
24 receive the proceeds of those loans; it would include the fake
25 identity in the names of identity theft victims that the

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1 defendants used in the course of this scheme, many of which
2 included the defendant, Mr. Recamier's photograph; it would
3 include the defendant's post-arrest statement in which he
4 described that he and his codefendant, Adedayo Ilori, worked to
5 file for these loans and fraudulently obtain them; it would
6 also contain the identity theft witnesses who would explain
7 they were real people and real identifiers, including their
8 name, and that they did not consent to the use of the
9 identities as they were used in furtherance of the crime; and
10 the government's evidence would also consist of the cellular
11 phones and computer recovered from at the time of the
12 defendant's arrest, Mr. Recamier, and also his codefendant,
13 Mr. Ilori, that included evidence of their involvement in this
14 scheme, including their possession of those stolen identities
15 and documents used to submit fraudulent loan applications to
16 banks. It would also include the physical identification cards
17 and bank cards that were recovered at the time of their arrests
18 and were also in the name of identity theft victims.

19 THE COURT: All right. Is the government's view that
20 there is an adequate factual basis to support the plea of
21 guilty to the charge in Count One?

22 MR. NESSIM: Yes, your Honor.

23 THE COURT: Does the defense believe there is an
24 adequate factual basis to support a plea of guilty to the
25 offense charged in Count One?

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1 MR. LINNEMAN: Yes, your Honor.

2 THE COURT: All right. Mr. Recamier, we've now
3 discussed your plea agreement and possible consequences of
4 after plea of guilty to the crime with which you're charged.
5 So we can turn at this point to formal entry of a plea.

6 How do you plead to Count One of the indictment of
7 major fraud against the United States, in violation of Title
8 18, United States Code, Section 1031?

9 THE DEFENDANT: Guilty.

10 THE COURT: Are you pleading guilty because you are,
11 in fact, guilty?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Are you pleading guilty voluntarily?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Are you doing so of your own free will?

16 THE DEFENDANT: Yes, ma'am.

17 THE COURT: Have any threats been made against you in
18 order to induce to you plead guilty?

19 THE DEFENDANT: No, ma'am.

20 THE COURT: Has anyone used any kind of force or
21 violence to get you to plead guilty?

22 THE DEFENDANT: No.

23 THE COURT: Let me ask defense counsel, are there any
24 other questions you believe I should ask in connection with
25 this plea?

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1 MR. LINNEMAN: No, your Honor.

2 THE COURT: Mr. Nessim?

3 MR. NESSIM: No, your Honor. Thank you.

4 THE COURT: All right. Mr. Recamier, would you please
5 stand.

6 Sir, you have acknowledged that you are, in fact,
7 guilty as charged in Count One of the indictment. Because I am
8 satisfied that you know your rights, including your right to go
9 to trial, and you are waiving those rights voluntarily and that
10 you're aware of the consequences of your plea, including the
11 sentence that may be imposed, I do find that your plea is
12 entered knowingly and voluntarily and I find it is supported by
13 an independent basis in fact containing each of the essential
14 elements of the offense.

15 I therefore accept your guilty plea and I enter a
16 judgment of guilty of Count One of the indictment, major fraud
17 against the United States, in violation of Title 18, United
18 States Code, Section 1031.

19 You may be seated, sir.

20 THE DEFENDANT: Thank you.

21 THE COURT: All right. Mr. Recamier, I want to at
22 this point talk to you about the process going forward.

23 All right. The next step I mentioned earlier, but to
24 just talk more specifically about it, the next step is that the
25 probation office will be preparing what we call a presentence

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1 report and that report assists me in determining what an
2 appropriate sentence is for the count to which you have just
3 pled guilty and been adjudicated as guilty.

4 In order to prepare that report, the probation office
5 needs to interview you. It's very important that the
6 information that you give to the probation office be truthful
7 and accurate. That report is very important to me in deciding
8 what an appropriate sentence is.

9 Once the report is prepared in draft form, you and
10 your lawyer as well as the government and its lawyer, will have
11 the opportunity to examine that report and you can challenge or
12 object to the report.

13 At the time of your sentencing, you'll also have the
14 right and the opportunity to address the court directly if you
15 wish to could so. You're not obligated to do that. You
16 certainly have that opportunity.

17 So let me ask counsel, in connection with preparation
18 of that report, does counsel wish to be present for any
19 interview with Mr. Recamier?

20 MR. LINNEMAN: Yes, I would.

21 THE COURT: All right. I order at this point that no
22 interview take place unless counsel is present.

23 Are you able, sir, to meet with the probation office
24 within the next 14 days?

25 MR. LINNEMAN: Yes, I can, your Honor.

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1 THE COURT: All right. Please reach out to them and
2 make arrangements for that interview to happen.

3 I also remind you, Mr. Nessim, to please provide to
4 probation a statement of facts within the same 14 days.

5 MR. NESSIM: Yes, your Honor.

6 THE COURT: All right. In terms of sentencing, let me
7 just pull up a calendar.

8 Ms. Dempsey, do you have a proposed date?

9 THE DEPUTY CLERK: September 29.

10 THE COURT: Two o'clock on September 29. Does that
11 work, or is there a problem for anyone on that day?

12 MR. NESSIM: It works for the government, your Honor.

13 MR. LINNEMAN: Works for the defense.

14 THE COURT: All right then. That will be the date for
15 sentencing, September 29 at 2:00 p.m.

16 All right. Let me just remind counsel of the need to
17 give timely comments or objection to the probation office.
18 Courtesy copies will be provided to chambers. Any defense
19 submission with respect to sentencing is due two weeks before
20 the sentencing date and the government's submission is due one
21 week before the sentencing date.

22 Understood?

23 MR. NESSIM: Yes, your Honor.

24 MR. LINNEMAN: Yes, your Honor.

25 THE COURT: All right. So, Mr. Recamier, let me just

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1 remind you again that failure to be truthful with the probation
2 office and the court could have adverse effects on your
3 sentence. It could subject you to further separate
4 prosecution.

5 I will reserve the right to deny you the two-level
6 reduction in the sentencing guideline calculation for
7 acceptance of responsibility if you do not cooperate fully with
8 the probation office.

9 Do you understand that, sir?

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: All right. Defendant shall remain in
12 custody pending sentencing. I would just ask counsel to please
13 order a copy of the transcript of today's plea proceedings and
14 file it on the docket. Be sure that's done at least two weeks
15 before sentencing because I do go back and review things at the
16 time I'm preparing for sentencing.

17 All right. Is there anything further we should
18 address?

19 MR. NESSIM: No. Thank you, your Honor.

20 MR. LINNEMAN: Nothing further.

21 THE COURT: Thank you then. We'll stand adjourned.
22 Only thing to be done is to thank our court reporter very much.

23 Have a good rest of the day.

24 (Adjourned)