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JAN 14 2014
DISCIPLINARY BOARD

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BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

GEORGE J. Atwater III,
Lawyer (Bar No. 17824).

Proceeding No. 12#00045

STIPULATION TO DISBARMENT

Under Rule 9.1 of the Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Disbarment is entered into by the Washington State Bar Association (Association), through disciplinary counsel Scott G. Busby, and by Respondent George J. Atwater III.

Respondent understands that he is entitled under the ELC to a hearing, to present exhibits and witnesses on his behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that he is entitled under the ELC to appeal the outcome of a hearing to the Disciplinary Board, and, in certain cases, to the Supreme Court. Respondent further understands that a hearing and appeal could result in an outcome more favorable or less favorable to him. Respondent chooses to resolve this proceeding now by entering into the following stipulation to facts, misconduct, and sanction to

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1 avoid the risk, time, and expense attendant to further proceedings.

2 **I. ADMISSION TO PRACTICE**

3 1. Respondent was admitted to practice law in the State of Washington on June 10,
4 1988.

5 2. Respondent was suspended from the practice of law under ELC 7.1 on June 12,
6 2012, as a result of the felony conviction referenced below in paragraph 16.

7 **II. STIPULATED FACTS**

8 3. During 2005 and early 2006, Robert Miracle established and operated a series of
9 companies that supposedly either provided oil-field services or developed oil and gas fields in
10 Southeast Asia, including, among others, Laramie Petroleum, Inc. ("Laramie"), and MCube
11 Petroleum, Inc. ("MCube"). Respondent was Vice President and General Counsel of Laramie,
12 and General Counsel of MCube.

13 4. During early 2006, Miracle represented to investors that these companies were
14 successful and were producing revenue and profit. In fact, neither Laramie nor MCube was
15 successful or produced any significant revenue, either from the sale of oil services or from
16 the production of oil or gas, either in early 2006 or at any time thereafter.

17 5. In March 2006, Miracle established another company, Halmahera-Rembang
18 Limited Liability Company ("Hal-Rem LLC"). Miracle caused MCube to enter into
19 agreements to purchase all of the shares of two British Virgin Island corporations that held
20 the rights to develop the Halmahera and the Rembang energy fields in Indonesia, for a total
21 price of \$10,000,000, and caused MCube to assign the revenues from the production of these
22 two fields to Hal-Rem LLC.

23 6. In order to finance this transaction, Miracle sought to borrow \$10,000,000 from an
24

1 investor, P.R. As part of the due diligence relating to this investment, P.R. requested to see
2 bank statements that documented MCube's production of oil and gas from earlier fields in
3 order to ensure that those revenues would be available to repay P.R.'s loan.

4 7. Miracle instructed Respondent to create altered copies of bank statements for
5 MCube's account at Bank Niaga in Indonesia that falsely showed that MCube had incurred
6 drilling expenses that it had not in fact incurred, and had received oil and/or gas revenues that
7 it had not in fact received. Respondent knew that these statements would be shown to P.R.
8 to obtain the loan from P.R. Respondent created altered statements for the first several
9 months of 2006 that included fictitious deposits totaling \$6,780,052 from the supposed sale of
10 oil and/or gas, and fictitious payments of \$3,325,000 for supposed drilling expenses.

11 8. Miracle subsequently showed these statements to P.R. and signed a certification
12 stating that the altered bank statements were true and correct. Based upon Miracle's
13 misrepresentations, and the altered bank statements, P.R. agreed to loan \$10,000,000 to
14 MCube. On April 20, 2006, P.R. sent \$10,000,000 by wire transfer from P.R.'s bank account
15 in the State of California to MCube's bank account in the State of Washington.

16 9. On May 1, 2012, a Superseding Information was filed in the United States District
17 Court for the Western District of Washington charging Respondent with one count of
18 Conspiracy to Commit Wire Fraud, in violation of Title 18, United States Code, Section 371 (18
19 U.S.C. § 371). A copy of the Superseding Information is attached as Appendix A.

20 10. Violation of 18 U.S.C. § 371, as charged in the Superseding Information, is a felony
21 punishable by imprisonment for up to five years.

22 11. On May 1, 2012, Respondent entered a plea of guilty to Conspiracy to Commit Wire
23 Fraud, as charged in the Superseding Information, before United States Magistrate Judge James
24

1 P. Donohue. A copy of the Plea Agreement is attached as Appendix B.

2 12. The elements of Conspiracy, as charged in the Superseding Information, are: (a)
3 between in or about April 2006 and in or about May 2006 there was an agreement between two
4 or more persons to commit a crime, in this case wire fraud; (b) Respondent became a member of
5 the conspiracy knowing of its object and intending to help accomplish it; and (c) one of the
6 members of the conspiracy performed at least one overt act for the purpose of carrying out the
7 conspiracy.

8 13. The elements of Wire Fraud, 18 U.S.C. § 1343, are: (1) the defendant knowingly
9 devised or participated in a scheme or plan to defraud, or a scheme or plan for obtaining money
10 or property by means of false or fraudulent pretenses, representations, or promises; (2) the
11 statements made as part of the scheme were material, that is, they had a natural tendency to
12 influence, or were capable of influencing, a person to part with money or property; (3) the
13 defendant acted with the intent to defraud, that is, the intent to deceive or cheat; and (4) the
14 defendant used, or caused to be used, an interstate wire communication to carry out or attempt
15 to carry out an essential part of the scheme.

16 14. Respondent admitted that he was guilty of the offense charged in the Superseding
17 Information, and he agreed to the facts set forth in paragraphs 3-8 above.

18 15. Respondent entered his guilty plea knowingly, intelligently, and voluntarily.

19 16. On May 21, 2012, United States District Judge Marsha J. Pechman accepted
20 Respondent's guilty plea and adjudged Respondent guilty of Conspiracy to Commit Wire Fraud,
21 as charged in the Superseding Information.

22 17. On August 3, 2012, Respondent was sentenced to imprisonment for one year and a
23 day. A copy of the transcript of the sentencing hearing is attached as Appendix C. A copy of the
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1 Judgment in a Criminal Case is attached as Appendix D.

2 **III. STIPULATION TO MISCONDUCT**

3 18. By committing the crime of Conspiracy to Commit Wire Fraud, as charged in the
4 Superseding Information, Respondent violated RPC 8.4(b), RPC 8.4(c), and RPC 8.4(i). *See In*
5 *re Disciplinary Proceeding Against Smith*, 170 Wn.2d 721, 734, 246 P.3d 1224 (2011).

6 **IV. PRIOR DISCIPLINE**

7 19. Respondent has no prior discipline.

8 **V. APPLICATION OF ABA STANDARDS**

9 20. The following American Bar Association *Standards for Imposing Lawyer Sanctions*
10 (ABA *Standards*) apply to this case:

- 11 5.11 Disbarment is generally appropriate when:
- 12 (a) a lawyer engages in serious criminal conduct, a necessary
13 element of which includes intentional interference with the
14 administration of justice, false swearing,
15 misrepresentation, fraud, extortion, misappropriation, or
16 theft; or the sale, distribution or importation of controlled
17 substances; or the intentional killing of another; or an
18 attempt or conspiracy or solicitation of another to commit
19 any of these offenses; or
 - 20 (b) a lawyer engages in any other intentional conduct
21 involving dishonesty, fraud, deceit, or misrepresentation
22 that seriously adversely reflects on the lawyer's fitness to
23 practice.
- 24 5.12 Suspension is generally appropriate when a lawyer knowingly
engages in criminal conduct which does not contain the elements
listed in Standard 5.11 and that seriously adversely reflects on the
lawyer's fitness to practice.
- 5.13 Reprimand is generally appropriate when a lawyer knowingly
engages in any other conduct that involves dishonesty, fraud,
deceit, or misrepresentation and that adversely reflects on the
lawyer's fitness to practice law.
- 5.14 Admonition is generally appropriate when a lawyer engages in
any other conduct that reflects adversely on the lawyer's fitness to
practice law.

21. The presumptive sanction for Respondent's misconduct is disbarment under ABA

1 *Standards* std. 5.11(a). *See Smith*, 170 Wn.2d at 734-736.

2 22. The following aggravating factors apply under ABA *Standards* std. 9.22:

- 3 (b) dishonest or selfish motive;
4 (i) substantial experience in the practice of law.

5 23. The following mitigating factors apply under ABA *Standards* std. 9.32:

- 6 (a) absence of a prior disciplinary record;
7 (l) remorse.

8 **VI. STIPULATED DISCIPLINE**

9 24. The parties stipulate that Respondent shall be disbarred for his misconduct.

