KAPLAN HECKER & FINK LLP

350 FIFTH AVENUE | 63RD FLOOR
NEW YORK, NEW YORK 10118

1050 K STREET NW | SUITE 1040
WASHINGTON, DC 20001

TEL (212) 763-0883 | FAX (212) 564-0883

WWW.KAPLANHECKER.COM

DIRECT DIAL 212.763.0889
DIRECT EMAIL shecker@kaplanhecker.com

May 13, 2022

BY ECF

The Honorable Raymond J. Dearie
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

RE: United States v. Martinelli Linares, 21 Cr. 65 (RJD)

Dear Judge Dearie:

On May 6, the government asked this Court to sentence Rica and Luis Martinelli to at least *nine years* in prison for laundering payments from Odebrecht to their close family member ("Panama Government Official"). The Department of Justice cited no precedents for a sentence of this severity in any remotely comparable case—because none exist. Its submissions ask this Court to determine that Rica and Luis are at least five times more culpable than Jose Grubisich, and that they should get roughly four to five times the custodial sentence served by Marcelo Odebrecht.

The Fraud Section oversees foreign-bribery prosecutions in this country. It could have explained candidly why its sentencing request deviates so radically from those imposed on similarly culpable defendants. Instead, the government remained silent about the extraordinary nature of its request. It asked this Court to impose the most severe foreign-bribery sentence in the history of the Second Circuit—one far longer than any sentence previously imposed on actual government officials who solicited bribes for personal enrichment—on Rica and Luis Martinelli for their conduct as intermediaries between Odebrecht and Panama Government Official. And unlike any other foreign-bribery case with which the undersigned are familiar, this Court's sentence will not resolve Rica and Luis's criminal liability. As a result of the U.S. and Panamanian governments' inability or unwillingness to reach a joint resolution, Rica and Luis will continue to face Panamanian criminal charges even after this Court sentences them for the same conduct.

Lacking any reasonable basis in law, and without any ability to point this Court to remotely comparable sentences, the government's letters relied instead on distortions and innuendo. Most importantly, the government's smokescreen submissions obscured the central

fact that the 23 months of time that Rica and Luis have already served would be within the heartland of sentences for even more egregious misconduct.

What is more, almost a quarter of Rica and Luis's incarceration has come during one of the bleakest periods in the long-troubled history of the MDC. Both brothers were placed into administrative segregation upon arrival and spent day after day in isolation. The prison was locked down multiple times shortly after Rica and Luis emerged, causing long stretches in which they were confined to their cells nearly all day long. The government waved off Rica and Luis's days of near-solitary confinement as a temporary inconvenience and claimed on May 6 that "[t]here have been no restrictions in place" at the MDC since February.[1] The government spoke too soon. Just this week, the MDC was locked down yet again after violent attacks on inmates. Rica and Luis have not been allowed to bathe since Monday, May 9. They have been released from their cells just once in the last four days—for a brief visit with the undersigned this morning—after which they were returned to indefinite total confinement.

This is the context that is missing entirely from the government's sentencing submissions, but which is required to be considered to determine a just and lawful sentence.

I. The government asks this Court to deem Rica and Luis many times more culpable than the ultimate ringleaders of a "massive and unparalleled bribery and bid-rigging scheme."[2]

Rica and Luis "conspired to facilitate the payment of bribes from Odebrecht to Panama Government Official," their close family member. Gov't Letter at 2. Their offense "stems from a larger investigation into a massive bribery and money laundering scheme related to Odebrech and its subsidiary Braskem" by which those Brazilian conglomerates paid nearly $800 million in bribes over two decades. *Id.*

This Court sentenced Jose Grubisich—the former CEO of Braskem who led a 12-year scheme to "divert[] approximately $250 million from Braskem into a secret slush fund" for bribes[3]—to 20 months in prison. *See United States v. Grubisich*, No. 19-CR-102 (E.D.N.Y. Oct. 12, 2021). In Brazil, Marcelo Odebrecht—the former CEO of the eponymous "bribery machine"[4]—served 30 months in prison before being released to serve an additional 30 months

[1] *See United States v. Ricardo Alberto Martinelli Linares*, No. 21-CR-65, ECF 57 at 1 (E.D.N.Y. May 6, 2022). Because the government submitted virtually identical sentencing letters for Rica and Luis, this submission cites only to Rica's letter and refers to it from this point as "Gov't Letter."

[2] Press Release, Dep't of Justice, *Odebrecht and Braskem Plead Guilty and Agree to Pay at Least $3.5 Billion in Global Penalties to Resolve Largest Foreign Bribery Case in History* (Dec. 21, 2016), perma.cc/3HYW-PXWD.

