

United States District Court
Central District of California

UNITED STATES OF AMERICA vs
Defendant Jay Hoffman
Residence 24592 Mulholland Highway
Calabasas, California 91302

CR 99-01312 RMT
Social Security # 569-74-6193
Mailing Address _____

SCANNED

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person, on : December 17, 2001
COUNSEL:

____ WITHOUT COUNSEL

However, the court advised defendant of right to counsel and asked if defendant desired to have counsel appointed by the Court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL Mona Soo Hoo and Donald Re, retained.

PLEA:

XX GUILTY, and the Court being satisfied that there is a factual basis for the plea.

____ NOLO CONTENDERE _____ NOT GUILTY

FINDING:

There being a finding/verdict of GUILTY, defendant has been convicted as charged of the offense(s) of:
18 USC § 1343, 2: Aid and Abet Wire Fraud as charged in Counts One and Six
of the Indictment:

JUDGMENT AND PROBATION/COMMITMENT ORDER:

The Court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of : twenty-seven (27) months.

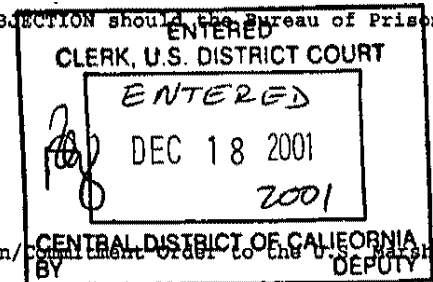
(CONTINUED ON PAGE TWO)

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release set out on the reverse side of this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

____ This is a direct commitment to the Bureau of Prisons, and the Court has NO OBJECTION should the Bureau of Prisons designate defendant to a Community Corrections Center.

Signed by: District Judge

Robert M. Takasugi
ROBERT M. TAKASUGI



It is ordered that the Clerk deliver a certified copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Sherri R. Carter, Clerk CONTINUED ON PAGE TWO

Dated/Filed December 17, 2001

By Victor Paul Cruz, Deputy Clerk
Victor Paul Cruz

(75)

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependants and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. 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;
11. 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 by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. 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;
14. 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 conform the defendant's compliance with such notification requirement;
15. the defendant shall not possess a firearm or other dangerous weapon;
16. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours.

These conditions are in addition to any other conditions imposed by this Judgment.

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

at _____, the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

UNITED STATES MARSHAL

DATED: _____

BY: _____

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

CLERK, U.S. DISTRICT COURT

DATED: _____

BY: _____

JUDGMENT AND PROBATION/COMMITMENT ORDER

SCANNED

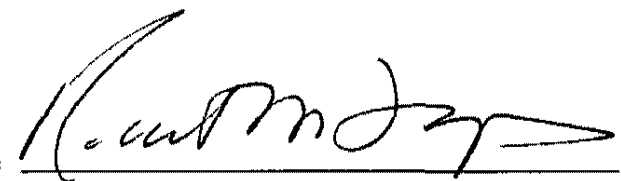
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The defendant shall pay to the United States a special assessment of \$200.00, which is due immediately.

It is ordered that the defendant shall pay full restitution to each of the victims listed in the following amounts and; that the \$12,000 refund check being held by the Republican National Committee be directed to the clerk of the court to be used as restitution in this case; that the \$259,000 frozen at Salomon, Smith Barney pursuant to this court's order be directed to the clerk of the court to be used for restitution in this case and; that any other fund which are frozen be directed to the clerk of the court to be used as restitution in this case.

<u>Victim</u>	<u>Amount</u>
Marvin McCabe	\$ 44,000
Dona Brown and Rick Roney	\$425,680
Ronald Clark	\$ 80,000
Thomas Grigg	\$ 40,000
Kamal Shouhayib	\$ 67,500
Charles W. Hineslay	\$100,000
Mark Rofeh	\$ 50,000

The defendant shall comply with General Order No. 01-05.

Signed by: District Judge 
ROBERT M. TAKASUGI

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Sherri R. Carter, Clerk



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4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
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8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. 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;
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These conditions are in addition to any other conditions imposed by this Judgment.

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CLERK, U.S. DISTRICT COURT

DATED: _____

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JUDGMENT AND PROBATION/COMMITMENT ORDER

SCANNED

CONTINUED FROM PAGE 2

Restitution shall be due during the period of imprisonment, as directed by the Court or the United States Attorney, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program. If any amount of the restitution remains unpaid after release from custody, monthly payments of \$ 7,231.00 shall be made during the period of supervised release. These payments shall begin 30 days after the commencement of supervision.