10 **VII. COSTS AND EXPENSES**

11 25. In light of Respondent's willingness to resolve this matter by stipulation at an early
12 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$300 in
13 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l)
14 if these costs are not paid within 30 days of approval of this stipulation. Reinstatement from
disbarment is conditioned on payment of costs.

15 **VIII. VOLUNTARY AGREEMENT**

16 26. Respondent states that prior to entering into this Stipulation, he had an opportunity to
17 consult independent legal counsel regarding this Stipulation, he is entering into this Stipulation
18 voluntarily, and no promises or threats have been made by the Association, or by any
19 representative thereof, to induce the Respondent to enter into this Stipulation except as provided
20 herein.

21 **IX. LIMITATIONS**

22 27. This Stipulation is a compromise agreement intended to resolve this matter in
23 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
24 expenditure of additional resources by Respondent and the Association. Both Respondent and

1 the Association acknowledge that the result after further proceedings in this matter might differ
2 from the result agreed to herein.

3 28. This Stipulation is not binding on the Association or Respondent as a statement of all
4 existing facts relating to the professional conduct of Respondent, and any additional existing
5 facts may be proven in any subsequent disciplinary proceedings.

6 29. This Stipulation results from the consideration of various factors by both parties,
7 including the benefits to both by promptly resolving this matter without the time and expense of
8 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As
9 such, approval of this Stipulation will not constitute precedent in determining the appropriate
10 sanction to be imposed in other cases; but, if approved, this Stipulation will be admissible in
11 subsequent proceedings against Respondent to the same extent as any other approved
12 Stipulation.


13 30. Under Disciplinary Board policy, in addition to the Stipulation, the Disciplinary
14 Board shall have available to it for consideration all documents that the parties agree to submit
15 to the Disciplinary Board, and all public documents. Under ELC 3.1(b), all documents that
16 form the record before the Board for its review become public information on approval of the
17 Stipulation by the Board, unless disclosure is restricted by order or rule of law.

18 31. If this Stipulation is approved by the Disciplinary Board and the Supreme Court, it
19 will be followed by the disciplinary action agreed to in this Stipulation. All notices required in
20 the Rules for Enforcement of Lawyer Conduct will be made.


21 32. If this Stipulation is not approved by the Disciplinary Board and the Supreme Court,
22 this Stipulation will have no force or effect, and neither it nor the fact of its execution will be
23 admissible as evidence in the pending disciplinary proceeding, in any subsequent disciplinary
24

1 proceeding, or in any civil or criminal action.

2 WHEREFORE the undersigned being fully advised, adopt and agree to this Stipulation
3 to Discipline as set forth above.

4 
5 George J. Atwater III, Bar No. 17824
6 Respondent

Dated: 31 Oct 2013

7 
8 Scott G. Busby, Bar No. 17522
9 Senior Disciplinary Counsel

Dated: 10-21-13

APPENDIX A

Chief Judge Pechman

Original

FILED ENTERED
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MAY - 1 2012

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

GEORGE ATWATER,

Defendant.

NO. CR12-0051MJP

SUPERSEDING INFORMATION

(Felony)



The United States Attorney charges that:

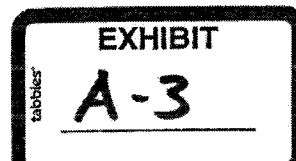
12-CR-00051-INFO

COUNT 1
(Conspiracy)

Between in or about April 2006 and in or about May 2006, at Seattle, within the Western District of Washington, and elsewhere, GEORGE ATWATER and Robert Miracle knowingly and willfully combined, conspired, and agreed to commit an offense against the United States, to wit: wire fraud, in violation of Title 18, United States Code, Section 1343.

Background

1. During 2005 and early 2006, Robert Miracle established and operated a series of companies that supposedly either provided oil-field services, or developed oil and gas fields, in Southeast Asia, including, among others, Laramie Petroleum, Inc. ("Laramie"), and MCube Petroleum, Inc. ("MCube"). GEORGE ATWATER was Vice



1 President - General Counsel of Laramie. GEORGE ATWATER also functioned as
2 General Counsel of MCube.

3 2. During early 2006, Robert Miracle represented to investors that these
4 companies were successful and were producing revenue and profit. In fact, neither
5 Laramie nor MCube was successful or produced any significant revenue, either from the
6 sale of oil services or from the production of oil or gas, either in early 2006 or at any time
7 thereafter.

8 3. In March 2006, Robert Miracle established another company, Halmahera-
9 Rembang Limited Liability Company ("Hal-Rem LLC"). Miracle caused MCube to enter
10 into agreements to purchase all of the shares of two British Virgin Island corporations
11 that held the rights to develop the Halmahera and the Rembang energy fields in Indonesia,
12 for a total price of \$10,000,000, and caused MCube to assign the revenues from the
13 production of these two fields to Hal-Rem LLC.

14 *Manner and Means of the Conspiracy*

15 4. It was a part of the conspiracy that Robert Miracle sought to borrow
16 \$10,000,000 from an investor, P.R., in order to fund the purchase of the companies that
17 held the rights to develop the Halmahera and Rembang fields. As part of the due
18 diligence relating to this investment, P.R. requested to see bank statements that
19 documented MCube's receipt of revenues from the production of oil and gas from earlier
20 fields in order to ensure that those revenues would be available to repay P.R.'s loan.

21 5. It was a part of the conspiracy that Robert Miracle and GEORGE
22 ATWATER combined to create and present to P.R. altered bank statements that showed
23 that MCube had received revenues from the production of oil and gas from earlier fields
24 that MCube had not in fact received for such production. It was further a part of the
25 conspiracy that, based upon Miracle's misrepresentations, and the altered bank
26 statements, P.R. agreed to loan \$10,000,000 to MCube.

27 6. It was further a part of the conspiracy that Robert Miracle and GEORGE
28 ATWATER caused to be transmitted by means of wire communication in interstate

1 | commerce, a \$10,000,000 wire transfer from P.R.'s bank account in the State of
2 | California to MCube's bank account in the State of Washington.

3 | *Overt Acts*

4 | 7. In furtherance of the conspiracy, and to effect the objects of the conspiracy,
5 | Robert Miracle and GEORGE ATWATER committed the following overt acts, among
6 | others, at Seattle, within the Western District of Washington, and elsewhere:

- 7 | a. Robert Miracle instructed GEORGE ATWATER to create altered
8 | copies of bank statements for MCube's account at Bank Niaga in
9 | Indonesia that falsely showed that MCube had incurred drilling
10 | expenses that it had not, in fact, incurred, and had received oil and/or
11 | gas revenues that it had not, in fact, received.
- 12 | b. GEORGE ATWATER created altered statements for the first several
13 | months of 2006 that included fictitious deposits totaling \$6,780,052
14 | from the supposed sale of oil and/or gas and fictitious payments of
15 | \$3,325,000 for supposed drilling expenses.
- 16 | c. Robert Miracle showed these statements to P.R. and represented, and
17 | signed a certification, that the altered bank statements were true and
18 | correct.

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d. Robert Miracle and GEORGE ATWATER caused P.R. to transmit a \$10,000,000 wire transfer from P.R.'s bank account in the State of California to MCube's bank account in the State of Washington.

All in violation of Title 18, United States Code, Section 371.


DATED this 17th day of April, 2012.



JENNY A. DURKAN
United States Attorney



CARL BLACKSTONE
Assistant United States Attorney



ANDREW C. FRIEDMAN
Assistant United States Attorney

APPENDIX B

Chief Judge Pechman

12-CR-00051-PLAGR

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LODGED RECEIVED

MAY - 1 2012

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

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10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 GEORGE ATWATER,
14 Defendant.

No. CR12-0051MJP
PLEA AGREEMENT

15 The United States of America, by and through Jenny A. Durkan, United States Attorney
16 for the Western District of Washington, and Carl Blackstone and Andrew C. Friedman, Assistant
17 United States Attorneys for said District, Defendant, George Atwater, and his attorney, Jesse
18 Cantor, enter into the following Agreement, pursuant to Federal Rule of Criminal Procedure
19 11(c):

20 **1. Waiver of Indictment.** Defendant, having been advised of the right to be charged
21 by Indictment, agrees to waive that right and enter a plea of guilty to the charge brought by the
22 United States Attorney in a Superseding Information.

23 **2. Waiver of Statute of Limitations.** Defendant, having been advised of the right to
24 assert a defense based upon the statute of limitations, hereby voluntarily and knowingly waives
25 any defense based upon the statute of limitations with respect to the charge to which he is
26 pleading guilty.