[3] Press Release, Dep't of Justice, *Former Chief Executive Officer of Petrochemical Company Sentenced to 20 Months in Prison for Foreign Bribery Scheme* (Oct. 12, 2021), perma.cc/ST4A-959K.

[4] Gov't Letter at 1.

of house arrest, after which he will be permitted to return to work and complete his sentence with community service.[5]

The government writes that Rica and Luis are "not similarly situated to Jose Carlos Grubisich." Gov't Letter at 14. That is obviously correct. One was a kingpin at the hub of a criminal enterprise, the other two were acting at a family member's request to help him receive a portion of that enterprise's bribes. Yet, defying all logic, the government argues that Rica and Luis are *more culpable* than the twelve-year leader of Braskem's bribery machine. *Id.*

The government's reasoning is specious. Their letter first contrasts Grubisich's guilty plea and acceptance of responsibility with the puzzling claim that Rica and Luis "never truly accepted responsibility." *Id.* This is a remarkable statement coming from the same government lawyers who, just months ago, signed and offered up to the Court a plea agreement with Rica and Luis. *See also* Gov't Letter at 7 (recommending that the Court adopt a Guidelines calculation that deducts three levels for acceptance of responsibility). It also takes liberties with the facts. Mr. Grubisich pleaded guilty and accepted responsibility—like Rica and Luis. But *unlike* Rica and Luis, Mr. Grubisich only did so after he was arrested and charged with U.S. crimes. These stories are, indeed, quite different. Unlike Mr. Grubisich, Rica and Luis walked right up to the U.S. government and began incriminating themselves long before they were charged with the crime for which they have pled guilty and accepted responsibility. Unlike Mr. Grubisich, Rica and Luis provided the U.S. government with virtually *all* of the evidence necessary to make a case against themselves. And unlike Mr. Grubisich, Rica and Luis provided information about the location of Odebrecht monies, and continue to render unique assistance in repatriating those funds, that neither the U.S. nor Panamanian governments could have obtained from any other source.

II. The government seeks to penalize, rather than credit, Rica and Luis for attempted cooperation that provided the basis for their convictions.

The government's letters purport to dive deeply into Rica and Luis's "failed cooperation." Gov't Letter at 4. Notwithstanding the Department of Justice's institutional obligation to "ensure that the relevant facts…are brought to the court's attention fully and accurately," JUSTICE MANUAL § 9-27.710 (Participation in Sentencing), the government's letter omits critical facts and blurs out others.

First and foremost is that Rica and Luis initiated their interactions with U.S. law enforcement. *Cf., e.g.*, Ex. A, Sent'g Tr. at 25, *United States v. Mebiame*, No. 16-CR-627 (E.D.N.Y. May 31, 2017) (prosecutor's emphasis that foreign-bribery defendant "started his engagement" with government only after he was confronted by agents). What is more, Rica and Luis themselves provided *all* of the substantial evidence that incriminated them—before they were ever arrested or charged for this offense. *Compare id.* at 6-8 (emphasizing that defendant only provided information after receiving "impactful discovery" constituting "substantial evidence" of his own guilt). As the government's letters concede (via remarkable understatement), both Rica and Luis "provided information to the government that was useful in

[5] *Billionaire Odebrecht in Brazil scandal released to house arrest*, REUTERS (Dec. 19, 2017), perma.cc/KDT4-7WLQ.

advancing its investigation"—so useful and so credible, in fact, that the government was prepared to offer Rica and Luis cooperation agreements. Gov't Letter at 4.

The government's letters suggest that the potential for formal cooperation agreements vanished when Rica and Luis left the United States in June 2020. *See id.* at 4-5. If that is true, it contradicts the government's previous representations. From their jail in Guatemala, Rica and Luis retained the undersigned with instructions to negotiate a guilty plea and repatriation of funds with both the United States and Panama, and thereby attempt to resolve the criminal cases pending in both countries for the same Odebrecht-related conduct. During these negotiations—that is, after Rica and Luis were already in Guatemala—U.S. prosecutors consistently represented that they would consider entering formal cooperation agreements with Rica and Luis upon their return to the United States. Of course, it is not uncommon for the government to fail to reach a formal agreement even with credible witnesses who have provided uniquely valuable information. That may be especially true where formal cooperation benefits could only be obtained by incriminating a close family member. *See* Preet Bharara, DOING JUSTICE 98 (2019) ("For real people, the decision to cooperate represents something more than a mere bargain in exchange for a shot at liberty. . . [I]t could also mean forsaking family. . . It is hard."). But the possibility of cooperation credit was a foundational premise of the parties' discussions while Rica and Luis remained incarcerated in Guatemala.