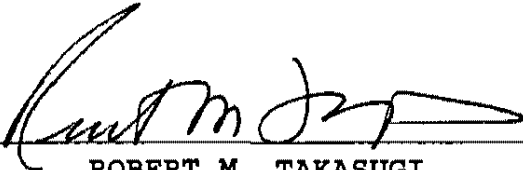
It is ordered that all fines are waived, including the costs of imprisonment and supervision, as it is found that the defendant does not have the ability to pay a fine and restitution.

IT IS THE JUDGMENT of the Court that the defendant, Jay Hoffman, is hereby committed on Counts 1 and 6 of the Indictment to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-seven months.

This term consists of 27 months on each of counts 1 and 6 of the Indictment, to be served concurrently.


Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years. This term consists of 3 years on Counts 1 and 6, all such terms to run concurrently, under the following terms and conditions:

- 1) The defendant shall comply with the rules and regulations of the U.S. Probation Office and General Order 318;
- 2) During the period of community supervision the defendant shall pay the special assessment in accordance with this judgment's orders pertaining to such payment;

Signed by: District Judge 
ROBERT M. TAKASUGI

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Sherri R. Carter, Clerk

Dated/Filed December 17, 2001 By  Deputy Clerk

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7. the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. 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;
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UNITED STATES MARSHAL

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CLERK, U.S. DISTRICT COURT

DATED: _____

BY: _____

UNITED STATES OF AMERICA vs.
Defendant: Jay Hoffman

CR 99-01312 RMT
Date: December 17, 2001

SCANNED

JUDGMENT AND PROBATION/COMMITMENT ORDER

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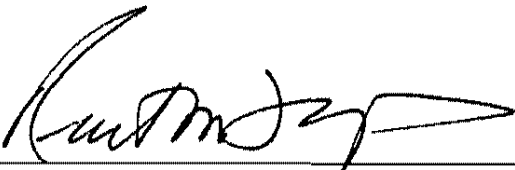
3) Defendant shall truthfully and timely file and pay taxes owed for the years of conviction; and shall truthfully and timely file and pay taxes during the period of community supervision. Further, the defendant shall fully comply with any and all attempts by the Internal Revenue Service to determine and collect all taxes owed, including penalties and interest; and the defendant shall show proof to the Probation Officer of compliance with this Order

4) The defendant shall not engage, as whole or partial owner, employee or otherwise, in any business involving loan programs, telemarketing activities, investment programs or any other business involving the solicitation of funds or cold-calls to the customers, without the express approval of the Probation Officer prior to engagement in such employment. In addition, the defendant shall provide the Probation Officer with access to any and all business records, client lists and other records, client lists and other records pertaining to the operation of any business owned, in whole or in part, by the defendant, as directed by the Probation Officer;

5) The defendant shall not obtain or possess any driver's license, Social Security number, birth certificate, passport or any other form of identification without the prior written approval of the Probation Officer; further, the defendant shall not use, for any purpose or in any manner, any name other than his/her true legal name;

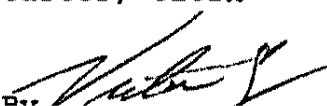
The drug testing condition mandated by statute is suspended based on the Court's determination that the defendant poses a low risk of future substance abuse.

It is further ordered that the defendant surrender himself to the institution designated by the Bureau of Prisons on February 25, 2002, noon. In the absence of such designation, the defendant shall report on or before the same date and time, to the United States Marshal located at: Roybal Federal Building, 255 East Temple Street, Los Angeles, California 90012.

Signed by: District Judge 
ROBERT M. TAKASUGI

It is ordered that the Clerk deliver a certified copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Sherri R. Carter, Clerk

Dated/Filed December 17, 2001  Deputy Clerk

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UNITED STATES MARSHAL

DATED: _____

BY: _____

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CLERK, U.S. DISTRICT COURT

DATED: _____

BY: _____

UNITED STATES OF AMERICA vs.
Defendant: Jay Hoffman

CR 99-01312 RMT
Date: December 17, 2001

JUDGMENT AND PROBATION/COMMITMENT ORDER

SCANNED

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In the interest of justice the Court dismisses all remaining counts.

The bond shall be exonerated upon surrender.