27 **3. The Charges.** Defendant, having been advised of the right to have this matter
28 tried before a jury, agrees to waive that right and enters his plea of guilty to the charge of

EXHIBIT
A-4

1 | conspiracy, as charged in Count 1 of the Superseding Information, in violation of Title 18,
2 | United States Code, Section 371. By entering his plea of guilty, Defendant hereby waives all
3 | objections to the form of the charging document. Defendant further understands that, before
4 | entering his plea, he will be placed under oath. Any statement given by Defendant under oath
5 | may be used by the United States in a prosecution for perjury or false statement.

6 | **4. Elements of the Offense.** The elements of the offense of conspiracy, as charged
7 | in Count 1, in violation of Title 18, United States Code, Section 371, are as follows:

8 | First, between in or about April 2006 and in or about May 2006 there was an
9 | agreement between two or more persons to commit a crime, in this case wire fraud;

10 | Second, Defendant became a member of the conspiracy knowing of its object and
11 | intending to help accomplish it; and

12 | Third, one of the members of the conspiracy performed at least one overt act for
13 | the purpose of carrying out the conspiracy.

14 | The elements of the offense of wire fraud, in violation of Title 18, United States Code,
15 | Section 1343, are as follows:

16 | First, Defendant knowingly devised or participated in a scheme or plan to defraud,
17 | or a scheme or plan for obtaining money or property by means of false or fraudulent pretenses,
18 | representations, or promises;

19 | Second, the statements made as part of the scheme were material, that is, they had
20 | a natural tendency to influence, or were capable of influencing, a person to part with money or
21 | property;

22 | Third, Defendant acted with the intent to defraud, that is, the intent to deceive or
23 | cheat; and

24 | Fourth, Defendant used, or caused to be used, an interstate wire communication to
25 | carry out or attempt to carry out an essential part of the scheme.

26 | **5. The Penalties.** Defendant understands that the statutory penalties for the offense
27 | of conspiracy, as charged in Count 1, are imprisonment for up to five (5) years, a fine of up to
28 | two hundred fifty thousand and no/100 dollars (\$250,000.00), a period of supervision following

1 release from prison of up to three (3) years, and a special assessment of one hundred and no/100
2 dollars (\$100.00). If Defendant receives a sentence of probation, the probationary period could
3 be up to five (5) years. Defendant agrees that the special assessment shall be paid at or before
4 the time of sentencing.

5 Defendant understands that supervised release is a period of time following imprisonment
6 during which he will be subject to certain restrictions and requirements. Defendant further
7 understands that, if supervised release is imposed and he violates one or more of its conditions,
8 Defendant could be returned to prison for all or part of the term of supervised release that was
9 originally imposed. This could result in Defendant's serving a total term of imprisonment greater
10 than the statutory maximum stated above.

11 Defendant understands that, in addition to any term of imprisonment and/or fine that is
12 imposed, the Court may order him to pay restitution to any victim of the offense, as required by
13 law. Defendant further understands that the consequences of pleading guilty may include the
14 forfeiture of certain property either as a part of the sentence imposed by the Court, or as a result
15 of civil judicial or administrative process.

16 Defendant agrees that any monetary penalty the Court imposes, including any special
17 assessment, fine, costs, or restitution, is due and payable immediately and further agrees to
18 submit a completed Financial Statement of Debtor form as requested by the United States
19 Attorney's Office.

20 **6. Rights Waived by Pleading Guilty.** Defendant understands that, by pleading
21 guilty, he knowingly and voluntarily waives the following rights:

- 22 a. The right to plead not guilty and to persist in a plea of not guilty;
- 23 b. The right to a speedy and public trial before a jury of his peers;
- 24 c. The right to the effective assistance of counsel at trial, including, if
25 Defendant could not afford an attorney, the right to have the Court appoint one for him;
- 26 d. The right to be presumed innocent until guilt has been established beyond a
27 reasonable doubt at trial;

28

1 e. The right to confront and cross-examine witnesses against Defendant at
2 trial;

3 f. The right to compel or subpoena witnesses to appear on his behalf at trial;

4 g. The right to testify or to remain silent at trial, at which trial such silence
5 could not be used against Defendant; and

6 h. The right to appeal a finding of guilt or any pretrial rulings.

7 **7. United States Sentencing Guidelines.** Defendant understands and acknowledges
8 that, at sentencing, the Court must consider the sentencing range calculated under the
9 United States Sentencing Guidelines, together with the other factors set forth in Title 18,
10 United States Code, Section 3553(a), including: (1) the nature and circumstances of the offense;
11 (2) the history and characteristics of the defendant; (3) the need for the sentence to reflect the
12 seriousness of the offense, to promote respect for the law, and to provide just punishment for the
13 offense; (4) the need for the sentence to afford adequate deterrence to criminal conduct; (5) the
14 need for the sentence to protect the public from further crimes of the defendant; (6) the need to
15 provide the defendant with educational and vocational training, medical care, or other
16 correctional treatment in the most effective manner; (7) the kinds of sentences available; (8) the
17 need to provide restitution to victims; and (9) the need to avoid unwarranted sentence disparity
18 among defendants involved in similar conduct who have similar records. Accordingly,
19 Defendant understands and acknowledges that:

20 a. The Court will determine his applicable Sentencing Guidelines range at the
21 time of sentencing;

22 b. After consideration of the Sentencing Guidelines and the factors in
23 18 U.S.C. 3553(a), the Court may impose any sentence authorized by law, up to the maximum
24 term authorized by law;

25 c. The Court is not bound by any recommendation regarding the sentence to
26 be imposed, or by any calculation or estimation of the Sentencing Guidelines range offered by
27 the parties or the United States Probation Department, or by any stipulations or agreements
28 between the parties in this Plea Agreement; and

1 field services, or developed oil and gas fields, in Southeast Asia,
2 including, among others, Laramie Petroleum, Inc. ("Laramie"), and
3 MCube Petroleum, Inc. ("MCube"). Defendant, George Atwater,
4 was Vice President - General Counsel of Laramie. Defendant also
5 functioned as General Counsel of MCube.

6 During early 2006, Robert Miracle represented to investors
7 that these companies were successful and were producing revenue
8 and profit. In fact, neither Laramie nor MCube was successful or
9 produced any significant revenue, either from the sale of oil services
10 or from the production of oil or gas, either in early 2006 or at any
11 time thereafter.

12 In March 2006, Miracle established another company,
13 Halmahera-Rembang Limited Liability Company ("Hal-Rem LLC").
14 Miracle caused MCube to enter into agreements to purchase all of
15 the shares of two British Virgin Island corporations that held the
16 rights to develop the Halmahera and the Rembang energy fields in
17 Indonesia, for a total price of \$10,000,000.00, and caused MCube to
18 assign the revenues from the production of these two fields to Hal-
19 Rem LLC.

20 In order to finance this transaction, Miracle sought to borrow
21 \$10,000,000.00 from an investor, P.R. As part of the due diligence
22 relating to this investment, P.R. requested to see bank statements that
23 documented MCube's production of oil and gas from earlier fields in
24 order to ensure that those revenues would be available to repay
25 P.R.'s loan.

26 Miracle instructed Defendant to create altered copies of bank
27 statements for MCube's account at Bank Niaga in Indonesia that
28 falsely showed that MCube had incurred drilling expenses that it had
not, in fact, incurred, and had received oil and/or gas revenues that
it had not, in fact, received. Defendant knew that these statements
would be shown to P.R. to obtain the loan from P.R. Defendant
created altered statements for the first several months of 2006 that
included fictitious deposits totaling \$6,780,052.00 from the supposed
sale of oil and/or gas, and fictitious payments of \$3,325,000.00 for
supposed drilling expenses.

Miracle subsequently showed these statements to P.R., and
signed a certification stating that the altered bank statements were
true and correct. Based upon Miracle's misrepresentations, and the
altered bank statements, P.R. agreed to loan \$10,000,000.00 to
MCube. On April 20, 2006, P.R. sent \$10,000,000.00 by wire
transfer from P.R.'s bank account in the State of California to
MCube's bank account in the State of Washington.

11. **Non-Prosecution of Additional Offenses.** As part of this Plea Agreement, the
United States Attorney's Office for the Western District of Washington agrees to dismiss the
charge of wire fraud contained in the Information at the time of sentencing and agrees not to
prosecute Defendant for any additional offenses known to it as of the time of this Agreement

1 that are based upon evidence in its possession at this time, and that arise out of the conduct
2 giving rise to this investigation. In this regard, Defendant recognizes the United States has
3 agreed not to prosecute all of the criminal charges the evidence establishes were committed by
4 Defendant solely because of the promises made by Defendant in this Plea Agreement.
5 Defendant agrees, however, that for purposes of preparing the Presentence Report, the
6 United States Attorney's Office will provide the United States Probation Office with evidence of
7 all conduct committed by Defendant. Defendant agrees that any charges the United States has
8 agreed to dismiss and any charges on which the United States has agreed not to prosecute him
9 were substantially justified in light of the evidence available to the United States, were not
10 vexatious, frivolous or taken in bad faith, and do not provide Defendant with a basis for any
11 future claims under the "Hyde Amendment," Pub. L. No. 105-119 (1997).