Those discussions bore valuable fruit for the United States and Panama alike: Rica and Luis began the process of repatriating Odebrecht-related funds while they were in the Guatemalan jail, and agreed in principle to their guilty plea and unusually detailed factual proffer before they returned to the United States to formally enter the plea before this Court. For its part, the United States has secured two convictions without trial in this case, received a mountain of evidence from Rica and Luis, and obtained their unique assistance in repatriating funds that would otherwise be beyond the government's reach. And while the United States was either unwilling or unable to effect a joint resolution with Panama, that country is taking steps to receive the funds that have been made available to both governments *only* through Rica and Luis's cooperation that the government now spuriously dismisses, on the eve of sentencing, as a "façade." *See* Gov't Letter at 2; *see also id.* at 11 n.3 (describing coordination with Panama on restitution or sharing in forfeited proceeds).

Just as it is beyond dispute that Rica and Luis provided the U.S. and Panamanian governments with the means of their own incrimination and restitution, there can be no doubt that Rica and Luis are paying a high price for failing to secure a formal cooperation agreement. For one thing, they will not get the benefit of a 5K motion from the government—though the Court can and should consider under Section 3553(a) the cooperation from Rica and Luis's early self-incrimination through their ongoing efforts to repatriate Odebrecht-related funds. *See United States v. Fernandez*, 443 F.3d 19, 33 (2d Cir. 2006) ("[I]n formulating a reasonable sentence, a sentencing judge . . . should take under advisement . . . the contention that a defendant made efforts to cooperate, even if those efforts did not yield a Government motion for a downward departure pursuant to U.S.S.G. § 5K1.1."). For another thing, Rica and Luis's decision to leave the United States before securing a formal cooperation agreement resulted in a denial of bail

upon their return and more than six months of detention under unusually difficult conditions at the MDC.

In the end, Rica and Luis's attempted cooperation "failed" themselves more than anyone else. The government got all that it needed to secure convictions in this case, and then some: the United States will recoup all of the funds it seeks from Rica and Luis, and only because of their assistance. *Compare, e.g.*, *United States v. Inniss*, No. 18-CR-134, ECF 29, 31 (E.D.N.Y. May 31, 2017) (sentencing to 24 months senior foreign official who extorted bribes, whose post-trial statements shifted blame "to everyone else…and portray[ed] himself as the victim," and who suggested "that the [foreign] government should investigate a witness who testified against him at trial").

III. The government's sentencing submissions relied on unwarranted innuendo and failed to engage meaningfully with the Section 3553(a) factors.

The government's submissions were far from a sober assessment of the facts and the law. Instead, they were strewn with needless innuendo and half-truths meant to tar Rica and Luis ahead of sentencing. A few brief responses to these regrettable statements follow in the order in which they appear in the government's letters:

- The government suggests that Rica and Luis "invest[ed] approximately $9.5 million in a cell phone service company," Gov't Letter at 3, without clarifying that the investment was made with Panama Government Official's ill-gotten funds, at Panama Government Official's direction, and for Panama Government Official's benefit. The imprecise language not only runs the risk of confusing the Court about who personally benefited from Odebrecht's bribery of Panama Government Official, but it comes in service of a request for a Guidelines sentence that makes *no* effort to sort personal gains from the overwhelming amount of funds that were passed *through*, but not *for*, Rica and Luis. *Compare, e.g.*, *Mebiame*, No. 16-CR-627, Sent'g Tr. at 7 (E.D.N.Y. May 31, 2017) (prosecutor's argument before foreign-bribery defendant sentenced to 24 months that Guidelines sentence was appropriate where range was based only "on the $7 million the Defendant actually put in his own pocket" and not "on a *Pinkerton* theory").
- [redacted]

[redacted]

- The government accuses Rica and Luis of lying about being "afraid to return to Panama." Gov't Letter at 5. The proof? "However…both [Rica and Luis] applied for bail in Panama on their pending charges so that they would not be imprisoned when they returned." *Id.* This is a non sequitur: surely one can fear criminal exposure even while undertaking efforts to secure bail. What is more, it's not true: the brothers have not secured bail on all of their pending Panamanian criminal charges. Worse still, the government's provocative allegation ignores relevant (and publicly available) information. When Rica and Luis told the Department of Justice about their "fear of retaliation from political enemies" in Panama, Gov't Letter at 5, that was *before* Panama's government switched hands. At the time of Rica and Luis's statements, they had pending asylum applications in the United States—including because the Panamanian presidency and attorney general's office were controlled at that time by rivals determined to set the machinery of the Panamanian state on Rica, Luis, and their family.