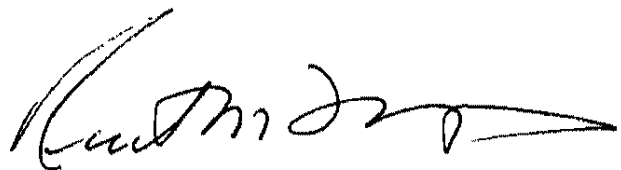
The Court recommends that the defendant be designated to Southern California.

The Court stays the portion this order that refers to the defendant making payments through the Bureau of Prisons' Inmate Financial Responsibility Program.

The defendant is advised of his right to appeal this judgment.

Signed by:

District Judge

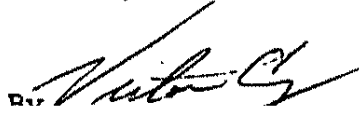


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Dated/Filed December 17 2001



Deputy Clerk

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CLERK, U.S. DISTRICT COURT

DATED: _____

BY: _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SCANNED

IN THE MATTER OF THE)
ADOPTION OF SENTENCING)
ORDERS AND CONDITIONS)
OF PROBATION AND SUPERVISED)
RELEASE PERTAINING TO)
FINANCIAL SANCTIONS)
_____)

General Order No. 01-05

The Judges of the Central District of California adopt the following sentencing orders to apply in every case in which a fine or restitution has been ordered, and adopt the following conditions of probation and supervised release to apply in every case in which probation or supervised release is imposed in addition to the imposition of a fine or restitution. A judge may impose such other conditions the judge deems advisable, consistent with law, including, but not limited to, General Order 318.

Statutory Provisions Pertaining to Payment and Collection of Financial Sanctions

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

General Order No. 01-05

THE DEFENDANT SHALL NOTIFY THE UNITED STATES ATTORNEY WITHIN 30 DAYS OF ANY change in the defendant's mailing address or residence address until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

Special Conditions for Probation and Supervised Release

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's

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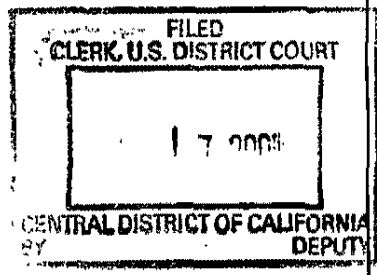
income, monetary gains, or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away or otherwise convey any asset with a fair market value in excess of \$100 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

SCANNED

SCANNED

1 JOHN S. GORDON
United States Attorney
2 RONALD L. CHENG
Assistant United States Attorney
3 Acting Chief, Criminal Division
JULIE WERNER-SIMON
4 Assistant United States Attorney
Senior Litigation Counsel,
5 Major Frauds Section
1100 United States Courthouse
6 312 North Spring Street
Los Angeles, California 90012
7 Telephone: (213) 894-2274
Facsimile: (213) 894-6269



8
9 Attorneys for Plaintiff
United States of America

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,)
13 Plaintiff,)
14 v.)
15 JAY HOFFMAN,)
16 Defendant.)
17

NO. CR 99-1312 RMT
THE COURT'S PROPOSED
SENTENCING FINDINGS OF FACT
AND CONCLUSIONS OF LAW

Date: December 17, 2001
Sentencing Time: 1:30 p.m.

18 THIS COURT HAVING REVIEWED the Presentence report and the
19 PSR addenda, the government's response to the PSR; the
20 government's response to defendant's request for a sixth
21 continuance; the defendant's private PSR prepared by Dr. Balkan
22 and attendant video; defendant's position regarding sentencing
23 factors; the government's response to defendant's sentencing
24 position and the files, records and exhibits in this case; AND
25 having heard the arguments, evidence and presentations by counsel
26 at the sentencing hearing, THIS COURT HEREBY makes the following
27 findings of fact and conclusions of law which shall be appended
28 to this court's judgment and commitment order.

1 1) THIS COURT ADOPTS the position of the defense/parties
2 with respect to the U.S.S.G. § 2F1.1 loss figure and I find that
3 the initial loss amount for guideline purposes is a level "16,"
4 one level less than recommended by the PSR;

5 2) THIS COURT FINDS THAT defendant has impeded the United
6 States Probation Office's ability to fully and accurately assess
7 the defendant's financial resources by failing to provide a
8 complete and accurate listing of all assets owned by him or under
9 his control. THIS COURT FINDS that defendant failed to disclose
10 all of his financial resources even though the financial
11 disclosure form used by the USPO requires such disclosure and
12 even though the USPO wrote a letter on February 13, 2001 to
13 defendant's then-counsel (referred to in the December 13, 2001
14 PSR addendum) in which she specifically stressed to counsel that
15 the financial statement "must include an itemization of assets
16 held by the [defendant] at the time of arrest and as of the date
17 of the interview. [PSR addendum dated December 13, 2001].