12 12. **Acceptance of Responsibility.** The United States acknowledges that, if
13 Defendant qualifies for an acceptance of responsibility adjustment pursuant to USSG § 3E1.1(a),
14 and if the offense level is sixteen (16) or greater, his total offense level should be decreased by
15 three (3) levels pursuant to USSG §§ 3E1.1(a) and (b), because he has assisted the United States
16 by timely notifying the authorities of Defendant's intention to plead guilty, thereby permitting
17 the United States to avoid preparing for trial and permitting the Court to allocate its resources
18 efficiently.

19 13. **Breach, Waiver, and Post-Plea Conduct.** Defendant agrees that, if Defendant
20 breaches this Plea Agreement, the United States may withdraw from this Plea Agreement and
21 Defendant may be prosecuted for all offenses for which the United States has evidence.
22 Defendant agrees not to oppose any steps taken by the United States to nullify this Plea
23 Agreement, including the filing of a motion to withdraw from the Plea Agreement. Defendant
24 also agrees that if Defendant is in breach of this Plea Agreement, Defendant has waived any
25 objection to the re-institution of any charges that had not been prosecuted.

26 Defendant further understands that if, after the date of this Plea Agreement, Defendant
27 should engage in illegal conduct, or conduct that is in violation of his conditions of release
28 (examples of which include, but are not limited to: obstruction of justice, failure to appear for a

1 court proceeding, criminal conduct while pending sentencing, and false statements to law
2 enforcement agents, the Pretrial Services Officer, Probation Officer, or Court), the United States
3 is free under this Agreement to file additional charges against Defendant or to seek a sentence
4 that takes such conduct into consideration by requesting the Court to apply additional
5 adjustments or enhancements in its Sentencing Guidelines calculations in order to increase the
6 applicable advisory Guidelines range, and/or by seeking an upward departure or variance from
7 the calculated advisory Guidelines range. Under these circumstances, the United States is free to
8 seek such adjustments, enhancements, departures, and/or variances even if otherwise precluded
9 by the terms of the plea agreement.

10 14. **Waiver of Appeal.** As part of this Plea Agreement, and on the condition that the
11 Court imposes a custodial sentence that is within or below the Sentencing Guidelines range (or
12 the statutory mandatory minimum, if greater than the Guidelines range) that is determined by the
13 Court at the time of sentencing, Defendant waives to the full extent of the law:

- 14 a. any right conferred by Title 18, United States Code, Section 3742 to appeal the
15 sentence, including any restitution order imposed; and
16 b. any right to bring a collateral attack against the conviction and sentence, including
17 any restitution order imposed, except as it may relate to the effectiveness of legal
18 representation.

19 Furthermore, this waiver does not preclude Defendant from bringing an appropriate motion
20 pursuant to 28 U.S.C. 2241, to address the conditions of his confinement or the decisions of the
21 Bureau of Prisons regarding the execution of his sentence.

22 If Defendant breaches this Plea Agreement at any time by appealing or collaterally
23 attacking (except as to effectiveness of legal representation) the conviction or sentence in any
24 way, the United States may prosecute Defendant for any counts, including those with mandatory
25 minimum sentences, that were dismissed or not charged pursuant to this Plea Agreement.

26 15. **Voluntariness of Plea.** Defendant agrees that Defendant has entered into this Plea
27 Agreement freely and voluntarily and that no threats or promises, other than the promises
28 contained in this Plea Agreement, were made to induce Defendant to enter this plea of guilty.

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16. **Statute of Limitations.** In the event this Agreement is not accepted by the Court for any reason, or Defendant has breached any of the terms of this Plea Agreement, the statute of limitations for any and all criminal charges against Defendant arising out of the United States' investigation into an investment fraud involving Robert L. Miracle, MCube Petroleum, Inc., and related companies, including, without limitation, the charge to which Defendant is pleading guilty under this Plea Agreement, shall be deemed to have been tolled from the date of the Plea Agreement to: (1) thirty (30) days following the date of non-acceptance of the Plea Agreement by the Court; or (2) thirty (30) days following the date on which a breach of the Plea Agreement by Defendant is discovered by the United States Attorney's Office.

17. **Completeness of Agreement.** The United States and Defendant acknowledge that these terms constitute the entire Plea Agreement between the parties. This Agreement binds only the United States Attorney's Office for the Western District of Washington. It does not bind any other United States Attorney's Office or any other office or agency of the United States, or any state or local prosecutor.

Dated this 1st day of ~~April~~^{May}, 2012.



GEORGE ATWATER
Defendant



JESSE CANTOR
Attorney for Defendant



CARL BLACKSTONE
Assistant United States Attorney



ANDREW C. FRIEDMAN
Assistant United States Attorney

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INSTRUCTIONS FOR PAYING SPECIAL ASSESSMENTS PRIOR TO SENTENCING

1. Special Assessments paid prior to sentencing must be paid to the Clerk, United States District Court.
2. Special Assessments must be paid by a first party, certified, or cashiers check, or a money order. No second party checks will be accepted. No post-dated checks will be accepted.
3. All checks must be made out in U.S. dollars to "Clerk, U.S. District Court.
4. All checks or money orders must be accompanied by the attached form entitled, "Plea Agreement Special Assessment Payments." The entire form must be filled out or the Clerk, United States District Court, will not accept the payment.

PLEA AGREEMENT SPECIAL ASSESSMENT PAYMENT

DATE: _____

FROM: _____

TO: CLERK, U.S. DISTRICT COURT
ATTN: INTAKE TEAM

CASE NAME: UNITED STATES v. GEORGE ATWATER

CASE DOCKET NUMBER: CR12-0051MJP

DEFENDANT'S NAME: _____

SINGLE OR MULTIPLE DEFENDANTS: SINGLE

TOTAL SPECIAL ASSESSMENT PER DEFENDANT AS SET FORTH IN

THE PLEA AGREEMENT: \$100.00

APPENDIX C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	CASE NO. CR12-0051
)	
v.)	SEATTLE, WASHINGTON
)	August 3, 2012
GEORGE ATWATER,)	
)	SENTENCING
Defendant.)	
)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Plaintiff: ANDREW FRIEDMAN

For the Defendant: JESSE CANTOR

Reported by: NANCY L. BAUER, CCR, RPR
Federal Court Reporter
700 Stewart Street, Suite 17205
Seattle, WA 98101
(206) 370-8506
nancy_bauer@wawd.uscourts.gov



1 August 3, 2012

1:30 p.m.

PROCEEDINGS

2
3 THE CLERK: This is the matter of United States of
4 America v. George Atwater, Cause No. CR12-51MJP. Counsel,
5 please make your appearances for the record.

6 MR. FRIEDMAN: Good afternoon, Your Honor. Andrew
7 Friedman for the United States, and Special Agent Joseph
8 Lopez from the IRS is with me at counsel table.

9 MR. CANTOR: Good afternoon, Your Honor. Jesse
10 Cantor here, and I'm here for Mr. Atwater.

11 THE COURT: Good afternoon.

12 THE PROBATION OFFICER: Sarah Johnson on behalf of
13 U.S. Probation.

14 THE COURT: I would like to review with you what it
15 is that I have looked at in order to be prepared for the
16 hearing today. First of all, I've reviewed the plea
17 agreement, I've looked at the government's sentencing
18 memorandum, I've looked at the defendant's sentencing
19 memorandum, and I have reviewed the presentence report that
20 was prepared by probation and pretrial. Is this anything
21 else I should have reviewed in order to be prepared to hear
22 you today?

23 MR. FRIEDMAN: Not from the government, Your Honor.

24 MR. CANTOR: We did attach some letters.

25 THE COURT: Yes, as part of the defense's materials,

1 there is Attachment 1 and Attachment 2, and I have reviewed
2 both of those attachments.

3 MR. CANTOR: Thank you.

4 THE COURT: Mr. Atwater, have you had an opportunity
5 to review the presentence report that was written about you?

6 THE DEFENDANT: Yes, Your Honor.

7 THE COURT: And has your lawyer been able to answer
8 your questions both about the report and about the sentencing
9 process?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Are you ready to go forward with the
12 sentencing today?

13 THE DEFENDANT: Yes, I am, Your Honor.

14 THE COURT: All right. Thank you, sir.

15 The government's position, please.

16 MR. FRIEDMAN: Your Honor, I don't believe there's
17 any dispute concerning the guidelines that apply in this
18 case, and so we would ask the court to find that the total
19 offense level is 21, criminal history category of one, and a
20 sentencing range of 37 to 41 months.