- The government relies on two articles pulled from the internet to allege that Rica and Luis "sought and obtained invalid diplomatic credentials" from the Central American Parliament ("Parlacen"). *See* Gov't Letter at 5 & n.2. The media outlets (*Prensa* and *La Estrella*) are associated with Panamanian factions opposed to the Martinellis' political party and spin an inaccurate tale that has regrettably been adopted and presented by the Department of Justice. The simple fact is that both Rica and Luis were elected as alternative deputies to the Parlacen in 2019. They were not formally sworn in because that process requires either physical presence at the Parlacen's meeting place in Guatemala City or a ceremony conducted by a particular official in Panama. But their election to, and membership in, the body is not reasonably in dispute. The government is elevating an internal legislative dispute about Parlacen's swearing-in requirements—and whether its membership is self-executing or certain of its features require a formal swearing-in ceremony—into an unsupported and inflammatory suggestion that Rica and Luis relied on false documents to seek parliamentary immunity. That is just not so.

- Rica spent more than seventeen months in a Guatemalan prison. (Luis spent a few weeks less in Guatemala, and a few weeks more in "administrative segregation" at the MDC, due to the timing of their transfers from Guatemalan to U.S. custody.) The government misleadingly writes that Rica and Luis were detained in "an apartment" in Guatemala. We are puzzled by this description. Rica and Luis were detained at a jail on the Mariscal Zavala military base by order of a Guatemalan court. The military detention complex is one of Guatemala's designated pretrial detention facilities, and it contains an interior facility for the "confinement [of] those persons deprived of liberty whose lives or safety, for reasons of a situation of vulnerability and security, may be

at risk." *See* Inter-American Comm'n on Human Rights, *Situation of Human Rights in Guatemala* 214 (2017), perma.cc/P8JD-J78X (describing the Guatemalan law providing for pretrial detention within the Mariscal Zavala military complex). Indeed, Rica and Luis were detained alongside Guatemalan public officials accused of involvement in the same Odebrecht bribery scheme. *See, e.g.*, Irving Escobar, *Odebrecht: Carlos Batres Gil se presenta ante juzgado y termina el día en Mariscal Zavala*, PRENSA LIBRE (Apr. 6, 2021), perma.cc/J6JV-BVFC (explaining that a Guatemalan judge detained Carlos Batres, a former Guatemalan public official, in the same Mariscal Zavala prison for Odebrecht-related pretrial detention in April 2021).

- Finally, the government drops an unattributed reference to "information that [Rica and Luis] were planning an escape" from Guatemalan custody. Gov't Letter at 6. There can be little point to this reference except to prejudice next week's proceedings. Given the government's apparent familiarity with online media, *see* Gov't Letter at 5 n.2 (citing opposition media for allegation that Rica and Luis had "invalid" parliamentary credentials), they surely are aware that no less an authority than Guatemala's president denied that any such escape attempt was planned or took place. *See Presidente de Guatemala niega plan de fuga de hijos de Martinelli*, DEUTSCHE WELLE (German public media's Spanish-language publication), dw.com (Aug. 23, 2021), p.dw.com/p/3zMLJ (headline stating "President of Guatemala denies that Martinelli's sons planned to escape").

IV. The government's submissions do not cite a single comparable sentence to justify its sentencing recommendation—because none exist.

The government's May 6 submissions are signed jointly by the U.S. Attorney's Office for the Eastern District of New York (which has brought many of the most significant foreign-bribery cases in U.S. history) and the Fraud Section (which has overseen all such cases). No party has greater access to the full history of sentencing outcomes in foreign-bribery cases. In this context, it speaks volumes that the government's request to sentence Rica and Luis Martinelli to a *decade in prison* comes completely unsupported by reference to even a *single* prior comparable sentence. No such sentences exist. The government is asking this Court to impose on Rica and Luis Martinelli the most severe foreign bribery-related sentence in the history of the Second Circuit, and one of the five longest in United States history.[6]

[6] *See* Jessica Tillipman, *The Ten Longest FCPA-Related Prison Sentences*, FCPA BLOG (Aug. 15, 2016), https://fcpablog.com/2016/08/15/jessica-tillipman-the-ten-longest-fcpa-related-prison-senten/. We understand that a small number of additional lengthy sentences have joined this top-ten list since its August 2016 publication. These include a sentence of 120 months (later reduced to 42 months) for Matthias Krull for his leading role in a $1.2 billion bribery and embezzlement scheme (No. 18-CR-20682, S.D. Fla.), and a sentence of 120 months for Alejandro Andrade who, as Venezuela's national treasurer, received over *one billion dollars* in bribes, including cash "as well as private jets, yachts, cars, homes, champion horses, and high-end watches," Press Release, Dep't of Justice, (Nov. 27, 2018) https://www.justice.gov/opa/pr/former-venezuelan-national-treasurer-sentenced-10-years-prison-money-laundering-conspiracy (No. 17-CR-80242, S.D. Fla.). In 2018, Juan Angel Napout was sentenced to 108 months after convictions on fraud and money laundering charges for his leadership of the FIFA scheme in which he was promised $25 million in personal bribes. *See United States v. Napout*, No. 15-CR-252, ECF 1008 (E.D.N.Y. Sept. 4, 2018).