18 3) Specifically, THIS COURT ADOPTS THE PSR addendum's
19 findings that defendant concealed and presented false
20 declarations regarding the following material information:

21 A. defendant failed, in at least two places on the
22 financial disclosure form, to disclose the Morgan Stanley
23 brokerage account (No. 348) for which he and his spouse were
24 signatories and which on or about the date of defendant's arrest
25 in December 1999 contained in excess of \$421,000.

26 B. defendant concealed on the financial disclosure form the
27 existence of the Morgan Stanley Hoffman Family Trust brokerage
28 account (No. 626) and his Hoffman Family Trust account at Salomon

1 Smith Barney (No. 14) even though the financial disclosure form
2 called for him to disclose all trusts for which defendant was " a
3 beneficiary, grantor, donor, trustee, or fiduciary" and even
4 though he and his spouse were both signatories on both accounts
5 which were opened during the reporting period December 1999 to
6 June 2001. During the period to be reported, THIS COURT FINDS
7 that the trusts contained in excess of \$300,000.

8 ~~C. defendant concealed the existence of an offshore bank~~
9 ~~account in St. Kitts even though he and his spouse appear to be~~
10 ~~signatories on the account.~~

11 D. defendant concealed the existence of ^a ~~the~~ Bank of America
12 ("BOA") bank ~~accounts~~ controlled by him in derivations of the
13 name "USA Global" for which he was the signatory, including No.
14 ~~09946 as specifically referenced in the December PSR addendum.~~

15 Although defendant was the sole signatory on this account, he
16 concealed it from the USPO and did not disclose it on the
17 financial disclosure form. This account, during the period
18 defendant was to have reported the asset, contained deposits of
19 between \$15,000 and \$577,000 dollars. ~~Defendant was to report~~
20 ~~all personal and commercial bank accounts on the disclosure form~~
21 ~~and~~ THIS COURT finds he was obligated to disclose the existence
22 of this account to the USPO and that he failed to do so.

23 ~~MOREOVER,~~ THIS COURT FINDS that since defendant made personal
24 expenditures on this account (his attorney's fees in the criminal
25 case, expenses for cars for himself, his wife and son and loans
26 to relatives), any characterization of the bank account as a
27 company account is disingenuous.

Handwritten marks on the left margin, including a large '4' and 'my' written vertically.

SCANNED

1 E. defendant concealed the existence of an American Express
 2 card (no. 32015) which was opened in the name of his mother as a
 3 representative of USA Global. ~~At time the account was opened on~~
 4 ~~June 9, 1999 (see exhibit 20 to government's response to the~~
 5 ~~PSR), defendant's mother, according to the sociologist who~~
 6 ~~prepared defendant's private PSR, lived in a retirement home. As~~
 7 ~~defendant's mother was so debilitated from advanced emphysema~~
 8 ~~that her ability to walk was impeded (Private PSR page 6), THIS~~
 9 ~~COURT FINDS that it is highly unlikely that defendant's mother~~
 10 ~~was a USA Global representative as the existence of the card in~~
 11 ~~her name was evidently meant to suggest. THIS COURT FURTHER finds~~
 12 that since the American Express cards were also issued in the
 13 name of defendant, his wife and their son and that the card(s)
 14 were used to pay personal expenses including household items,
 15 that the existence of the American Express card should have been
 16 disclosed by defendant.