21 As the court knows, the government and, actually, defense
22 and probation are all recommending that the court impose a
23 sentence of 12 months and one day as imprisonment. There are
24 a number of factors that led us to that recommendation.

25 First and the most important, this is an extremely serious

1 crime. Mr. Atwater altered or faked bank documents that were
2 used to convince someone to invest \$10 million in a company
3 being operated by Robert Miracle, MCube, and he did so
4 knowing the purpose for which those documents would be used.

5 Based in part upon those documents, the person did loan
6 \$10 million. And although that person was repaid that money,
7 the repayment did not come from the source of money that the
8 document suggested existed, that is, revenues from existing
9 oil wells. Rather, it came from money from other investors,
10 and some of those people lost much or all of the money that
11 they invested.

12 THE COURT: One of my first questions is, why don't I
13 see any victims here? In other words, you make much of the
14 person who loaned the money and how they actually got a good
15 return on their funds, but the point was, this whole scheme
16 came down and people lost money. So why is Mr. Atwater not
17 responsible for those folks?

18 MR. FRIEDMAN: We looked very, very closely at the
19 evidence in the case and what people's roles were, and
20 Mr. Atwater -- the one misrepresentation that he seems to be
21 linked to is the misrepresentation, basically the faked bank
22 documents on this loan.

23 Mr. Miracle, who was really running a very large Ponzi
24 scheme, was a very persuasive person. He did very well at
25 keeping people in separate rooms and lying to them and

1 manipulating them. And so these three people charged in this
2 case, that is himself, Mr. Faisal and Mr. Kechik, were the
3 three people who really knew what was going on. And when you
4 look at the email trail, what you see is a very closed email
5 circle between them in which they consistently, over the
6 course of months, are creating false financial statements
7 that show revenue for oil and gas that were not produced.

8 Mr. Atwater was not included in that. He's really linked
9 to this one loan. The proceeds from this loan were used to
10 -- or all \$10 million was spent to buy two companies that had
11 the rights to these two oil fields. So he's really at a
12 distance, I think, from the overall Ponzi scheme, and that's
13 why he was charged with and he has been linked to the conduct
14 for which we thought he was most responsible. Does that
15 answer the court's question?

16 THE COURT: That answers the question. You know, I
17 might as well get to the heart of it. I'll lay out my next
18 question to you.

19 The standard range is 37 to 46 months, and you're coming
20 in and recommending not even a third of that.

21 MR. FRIEDMAN: Yes.

22 THE COURT: And given that the public is very
23 outraged about white collar crime, where is your
24 justification for going so low?

25 MR. FRIEDMAN: I think there are really three

1 justifications. The first is Mr. Atwater's history. He's
2 been a practicing lawyer for 20, 20-plus years. There's no
3 evidence of him ever doing anything like this. So this seems
4 to be conduct that was not -- there's no reason to believe
5 he's ever done anything like this before.

6 Second, I think a lot of it depends upon our assessment of
7 Mr. Miracle and who is really responsible for it, and what
8 was driving -- what went on here. The presentence report
9 doesn't reflect -- doesn't have a precise number. It does
10 say that since this happened, Mr. Atwater has a small legal
11 practice making 30-something thousand dollars a year. My
12 understanding is that from 1990 until 2005, he was making
13 very little money operating his own legal practice, probably
14 because he seems to have devoted a lot of his work that
15 wasn't necessarily profitable but that he thought was helpful
16 or pro bono.

17 He was then hired for this job, and I think it's a fair
18 thing to say, both in Mr. Atwater's case and in other people
19 who were hired, almost all of the people that Mr. Miracle
20 hired to work at MCube were people that he thought he could
21 take advantage of, that they were not inherently dishonest
22 people but people who were weak or would be dependent on him,
23 and Mr. Atwater fits that pattern. We saw it in CFOs and we
24 saw it in numerous people who were hired to work there.

25 So when you look at it and say who is most morally

1 culpable as to what happened here, I think it is Mr. Miracle.
 2 And, yes, Mr. Atwater made a decision he shouldn't have made
 3 and made a decision that is a serious criminal decision,
 4 that's why we believed it was appropriate to file charges.
 5 But I think a lot of it was -- if Mr. Miracle was running a
 6 Ponzi scheme and sort of intending to defraud people, and
 7 Mr. Atwater was more -- someone who was brought in because
 8 Mr. Miracle thought he could pressure him and who made that
 9 decision because he had a job that he thought he would lose
 10 if he didn't do this, and he wasn't strong enough to say no.
 11 So that's the second reason.

12 And the third would be -- this one really only gets us
 13 halfway there. Since this came to light, we learned very,
 14 very late in the process that Mr. Atwater was the person who
 15 had created these fake documents. We didn't have any reason
 16 to believe that or think that. When we learned that, we
 17 conducted as much investigation as we could to try and find
 18 corroborating evidence. We were really not able to come up
 19 with any, so ultimately Special Agent Lopez visited Mr.
 20 Atwater and asked him, and although he did not affirmatively
 21 come forward before to say what he'd done, basically within a
 22 space, I think he thought for a second, and immediately
 23 confessed and has been truthful since then.

24 So Mr. Atwater -- I think the way he's dealt with the
 25 situation is as someone who is not a threat and regrets what

1 he did, and I'm sure if he could do it differently, he would,
2 and I'm sure it goes for the same in the future.

3 So these were the things that we came up with our
4 recommendation for.

5 THE COURT: Okay.

6 MR. FRIEDMAN: And the court has, I think, said many
7 of the things I was going to say in response to those two
8 questions. I have the sense the court understands and agrees
9 this is a serious crime that warrants a serious sanction to
10 both punish the conduct and to reflect how serious the crime
11 is and to deter other people from doing the same thing in the
12 future.

13 I would note one thing for the court, which is, I think
14 Mr. Atwater has -- I think coming to terms with what he's
15 done is a difficult process probably at the time of what was
16 going on in his mind at the time that he created these
17 statements, or how he lived with that I think is something
18 with which he's still coming to terms and trying to figure it
19 out.

20 In the letter sent to the court, he has a detailed account
21 of what happened, and he explains how Mr. Miracle came to him
22 and asked him to do that, and he created a month or two of
23 false statements and reflected revenue on them that had been
24 earned but had not yet been paid. In some ways, that fits a
25 lot with what everyone else in the interview during the

1 course of the investigation said, and Mr. Miracle did
2 consistently make those representations to people. Some
3 people looked the other way, some people may have believed
4 it.

5 In Mr. Atwater's case, I think the way he phrases it is --
6 or it suggests that he's still struggling to comes to terms
7 with that. It was three months, January through March, not
8 just one month, and the items he added were not just revenues
9 coming into the bank accounts, but also expenditures for the
10 supposed drilling. And the excuse that Mr. Miracle tells me,
11 that his monies had been earned but not paid, that explains
12 one but wouldn't explain why the outgoing money isn't on
13 there.

14 And the other reason we're recommending our sentence of a
15 year and a day of imprisonment is -- I think it would help
16 bring home to Mr. Atwater the seriousness of what he's done,
17 at least in terms of deterring him from similar conduct in
18 the future.

19 THE COURT: The next question is, why did it take so
20 long? This conduct occurred between 2004 and 2006. We're
21 halfway through 2012.

22 MR. FRIEDMAN: The -- we had no reason to believe or
23 think that Mr. Atwater was the person responsible for
24 creating these fake statements. Nothing pointed in that
25 direction. Mr. Miracle, late in his prosecution, was the

1 person who provided that information. Once he provided that
2 information, we attempted to do forensic analysis of
3 computers to find other evidence that would corroborate or
4 would show that that was what had happened because
5 Mr. Miracle word alone would have been of questionable value
6 in any prosecution, and we were not able to do that. When we
7 thought of those possibilities is when Special Agent Lopez
8 went and spoke to Mr. Atwater. That was last summer.

9 So since we concluded, we had no other options but to
10 interview him and see if he would admit what he'd done. It's
11 been a number of months. And a lot of that is a complicated
12 case, and getting counsel appointed and explaining what
13 happened has taken this long. Thank you, Your Honor.

14 THE COURT: Thank you. Mr. Cantor?

15 MR. CANTOR: I want to continue to answer the court's
16 last question as well in that had it not been for
17 Mr. Atwater's honesty with the government, I think it's clear
18 that there would have never been a prosecution against him.
19 Looking for the missing corroboration came from Mr. Atwater,
20 and it's something that he struggled with for quite some
21 time, but he was never in a position where he exercised any
22 Fifth Amendment right to remain silent. He was very
23 forthcoming with the government. He was very open with them
24 in their investigation, and I believe, and I think
25 Mr. Friedman would agree, that had Agent Lopez approached

1 Mr. Atwater and Mr. Atwater exercised his Fifth Amendment
2 privileges, there would be a statute of limitations
3 violation. There would be no prosecution against him, and
4 that is something that the government expressed as being an
5 important factor in their decision to resolve the case the
6 way they did.