By failing to identify a single related case—to say nothing of responsibly discussing the range of sentences for "defendants with similar records who have been found guilty of similar conduct," 18 U.S.C. § 3553(a)(6)—the government avoids engaging with the fact that a sentence to the nearly 23 months that Rica and Luis have served would put their punishment squarely within the heartland of sentences in foreign-bribery cases.

The most obvious case for comparison, of course, is *Grubisich*. The government argues beyond all reason that Rica and Luis Martinelli deserve a longer sentence for laundering $28 million in Odebrecht bribes than the 20 months to which this Court sentenced Jose Grubisich for leading an Odebrecht subsidiary's twelve-year, $250 million bribery campaign. In view of this staggering position on relative culpability, it is no wonder that the government's submissions avoid the word "disparity" (to say nothing of grappling meaningfully with how such disparate sentences would comport with the law's command of proportionality).[7]

Of course, Rica and Luis have already served more time behind bars than Jose Grubisich ever will. This Court's sentence cannot change that. And cases beyond *Grubisich* make clear that conduct more egregious than Rica and Luis's often results in a sentence of 24 months—almost exactly the amount of time they have already served.

Consider the case of Donville Inniss, who solicited bribes as a Barbadian cabinet officer and member of parliament. *United States v. Inniss*, No. 18-CR-134 (S.D.N.Y.). Inniss took the government to trial, and insisted on his innocence after the jury's guilty verdict. *See* Gov't Sent'g Mem., *Inniss*, ECF 129 at 10. Going further, Inniss allegedly continued to corruptly exercise power following his guilty verdict by suggesting that the Barbadian government prosecute one of the United States's chief witnesses. *Id.* Inniss was sentenced to 24 months. *See* Judgment, *Inniss*, ECF 132.

Or take Samuel Mebiame. Unlike Rica and Luis, Mebiame "built a business that profited through corruption." Gov't Sent'g Mem., *United States v. Mebiame*, No. 16-CR-627, ECF 25 at 3. Mebiame took home $7 million in personal profits for his work securing mining, oil, and mineral concessions in Western Africa for the American hedge fund Och-Ziff. *Id.* Recognizing that Mebiame was "a player," but that "there are many other people who are obviously as accountable or more accountable than he is," the Court sentenced Mebiame to a "substantial sentence" of 24 months. *See* Ex. A, Sent'g Tr., *United States v. Mebiame*, No. 16-CR-627 (E.D.N.Y. May 31, 2017).

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[7] The government's submissions use the word "disparity" once, by way of referring this Court to an abrogated precedent that they wrongly argue precludes consideration of Rica and Luis's non-citizenship status. *See* Gov't Letter at 15-16 (citing *United States v. Restrepo*, 999 F.2d 640 (2d Cir. 1993)). But *Restrepo* is a pre-*Booker* decision about departures. As the government knows, the Second Circuit has affirmed after *Booker* that district judges may consider the collateral consequences of non-citizenship (including, for example, the inability to serve time at certain otherwise appropriate facilities) as relevant to a variance. *See United States v. Thavaraja*, 740 F.3d 253 (2d Cir. 2014). And many judges have done just that. *See, e.g.*, *United States v. Connolly*, No. 16-CR-370, ECF 457 at 91-93 (S.D.N.Y. Nov. 19, 2019) (sentencing a white-collar defendant to a non-custodial sentence "because he is a non-citizen" who "will not be eligible to serve his sentence in the same way that any American citizen who stood convicted of the same crime would serve…[a]nd that's not right").

V. Conclusion

The government's submissions acknowledge that the Odebrecht bribery scheme "had hundreds of participants in more than a dozen countries." Gov't Letter at 14. Remarkably, they proceed to ask this Court to sentence Rica and Luis Martinelli—indisputably peripheral actors in this massive scheme—to more time than any foreign-bribery defendants in this Circuit's history and deem them many times more culpable than the scheme's two ringleaders. That result would be manifestly unjust. It would require ignorance of sentencing outcomes in every reasonably related case. It would flout the law.