17 F. ~~IN ADDITION, this COURT FINDS that defendant's civil~~
 18 ~~lawsuits description appended as part of the PSR financial~~
 19 ~~disclosure form, was intentionally misleading. The government,~~
 20 ~~through its presentation of documentary evidence in its response~~
 21 ~~to the PSR has demonstrated that:~~

22 ~~(i) Muriel Handrus Warren's lawsuit against defendant was~~
 23 ~~not "settled or paid" as defendant represented in the attachment~~
 24 ~~to the financial disclosure form (see exhibit 11 to government's~~
 25 ~~response to PSR);~~

26 ~~(ii) Dr. Roger Wolk's lawsuit against defendant was not~~
 27 ~~"settled and paid" as defendant represented; (see exhibit 12 to~~
 28 ~~government's response to PSR);~~

SCANNED

1 (iii) indictment victims Brown/Roney may have entered a
 2 settlement with defendant Hoffman in 1997 as defendant
 3 represented, but defendant did not commencement payments as
 4 agreed as he has represented. The defendant has not overcome the
 5 government's presentation of evidence supporting the view that
 6 the first payment(s) to Brown/Roney pursuant to the negotiated
 7 civil settlement only occurred after defendant's associates were
 8 subpoenaed in or about October 1999, to give testimony before the
 9 grand jury. (Government's exhibit 6 to response to PSR, page
 10 four). FURTHER, I FIND that the timing of defendant's partial
 11 payment of \$125,000 to indictment victim McCabe as a full civil
 12 settlement, seven years after the misappropriation, is curious.
 13 It occurred shortly before the first scheduled sentencing date in
 14 this case. THIS COURT notes that defendant's civil counsel, in
 15 correspondence, reminded the victim's counsel of the promise that
 16 the victim tell the court that "given the reimbursement, he does
 17 not believe that there is any reason to further punish Mr.
 18 Hoffman by incarceration or otherwise. (Government's Response to
 19 PSR exhibit 10, page 3, last paragraph, referring to page two of
 20 exhibit 10).

21 4) THIS COURT FURTHER FINDS THAT defendant, by hiding these
 22 facts for the USPO and the court, violated ¶ 14 (f) at page nine
 23 of the January 22, 2001 plea agreement. This provision
 24 obligated defendant to not knowingly and willfully fail to be
 25 truthful at all times with . . . U.S. Probation Office and the
 26 Court. THIS COURT CAN DEDUCE NO OTHER EXPLANATION FROM THESE
 27 FACTS; DEFENDANT'S NUMEROUS FAILURES TO DISCLOSE WERE KNOWING AND
 28 WILFUL. THIS COURT therefore, in accordance with ¶ 16 of the

SCANNED

1 plea agreement at page nine, FINDS that defendant failed to
2 perform one of his essential obligations under the plea
3 agreement, and THUS, the plea agreement has been breached.
4 Although defendant cannot withdraw his plea, the government
5 pursuant to plea agreement ¶ 17 (at page 10), is relieved of all
6 of its obligations under the agreement. As a result, this court
7 imposes an additional two-level increase for obstruction of
8 justice, pursuant to U.S.S.G. § 3C1.1, for a total guideline
9 range of 27-33 months. I will follow the government's
10 ~~recommendation and sentence defendant to the middle of the range,~~
11 ~~for a sentence of thirty (30) months in custody, given~~
12 ~~defendant's numerous victims, over an extended period of time and~~
13 ~~given defendant's purposeful concealment of the true state of his~~
14 ~~financial affairs from the USPO and this COURT~~

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15 5) FURTHER, THIS COURT FINDS that although defendant's
16 mother and sister are infirm, they do not live with defendant and
17 he is not their primary caretaker. Further, given the extensive
18 travel schedule in 2000-2001 of defendant as evidenced by the
19 government's exhibit 25 appended to their response to the PSR,
20 defendant's ill relatives are being well cared for, in
21 defendant's absence, in their respective residential settings.
22 Specifically, defendant's mother appears to be receiving quality
23 care in the Claredon Assisted Living Facility with two hired care
24 givers to attend to her needs, (defendant's Private PSR page 7),
25 and defendant's sister appears to be functioning well enough to
26 live on her own in her own apartment. (Defendant's private PSR
27 page 5). Although THE COURT IS CERTAIN, that defendant's visits
28 while in Los Angeles add to the quality of his relatives' lives,

1 that fact does not constitute a grounds for downward departure
2 pursuant to U.S.S.G. § 5H1.6. THIS COURT ADOPTS the conclusion
3 of the USPO in its December addendum page 5, specifically that
4 defendant has other family members and the financial resources to
5 continue to provide for the care of his ill relatives. THUS,
6 defendant's request for downward departure on family
7 circumstances is DENIED.

8 6) FURTHER, this court finds that defendant is NOT ENTITLED
9 to an additional point for acceptance of responsibility on either
10 U.S.S.G. § 3E1.1(b)(1) ["timely providing complete information to
11 the government about defendant's own involvement in the offense"]
12 or U.S.S.G. § 3E1.1(b)(2) grounds [timely notifying authorities
13 of intention to pled guilty so that government can avoid
14 preparing for trial and the court can better allocate its
15 resources].