7 I submit that if there is any example of aberrant conduct,
8 it's this: Mr. Atwater has been a practicing lawyer for 24
9 years, and out of those 24 years, we have essentially three,
10 four months of this conduct, and it's something that has
11 weighed on his conscience for quite some time. It's weighed
12 on his conscience to the extent where he has been very
13 forthcoming with the government.

14 So for these reasons, Your Honor, it's also clear that
15 Mr. Atwater and Mr. Friedman have been meeting with one
16 another and been in discussions with one another long before
17 I got on board, and that is another reason why I believe the
18 government has made the decision to offer this sort of
19 resolution in the sense that they believe that this is fair
20 and just for an outcome for this type of conduct.

21 THE COURT: Mr. Cantor, I spent a great deal of time
22 yesterday reading through all the materials, and usually,
23 after so long of doing this, I can kind of see what motivates
24 people and why these things happen. I am mystified by
25 Mr. Atwater. There seems to be a big disconnect, and I don't

1 know whether it's a mental health issue or some other issue.
2 He obviously is a very intelligent man. He's collected
3 degrees left and right. He's been financially very
4 unsuccessful and does not -- when you read what his wife had
5 to say about him and what he talks about, there's a huge
6 schism in his family, and I don't quite know how to account
7 for that. I don't get a sense of why this really happened.
8 I don't see the motivation, because it doesn't seem to be
9 that there was any money exchanged for it.

10 MR. CANTOR: Right. And to some extent, that's why I
11 still say that if there is some definition or example of
12 aberrant conduct, it's this. You look at the aberrant
13 conduct, the departure guideline statement, and this conduct
14 fits that definition. Mr. Atwater has never been a type, at
15 least looking at his career, and I've only known him since I
16 was appointed on this case, which has been less than a year,
17 but looking at what he has done in the community and the
18 services that he's provided as exemplified by some of his
19 clients, he's never been the type to be motivated by money.
20 He's never been the type to overcharge clients or deceive
21 clients with overinflated bills. He really is doing this
22 profession or has done this profession because he believes in
23 it and he's enjoyed it. He's been the type of attorney that
24 really wants to fight for the little guy.

25 And how it came about where he made this very significant

1 mistake that not only cost him his career but is going to
2 land him in prison, there is no explanation. He's having
3 trouble explaining why that happened. It's almost like a
4 situation where you have this temporary insanity that makes
5 you do something foolish, and we see that with attorneys
6 sometimes. We see these scandals with attorneys that may
7 have sexual affairs with their clients when they're
8 representing them in a first degree murder case. Why does
9 that happen? Sometimes you just lose it, and I think
10 Mr. Atwater at the time engaged in this because of the
11 personal pressures that he was facing at home.

12 Maybe, as I mentioned in my memorandum, he's been fighting
13 off some personal demons for years, for several years. And
14 we're talking about four months of his life, of his career
15 that got him into some serious trouble, and it weighed on his
16 conscience and he did something about it. He could have
17 exercised his right to remain silent when Agent Lopez came
18 about, and he probably wouldn't be sitting here today.

19 So he, to some extent, handed the government his own
20 prosecution to them on a silver platter. And, you know,
21 Mr. Friedman and his office are not out there to destroy
22 Mr. Atwater's life. I mean, Mr. Friedman's presentation to
23 the court, he'd make a fantastic defense lawyer after hearing
24 that. He said everything -- he essentially stole my thunder
25 as to why or how he came to this resolution.

1 So everybody is on the same page with 12 months and a day.
2 On its face it does seem light compared to the amount of
3 money that was involved in this transaction. But as we all
4 know, you have to go beyond what's on paper, and you have to
5 dig deep behind who this person is we're sentencing here, and
6 he did a lot to help the government in his own prosecution.

7 So Mr. Atwater, at his age, spending 12 months and a day
8 is going to be some significant punishment. It's not going
9 to be pleasant. And he won't repeat the same mistakes. It's
10 that simple. It's that simple.

11 So clearly the government is not out to ruin Mr. Atwater's
12 life, and based on everything that he has done, this sentence
13 is probably consistent with a lot of the 5K motions that the
14 government seeks for cooperating witnesses, who seeks
15 successful indictments. But in terms of explaining why he
16 did it, there is no explanation. He'd be the best one to
17 explain that to the court.

18 THE COURT: Thank you. What would probation like to
19 say?

20 THE PROBATION OFFICER: Good afternoon, Your Honor.
21 I spoke with Ms. Porter about this case and we talked about
22 her recommendation of 12 months and a day, and it was
23 precisely the question Your Honor asked. There was no reason
24 why he did this that we could come up with, and we believe
25 that probably some mental health treatment to help him figure

1 out why, and the fact that he is in financial ruin,
2 essentially, and putting him in custody for much longer than
3 that would only exacerbate the problem.

4 THE COURT: Mr. Atwater, what would you like to say,
5 sir?

6 THE DEFENDANT: Your Honor, several things. The
7 first thing is that I had come to know -- actually, Agent
8 Lopez and Mr. Friedman, when Mr. Miracle -- when the company
9 came down and everything, and I cooperated with them and
10 everything, and I'd known about this, what I had done, and I
11 knew that there was only one witness against me and probably
12 nothing else, but I felt that I needed to -- it had been
13 bothering me, one big mistake I made, and I felt that I
14 needed to face up to it and get it done and over with. And
15 so when Agent Lopez came we talked about that, I admitted. So
16 I have always recognized the problem -- or the crime that I
17 committed.

18 The why, even in my own mind, it's a bit difficult. I've
19 had -- everybody has told you the absolute truth. I've been
20 extraordinarily -- I've been a good lawyer and an
21 extraordinarily poor business person, and the problem I have
22 with being a business person is, because of my languages and
23 because of other things, I often get very good cases. I take
24 a lot of time, but it's for very poor people or people who
25 have a lot of problems. Especially on the civil side, you

1 don't get lawyers, so it's very difficult for them to do
2 that, and sometimes I don't get paid, or I get paid a little
3 bit, but most of the time it's a \$250 hourly fee was the
4 total illusory point.

5 And MCube initially -- I had known Mr. Miracle in a case
6 for one of my clients. He had been a witness in the case.
7 And then when he came to me to set up the documents for the
8 corporations and everything else, I had done that, and had --
9 and I set it up. And then one -- one day -- and I worked
10 with the investors and his attorney in doing the papers. I
11 had worked, as I said in my statement about -- knew that what
12 we were purchasing was actually existing and had value to it.
13 And I don't know why I exactly did it. I knew that, as I
14 said, there were investors who put their money in already.
15 There were -- and then this was an opportunity for me that I
16 had never had before, and my parents and my family had
17 suffered so much because I hadn't been able to earn so much
18 money and everything else.

19 But those are partial explanations. I don't think I can
20 stand here today and give you the final explanation. I'm not
21 sure I can. I don't know if I ever will be able to.

22 But I can tell you that I've been remorseful, and not just
23 before Agent Lopez, but just internal. And when I finally
24 had the chance to do that, I chose to do it, and I was -- in
25 the sense I knew that I was confessing to a rather large

1 crime and everything, but I also felt this was something that
2 people just might understand a little bit about what had
3 happened to me, and in my mental state and what I had done
4 and everything. And that has been the case.

5 I mean, the government -- I gave them everything, and the
6 government has been very fair to me. I can't complain at
7 all. I think this is more than -- I don't have any reason to
8 be upset. But I feel that there are reasons to support it.
9 I just can't answer your ultimate question, not right now.

10 THE COURT: Well, Mr. Atwater, one of the problems is
11 when I see people who have otherwise their whole life been
12 able to operate sorting out right from wrong engage in
13 behavior that seems out of character. Mr. Cantor argues this
14 is aberrant behavior. That worries me, because if we don't
15 understand why it happened the first time, how do we ensure
16 it doesn't happen again?

17 THE DEFENDANT: Well, I think you can look at it in
18 several ways. There are no more investors. That was one of
19 my motivations, current investors into the company. Second,
20 the fact that I've seen what such things do to my family, to
21 my practice, to my profession, and to my colleagues and
22 friends. Thirdly, I do believe that I've always had these
23 problems of focusing sometimes, of being able to -- worrying
24 about my family, my son, my daughter, everybody, and I've
25 never had much money to afford any kind of counseling, and I

1 believe that I can do that.