Rica and Luis Martinelli brought themselves to the U.S. government's doorstep. They provided all the information necessary to convict them of the crime to which they pled guilty. They have already begun the work of repatriating Odebrecht monies that, but for the brothers' assistance, would be out of the reach of the U.S. and Panamanian governments. Against Jose Grubisich's 20-month sentence, and 24-month sentences for even more culpable conduct, the nearly 23 months that Rica and Luis have served is the parsimonious sentence in this case.

Respectfully submitted,

Sean Hecker
Justin Horton
KAPLAN HECKER & FINK LLP
350 Fifth Avenue, 63rd Floor
New York, New York 10118

Counsel for Ricardo Martinelli Linares

James G. McGovern
Samuel Rackear
HOGAN LOVELLS US LLP
390 Madison Avenue
New York, NY 10017

Counsel for Luis Martinelli Linares

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	16-CR-627 (NGG)
Plaintiff,	:	United States Courthouse
-against-	:	Brooklyn, New York
	:	May 31, 2017
SAMUEL MEBIAME,	:	11:30 a.m.
Defendant.	:	

TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING
BEFORE THE HONORABLE NICHOLAS G. GARAUFIS
UNITED STATES SENIOR DISTRICT JUDGE

APPEARANCES

For the Plaintiff: BRIDGET M. ROHDE
ACTING UNITED STATES ATTORNEY
271 Cadman Plaza East
Brooklyn, New York 11201

BY: JAMES LOONAM,
Assistant United States Attorney
DAVID C. PITLUCK,
Assistant United States Attorney
JONATHAN LAX,
Assistant United States Attorney

U.S. DEPARTMENT OF JUSTICE
CRIMINAL DIVISION, FRAUD SECTION
1400 New York Avenue NW
Washington, D.C. 20005

BY: JAMES P. MCDONALD, TRIAL ATTORNEY

For the Defendant: KRANTZ & BERMAN, LLP
757 Third Avenue - 32nd Floor
New York, New York 10017

BY: LARRY H. KRANTZ, ESQ.
WENDY POWELL, ESQ.

Court Reporter: LINDA A. MARINO, RPR
225 Cadman Plaza East
Brooklyn, NY 10021
(718) 613-2484

Proceedings recorded by mechanical stenography. Transcript produced by computer-aided transcription.

THE COURTROOM DEPUTY: Criminal cause for sentencing. Counsel, please state your appearances.

MR. LOONAM: Good morning, your Honor. James Loonam, Jim McDonald, David Pitluck, and Jon Lax on behalf of the Government.

THE COURT: Good morning.

MR. KRANTZ: Good morning, your Honor. Larry Krantz and Wendy Powell on behalf of Mr. Mebiame.

MS. POWELL: Good morning, your Honor.

THE COURT: Good morning.

Good morning, sir.

THE DEFENDANT: Good morning, your Honor.

THE COURT: Mr. Mebiame?

THE DEFENDANT: Yes, your Honor.

THE COURT: Are you satisfied with the assistance that your attorney has given you thus far in this matter?

THE DEFENDANT: Yes, absolutely, your Honor.

THE COURT: Thank you.

This is a sentencing for Samuel Mebiame. I've reviewed the materials that have been provided for me by the parties, and I'm just going to go over the items that I have here. There's a presentence investigation report, dated March 22, 2017.

Mr. Krantz, have you shared that with your client?

MR. KRANTZ: Absolutely, your Honor.

THE COURT: And have you answered any and all questions that he had about it?

MR. KRANTZ: Yes.

THE COURT: And in your view, does he understand its contents?

MR. KRANTZ: Yes.

THE COURT: Any question about the presentence report?

THE DEFENDANT: No, your Honor.

THE COURT: Okay, thank you.

Then I have a number of sentencing memoranda. There is a sentencing memorandum submitted by the defense, dated April 20, 2017, with Exhibits A through K.

Has the Government seen that?

MR. LOONAM: Yes, your Honor.

THE COURT: Then the Government has submitted a sentencing memorandum dated April 28, 2017, with four exhibits.

Have you seen that, sir?

MR. KRANTZ: I have, your Honor, and I've shared it with the Defendant.

THE COURT: Then there's a reply memorandum from Mr. Krantz with exhibits, and that's dated May 30, 2017.

Has the Government seen that?

MR. LOONAM: We have, your Honor.

THE COURT: Okay.

I'm not sure if this is in your submission, but I have, Mr. Krantz, Sara Poppy submitted a letter in support.

MR. KRANTZ: Your Honor, I don't recall offhand if that's one of the letters we submitted.

THE COURT: It came directly to me from --

MR. KRANTZ: If I could have one minute, I'll check.

THE COURTROOM DEPUTY: -- I'm not sure where. Not this country; from London, from England.

Here, why don't you all take a look at it?

(Pause in proceedings.)