16 A. The defendant is not entitled to the third point under
17 U.S.S.G. § 3E1.1(b)(1) because there is no evidence that he
18 "timely," if at all provided "complete evidence about his own
19 involvement." Merely because defendant Hoffman partially
20 complied with a grand jury subpoena in which selected business
21 records were produced devoid, according to the government, of
22 victim complaint records and financial records, does not
23 constitute providing complete evidence about defendant's criminal
24 involvement. MOREOVER, the government has submitted a
25 declaration from defendant's attorney, Errol Stambler, in which
26 he relates non-privileged information which shows that defendant
27 Hoffman had an opportunity to disclose his criminal involvement
28 to the government but that defendant declined to do so. IN

SCANNED

1 ADDITION, as set forth in the December 2001 PSR addendum page
2 six, defendant's "pre"-sentencing restitution payments are
3 contemplated by the awarding of the initial two-level reduction
4 for acceptance of responsibility.

5 B. Also, the defendant is not entitled to the third point
6 under U.S.S.G. § 3E1.1(b)(2) because the government had fully
7 prepared for trial, having prepared the exhibit books,
8 interviewed the witnesses, filed the trial brief and jury
9 instructions, created charts for the trial and the like.

10 7) THIS COURT ORDERS THAT FULL RESTITUTION TO EACH OF THE
11 VICTIMS LISTED BE MADE FORTHWITH. THE COURT FURTHER DIRECTS THAT
12 ~~IN ADDITION TO THE FINE OF \$ _____ WHICH THIS COURT HAS IMPOSED~~
13 ~~THAT the:~~

My

14 i) the \$12,000 refund check being held by the Republican
15 National Committee be directed to the clerk of court to be used
16 as restitution in this case (government exhibit 21);

17 ii) that the \$259,000 frozen per court order at Salomon,
18 Smith Barney pursuant to this court's order be directed to the
19 clerk of court to be used for restitution in this case AND

20 iii) that any other funds which are frozen be directed to
21 the clerk of court to be used as restitution in this case.

22 ~~In addition, THIS COURT COMMANDS THAT defendant pay an~~
23 ~~additional \$ _____ to the clerk of court to be used for~~
24 ~~restitution to defendant's victims in this matter.~~

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25 //
26 //
27 //
28 //

SCANNED

1 8) OF THE ABOVE LISTED FUNDS, RESTITUTION SHALL BE MADE TO
2 VICTIMS INCLUDING (PSR 74):

3 COUNT ONE VICTIMS

- 4 a) \$80,000 to Ronald Clark
- 5 b) \$67,500 to Kamil Shouhayib
- 6 c) \$40,000 to Thomas Grigg
- 7 d) an additional \$44,000 to be paid to Marvin McCabe who received
- 8 a civil settlement payment of \$125,000 of the \$169,000
- 9 misappropriated by defendant

10 COUNT SIX VICTIM

- 11 e) \$425,680 to Brown/Roney who have been paid \$75,320 of
- 12 defendant's \$500,000 misappropriation

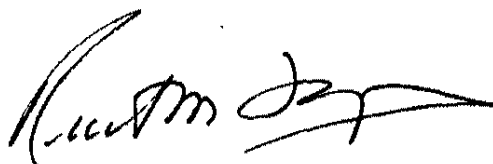
13 RELEVANT CONDUCT VICTIMS

- 14 f) \$ 100,000 to Charles Hinesley as requested by USPO
- 15 g) \$ 50,000 as directed to Mark Rofeh as requested by USPO

16 9) THIS COURT ORDERS that defendant pay immediately the two
17 hundred dollar special assessment in this case.

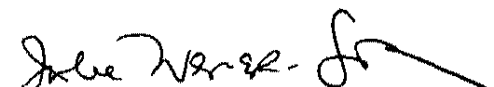
18 THE ABOVE FINDINGS OF FACT AND CONCLUSION OF LAW ARE HEREBY
19 INCORPORATED INTO THE JUDGMENT AND COMMITMENT ORDER IN THIS CASE.

20
21 DATED: December 17, 2001.



22
23 ROBERT M. TAKASUGI, U.S.
24 DISTRICT COURT JUDGE

25
26 Submitted by:

27 
28 Julie Werner-Simon, AUSA