2 I don't think I will ever do this again. I could almost
3 assure the court. I mean, one never knows absolutely, but I
4 will say that this is -- this was something that happened in
5 very special circumstances, circumstances that will never
6 repeat themselves again.

7 And I will always try to work in support of the people.
8 I've never made any false statements to any court. I made a
9 mistake. I admitted it, and in every case cooperated, as I
10 have with this court.

11 THE COURT: Mr. Atwater, I read the presentence
12 report with a certain sense of sadness, because the
13 description of your family's situation tells me that you and
14 your wife really aren't in sync on a lot of things.

15 THE DEFENDANT: Well, that's true. She's here.

16 THE COURT: And you've got two adult children who are
17 beyond the years of launching.

18 THE DEFENDANT: All right. The launch for my
19 daughter has already happened. She had to come back because
20 of situations -- she graduated from Columbia University about
21 two years ago, and then she was laid off -- she had been
22 working there, too, and she was laid off and she couldn't
23 find a job. She came back here, and she was able -- she now
24 works for one of the associate deans at the School of
25 Education at Seattle University.

1 My son is a totally different situation. I think that my
2 wife and I would agree that he was a very wonderful child and
3 very open, somewhat chatty, but he was open and he traveled
4 with us and everything. And then in junior high school in
5 Mercer Island, I think he was the victim of some sort of
6 bullying because he had -- once his arm was broken in two
7 places, and the doctor said it was impossible that that was
8 an accident. But he never talked to us. He never was able
9 to do anything. Basically, he's been withdrawn since. So he
10 has not launched, and that's something we're going to have to
11 work to do.

12 THE COURT: Well, the reason I bring this up is not
13 to probe deeply into your family, but to say is this
14 something that you need to do for you? In other words, was
15 this motivated because you felt that you had to do something
16 for your family, you felt, alone? And unless you get a grip
17 on figuring some of those issues out, there's going to be
18 more pressures.

19 THE DEFENDANT: I agree with you, and that is one
20 thing I'm going to have to do by getting some mental
21 counseling, because I think it's a double -- it's a situation
22 that I have to face. I haven't had the money to do it. This
23 will give me an opportunity to do it here, and I will
24 certainly hope that after I serve my time, I would be able to
25 address that on a continuing basis.

1 I do have, by the way, have a project that I would love --
2 I've talked to Mr. Friedman about it, but one thing I feel
3 close about is, after I've taken care of the sentence, one of
4 the things I'd like to do -- I don't know if I'm going to be
5 disbarred, certainly suspended for sure, and the same things
6 you're talking to me about today are exactly the same things
7 that the bar association has talked to me about, because
8 they're as baffled as you. And that's the one thing. I've
9 got them. They are talking about mental counseling and
10 everything else. That's all in that line.

11 I think that -- but the one thing I hope to do as a
12 project to sort of focus myself on in time is trying to get
13 the restitution of civil rights to federal felons, like we
14 have in Washington. I've helped many clients of mine get
15 theirs restored, and that's one thing I'd like to do.

16 But for me, it will be a time where this one year and 12
17 months [sic] will be a fine time for refocusing and to get my
18 head back together and to, just as you've stated, get me
19 focused in a way that I would be able to do something better.

20 THE COURT: Anything else you'd like me to know?

21 THE DEFENDANT: Well, is there any further questions
22 you have, Your Honor?

23 THE COURT: Not any questions. I have to say, if
24 you're going to decide you're going to change Congress's
25 about restoration of civil rights for felons, more power to

1 you. It's going to be a difficult road.

2 THE DEFENDANT: But some -- it's started, and people
3 just have to talk, and I can talk, and I can -- once I'm past
4 that -- and I might have a little more credibility in the
5 sense that I admitted my crime and am not squawking about it
6 or anything else.

7 THE COURT: In many ways I think you would be a
8 perfect spokesperson for it.

9 THE DEFENDANT: And so that's something that I want
10 to do.

11 But, Your Honor, the only thing I can say is that my
12 family needs me. Good, bad or indifferent, they do need me,
13 and having me away for a year and a day is hard enough, I
14 think, and will be very hard mostly for my wife and my son.
15 My daughter is far more independent now and that sort of
16 thing.

17 But I think that I -- for me it's -- it's paying the debt
18 first and then going forward.

19 THE COURT: Well, one of the things that I would pose
20 to you, how long is it going to take before you forgive
21 yourself?

22 THE DEFENDANT: Well, after -- after the punishment.
23 I don't think I can forgive myself before I can get through
24 the punishment. But the whole idea, even if really --
25 getting back your civil rights, a debt paid is a debt paid.

1 THE COURT: Okay.

2 THE DEFENDANT: Thank you very much.

3 THE COURT: Thank you, sir.

4 Based upon the documents that I've reviewed and the
5 arguments made, it's first my obligation to compute the
6 guidelines and then use all of the sentencing statutes,
7 particularly Section 3553, to fashion a sentence that's most
8 appropriate for Mr. Atwater, who is here before me today.

9 This crime has a total offense level of 21. It has a
10 criminal history category of one. It has an imprisonment
11 range of 37 to 46 months, a supervised release range of one
12 to three years, and a fine range of \$7,500 to \$75,000.

13 Mr. Atwater, everyone has convinced me that 12 months and
14 a day is appropriate. I have to say when I first opened the
15 file and started to take a look at it and saw what the loss
16 was, I said to myself, "Mr. Friedman's going soft." This
17 morning I sentenced people to two, three times that amount
18 for dragging a single hockey bag across the border. So there
19 are many crimes that pale in comparison and magnitude that
20 get much, much worse.

21 THE DEFENDANT: I understand.

22 THE COURT: So you are going to spend three years on
23 supervised release. I anticipate that you'll be able to go
24 to the probation department and ask for early discharge,
25 because I don't expect you're going to have difficulty

1 following what the rules are.

2 I'm much more concerned about your mental health issues
3 and what prompted this, how it is you're going to live with
4 yourself as a result of this, and what is it about this
5 situation that caused you to set aside years of otherwise
6 decent judgment. I am also going to tell you that you need
7 some help with some financial management.

8 THE DEFENDANT: Yes.

9 THE COURT: If you're allowed to practice law again,
10 I know that the bar can help in assisting you in how it is
11 you keep track of the funds you make.

12 THE DEFENDANT: Yes.

13 THE COURT: And I'm looking at your finances, and
14 somebody who is very bright and very talented is living hand
15 to mouth. You probably will make more money doing something
16 else if you actually work for a wage.

17 THE DEFENDANT: No doubt, Your Honor, no doubt.

18 THE COURT: So I am going to allow you to voluntarily
19 surrender. Let me explain why that is important. The Bureau
20 of Prisons scores each person coming into the system. You
21 get a better score if the court can trust that you'll show up
22 when you're told to show up. That means more freedoms, more
23 programming, more ability to not have the same effect as
24 being in lockup. So they figure if the judge can trust you,
25 they can trust you. So do I have your word that you'll

1 report at the date and time and where they tell you to go?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. So when you come out, you're
4 going to be on supervision, and there are certain rules for
5 supervision, some of which I think you won't have any
6 difficulty dealing with, and at least one that I think maybe
7 you're going to have to dig deep, and that's mental health
8 counseling. You're going to have to look at those issues.
9 That might be painful, but it's something that I, as a court,
10 expect that you'll be up to the task for.

11 THE DEFENDANT: You have my word, Your Honor.

12 THE COURT: All right. So let me review with you the
13 other requirements. First, you have to cooperate with the
14 collection of a DNA sample. You are prohibited from having
15 any sort of firearm. You can't have it in your home, in your
16 car, you can't touch them and you can't use them for
17 recreational purposes. You have to submit to a search of
18 your property that's done in a reasonable time in a
19 reasonable manner. I'm a little confused here, because I
20 thought there was no restitution.

21 MR. FRIEDMAN: There is not, Your Honor.

22 THE COURT: Okay. There is no restitution
23 obligation. You need to, however, provide the probation
24 department with access to any requested financial
25 information. You have to use a single checking account in

1 your own name, and everything you make and everything you
2 spend has to go through that account. Same is true if you
3 form a business: One checking account, simple accounting so
4 the probation department can see what you have. You have to
5 disclose all your assets and liabilities. You're not to
6 incur any new credit charges without advising the probation
7 department and seeking their approval of what it is you've
8 done. There's also a \$100 special assessment that is due and
9 owing and that I cannot waive.

10 Now, Mr. Atwater, I'm going to make a recommendation that
11 you go to the camp in Sheridan. When you go into federal
12 prisons, there will be many opportunities for you to do good
13 works, including those for the court, because I get the
14 impression the appellate reviews that are written might be
15 more understandable if they came from someone like you.