MR. KRANTZ: Your Honor, on a quick check, I don't think it's one of the letters we submitted, if I can have a minute.

THE COURT: It's a letter in support.

MR. KRANTZ: Thank you, your Honor.

THE COURT: I also have the order that I issued on December 14, 2016, accepting the Defendant's plea, which was taken before Magistrate Judge Lois Bloom on December 9, 2016.

So, I think that's everything. Anything else?

MR. LOONAM: I think that's all, your Honor.

MR. KRANTZ: That's it, your Honor.

THE COURT: The next step, then, is the Defendant pleaded guilty to a one-count information, right?

MR. LOONAM: Correct, your Honor.

THE COURT: Which charged him with conspiracy to bribe foreign officials for mining licenses.

MR. LOONAM: Correct, your Honor.

THE COURT: And the computation of the guideline in the presentence report is that the Defendant has a total offense level of 33, he's in criminal history category I, and his guideline is 135 to 168 months in the custody of the Attorney General; however, this crime carries a statutory maximum of 60 months, and, therefore, his guideline is 60 months, right?

MR. LOONAM: That's correct, your Honor.

MR. KRANTZ: We don't object to that, your Honor.

THE COURT: And do you agree to the computation of the guideline?

MR. KRANTZ: Yes.

THE COURT: You do too?

MR. LOONAM: That's correct, your Honor.

THE COURT: So does the Court.

That brings us to the next step of this process, and that is to fashion a sentence that is sufficient but not greater than that necessary to fulfill the purposes of sentencing and, in so doing, to take into account the factors that are relevant to this defendant in 18 United States Code Section 3553(a).

So, I'd like to hear briefly from the Government

just to go over the circumstances of this rather unusual situation regarding this defendant.

MR. LOONAM: Sure, your Honor. Thank you.

And we will not reiterate all of the points made in our sentencing memorandum, but we respectfully submit that a guideline sentence of 60 months is appropriate under the factors of 35553(a), given the Defendant's central role in a long-running scheme to bribe officials at the very highest levels of multiple countries in Africa in exchange for mining rights at the expense of the impoverished peoples of those countries.

The Government, indeed this Assistant, has stood before your Honor in other cases and argued for below-guidelines sentences. This is not that case. By arguing for guideline sentence of 60 months, the Defendant claims the Government is overreaching and acting with, quote, vitriol, end quote. Nothing could be further from the truth.

In considering how to resolve this case, the Government credited both the Defendant's willingness to plead guilty quickly and his voluntary interviews with the Government, which I would note, in response to the Defendant's reply brief on this issue, the Defendant made his decision to plead guilty prior to receiving Rule 16 discovery but after receiving a reverse proffer from the Government. So, there was some limited but impactful discovery to inform the

Defendant's decision here. Thus, the Defendant was allowed to resolve this case with a plea to a single conspiracy with a maximum sentence of five years' imprisonment, which, as the Court just noted, is below the applicable guidelines range.

We would note that the Defendant is certainly guilty of money laundering in connection with the scheme, which he received coverage for in Paragraph 5A of his plea agreement. A money laundering charge would have carried a 20-year maximum sentence, but, trying to reach a just resolution in good faith, the Government did not insist on proceeding with that charge that would have subjected the Defendant to the full applicable guidelines range.

The Government submits that this is hardly evidence of vitriol, personal animus, or an attempt to deprive the Defendant of some sort of credit he believes he is entitled to for making incriminating statements.

Similarly, in calculating the guideline, the Government based the calculation conservatively on the $7 million the Defendant actually put in his own pocket as a result of his criminal conduct. Unlike some of the cases cited by the Defendant, the Government did not base the guideline on a *Pinkerton* theory, which would have resulted in a much higher guidelines range. Again, contrary to defense arguments, this is not evidence of Government overreach.

The Defendant argues that the Government wants to

have its cake and eat it too, and, frankly, I have no idea what the Defendant is talking about in his reply brief. He, indeed, did meet voluntarily with the Government, but he did, indeed, minimize and lie before telling the truth. To the extent the Defendant contends otherwise is inaccurate.

The reports of the interviews indeed reflect initial false statements and omissions and minimizations about how the Defendant obtained mining assets before being shown documents and later admitting to corrupt conduct. The Defendant was shown e-mails from his own e-mail account repeatedly and wire transfers that were attributed to him. We had significant evidence, substantial evidence, of the Defendant's guilt. And there was also a detailed complaint in this case, we would note, at the end of the day.