16 Okay?

17 THE DEFENDANT: I understand, Your Honor.

18 THE COURT: You speak many languages. I understand
19 you're fluent in Spanish. There are going to be many people
20 who will look to you for guidance and will view you as a
21 father figure. You're much older than the population of the
22 Bureau of Prisons, and you're going to run into many, many
23 people who are frightened and scared because they don't speak
24 the language well, and you're going to have a great
25 opportunity to talk with them about their experience and

1 explain what the process is. So I hope you'll take that
2 opportunity to view this as positive.

3 THE DEFENDANT: I intend to. It will be just like I
4 always do anyway. Otherwise I'd just be sitting there
5 reading a book or two. I'd rather be doing something like
6 that, Your Honor.

7 THE COURT: Okay. Very well. Is there anything else
8 that I need to take care of?

9 MR. FRIEDMAN: I don't believe so, Your Honor. May I
10 show the judgment to defense counsel?

11 THE COURT: Please. Mr. Friedman, was there a waiver
12 of appellate rights?

13 MR. FRIEDMAN: Yes, there was.

14 THE COURT: Mr. Atwater, I've signed the judgment.
15 As part of your plea negotiations with the government, you
16 waived many of your appellate rights.

17 THE DEFENDANT: That's correct.

18 THE COURT: There are, however, some rights that
19 remain with you always; for example, the right to have a good
20 lawyer at your side throughout all these proceedings. If you
21 want to appeal the sentence that I've just given you, it's
22 very important you tell Mr. Cantor that that's what you want
23 to do. He can review with you what issues might remain and
24 also talk with you about the appellate process. He has 14
25 days in order to perfect an appeal on your behalf. If you

1 want to appeal the sentence I've given you but you can't
2 afford the filing fee for the Court of Appeals, you can ask
3 me to waive or do away with that fee. Do you understand what
4 I've told you?

5 THE DEFENDANT: I understand, and I can tell you
6 right now I have no intention of appealing.

7 THE COURT: Well, that's not something you have to
8 tell me now. I simply want to make sure you understand that
9 you have that right in certain circumstances.

10 THE DEFENDANT: Thank you. I do understand.

11 THE COURT: All right. Is there anything else we
12 need to take care of?

13 MR. FRIEDMAN: No, Your Honor. Thank you.

14 MR. CANTOR: No, Your Honor. Thank you.

15 THE COURT: All right. Then we will be at recess.

16 THE DEFENDANT: Thank you, Your Honor.

17

18 (THE PROCEEDINGS CONCLUDED.)

19

20

21

22

23

24

25

C E R T I F I C A T E

I, Nancy L. Bauer, CCR, RPR, Court Reporter for the United States District Court in the Western District of Washington at Seattle, do hereby certify that I was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I have caused said stenographic notes to be transcribed under my direction and that the foregoing pages are a true and accurate transcription to the best of my ability.

Dated this 6th day of September 2012.

/S/ Nancy L. Bauer

Nancy L. Bauer, CCR, RPR
Official Court Reporter

APPENDIX D

UNITED STATES DISTRICT COURT

Western District of Washington

UNITED STATES OF AMERICA

V.

GEORGE ATWATER

JUDGMENT IN A CRIMINAL CASE

Case Number: 2:12CR00051MJP-001

USM Number: 42077-086

Jesse Guerrero Cantor
Defendant's Attorney

THE DEFENDANT:

pleaded guilty to count(s) 1

pleaded nolo contendere to count(s) _____
which was accepted by the court.

was found guilty on count(s) _____
after a plea of not guilty.

FILED ENTERED
LODGED RECEIVED

AUG - 3 2012

AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY

The defendant is adjudicated guilty of these offenses:

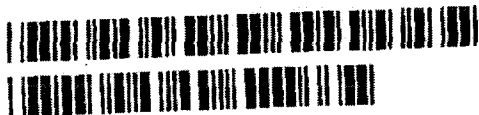
<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 371	Conspiracy to Commit Wire Fraud	5/31/2006	1

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) _____ is are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States Attorney of material changes in economic circumstances.



12-CR-00051-JGM

ANDREW C FREEMAN & CARL BLACKSTONE
Assistant United States Attorney

AUGUST 3, 2012
Date of Imposition of Judgment

Marsha J. Pechman
Signature of Judge

The Honorable Marsha J. Pechman

August 3, 2012
Date

DEFENDANT: GEORGE ATWATER
CASE NUMBER: 2:12CR00051MJP-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: TWELVE (12) MONTHS AND ONE (1) DAY

The court makes the following recommendations to the Bureau of Prisons:

The defendant be incarcerated at FCI - Sheridan

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

- at _____ a.m. p.m. on _____
- as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

- before 2 p.m. on _____
- as notified by the United States Marshal.
- as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: GEORGE ATWATER
CASE NUMBER: 2:12CR00051MJP-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of: Three (3) years

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug and/or alcohol test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight valid tests per month, pursuant to 18 U.S.C. § 3563(a)(5) and 18 U.S.C. § 3583(d).

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: GEORGE ATWATER
CASE NUMBER: 2:12CR00051MJP-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall submit his/her person, residence, office, safety deposit box, storage unit, property, or vehicle to a search, conducted by a U.S. Probation Officer or any other law enforcement officer, at a reasonable time and in a reasonable manner, based upon reasonable suspicion of contraband or evidence of a violation of a condition of supervision. Failure to submit to a search may be grounds for revocation; the defendant shall notify any other residents that the premises may be subject to searches pursuant to this condition.

The defendant shall participate as directed in a mental health program approved by the United States Probation Office. The defendant must contribute towards the cost of any programs, to the extent the defendant is financially able to do so, as determined by the U.S. Probation Officer.

The defendant shall provide his or her probation officer with access to any requested financial information including authorization to conduct credit checks and obtain copies of the defendant's Federal Income Tax Returns.

The defendant shall maintain a single checking account in his or her name. The defendant shall deposit into this account all income, monetary gains, or other pecuniary proceeds, and make use of this account for payment of all personal expenses. This account, and all other bank accounts, must be disclosed to the probation office.

If the defendant maintains interest in any business or enterprise, the defendant shall, upon request, surrender and/or make available, for review, any and all documents and records of said business or enterprise to the probation office.

The defendant shall disclose all assets and liabilities to the probation office. The defendant shall not transfer, sell, give away, or otherwise convey any asset, without first consulting with the probation office.

The defendant shall be prohibited from incurring new credit charges, opening additional lines of credit, or obtaining a loan without approval of the defendant's U.S. Probation Officer. aef

~~Restitution in an amount to be determined is due immediately. Any unpaid amount is to be paid during the period of supervision in monthly installments of not less than 10% of his or her gross monthly household income. Interest on the restitution shall be waived.~~ not

DEFENDANT: GEORGE ATWATER
 CASE NUMBER: 2:12CR00051MJP-001

CRIMINAL MONETARY PENALTIES

TOTALS Assessment Fine Restitution ⁰²⁶
 \$ 100 \$ Waived \$ ██████ N/A _{W/P}

- The determination of restitution is deferred until _____. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
TOTALS	\$ _____	\$ _____	

- Restitution amount ordered pursuant to plea agreement \$ _____
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest and it is ordered that:
 - the interest requirement is waived for the fine restitution.
 - the interest requirement for the fine restitution is modified as follows:
- The court finds that the defendant is financially unable and is unlikely to become able to pay a fine and, accordingly, the imposition of a fine is waived

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: GEORGE ATWATER
CASE NUMBER: 2:12CR00051MJP-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- PAYMENT IS DUE IMMEDIATELY. Any unpaid amount shall be paid to Clerk's Office, United States District Court, 700 Stewart Street, Seattle, WA 98101.
- During the period of imprisonment, no less than 25% of their inmate gross monthly income or \$25.00 per quarter, whichever is greater, to be collected and disbursed in accordance with the Inmate Financial Responsibility Program.
- During the period of supervised release, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after release from imprisonment.
- During the period of probation, in monthly installments amounting to not less than 10% of the defendant's gross monthly household income, to commence 30 days after the date of this judgment.

The payment schedule above is the minimum amount that the defendant is expected to pay towards the monetary penalties imposed by the Court. The defendant shall pay more than the amount established whenever possible. The defendant must notify the Court, the United States Probation Office, and the United States Attorney's Office of any material change in the defendant's financial circumstances that might affect the ability to pay restitution.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program are made to the United States District Court, Western District of Washington. For restitution payments, the Clerk of the Court is to forward money received to the party(ies) designated to receive restitution specified on the Criminal Monetarys (Sheet 5) page.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

^{als} Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several and corresponding payee, if appropriate.

~~Robert M. ...~~ ^{als} *now*

- The defendant shall pay the cost of prosecution.
- The defendant shall pay the following court
- The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.