The Defendant seems to believe that he is entitled to the equivalent of a 5K motion for a nonguidelines sentence despite his decision not to the cooperate with the Government. Just to be clear, that was the Defendant's decision. That path was always open to him, both pre-arrest and post-arrest. Now, the Defendant should not be punished for deciding against cooperating, but neither should he receive the additional benefits that would be afforded to a cooperating witness. To do so would upset the incentives built into the guidelines.

The one factual point in the Defendant's reply that is worth noting is the Defendant's July 5, 2016, phone call

with an IRS special agent, informing the agent of the Defendant's intention to travel to the United States. We note that the substance of this communication was largely the same as his communication with the agent on July 27, once Mr. Mebiame had already booked his travel. That was discussed in the Government's sentencing papers.

THE COURT: Right.

MR. LOONAM: The omission of the July 5 communication was inadvertent and not vitriol, but the point is the same: Yes, the Defendant voluntarily informed the Government of his intention to return to the United States, but he was traveling to Miami for reasons of his own and he knew that if he came to Miami he would need to deal with us when he arrived. And when he actually met with us, he told us the airline purportedly lost the bag that contained all the incriminating documents that he had been gathering, supposedly, for the last year and he wanted to discuss how his co-conspirators hid criminal conduct from him.

After careful consideration and measured deliberations, we urge the Court to impose a guidelines sentence to comply with the purposes set forth in Title 18, United States Code, Section 3553(a); namely, to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment for the offense, and to deter future criminal conduct by this defendant and others.

With respect to the nature and circumstances of the offense, the Defendant suggests that somehow he was a minor player in the charged scheme. This is just wrong. Per Defendant's own admissions, he was, quote, a one-man show, end quote, in Chad, and the co-conspirators could not have obtained the uranium mining concessions without him. Those are the Defendant's own admissions, and the Government submits the same was true in Niger and Guinea as well.

The Defendant's job was to determine which government officials had to be paid and how much to obtain the best assets for the mining company and facilitate those corrupt payments personally. He did so successfully and repeatedly at the highest levels of multiple African countries.

This is not a small-time player. The Defendant's compensation confirms his critical role in the scheme. He was paid millions of dollars; more than $7 million for his central role. The Government respectfully submits that small-time players are not paid $7 million or given property in Miami, like that depicted in Government Exhibit D to its sentencing submission.

In his reply, the Defendant claimed that the identity of Och-Ziff as standing behind the joint venture was completely unknown to the Defendant. The Government submits that this is inaccurate.

In an August 7, 2007, e-mail to his co-conspirators concerning meetings with the government, with government officials, to obtain assets in Niger, Mr. Mebiame described how he assured the officials that the joint venture would have financing to carry on the business through, quote, our partnership with some of our American partners within our group, end quote.

This was a reference to Och-Ziff, and that was in August of 2007. This is confirmed by the Defendant's own admissions. Mebiame met a key Och-Ziff employee at least three times and understood that Och-Ziff or a large U.S. hedge fund was the finance part of the project. The Defendant's contentions to the contrary are just wrong.

With respect to the Defendants' history and characteristics, I will not reiterate the points made in our sentencing papers, but I want to point out that the Defendant's reply, he points to work he performed as a consultant with South Africa's national oil company in Equatorial Guinea, and he points to that as proof of legitimate employment. What he doesn't inform the Court of is that he was working on behalf of a co-conspirator in this case.

The Government respectfully submits that paying millions of dollars in bribes to obtain assets worth hundreds of millions of dollars from multiple African countries and

personally benefiting himself millions of dollars is serious offense conduct that requires a guidelines sentence to deter this defendant and others from engaging in such corrupt conduct in the future.

Simply put, we must increase the cost of corrupt conduct so that rational economic actors simply decide it's not worth it. The Government respectfully submits that the sentence urged by the Defendant is woefully inadequate in this regard. The guidelines sentence of 60 months is measured and consistent with the purposes of the sentencing factors set forth by 18 U.S.C. 3553(a).

THE COURT: Well, you could have sent this case to a grand jury and possibly indicted the Defendant for more significant crimes with, as you pointed out, long statutory maximums.

And what you're basically arguing is that we already gave him a break and he pleaded guilty to an information, a one-count information, and he understands that the guidelines was going to be -- what was going to be the maximum under the statute. I've never heard that argument before in seventeen years; that we could have, we should have, we would have, but we didn't, so he should get the maximum for this crime.

All that's in front of me is this charge, right?

MR. LOONAM: Your Honor, first of all, that argument is in response to the defense reply filed yesterday --

THE COURT: I read it.

MR. LOONAM: -- of government overreach.

THE COURT: Yes, I understand that.

MR. LOONAM: Okay.

THE COURT: But I also understand that if he was such a significant figure in this giant fraud on a number of countries in Africa, not just the three that you identify -- as I understand it, it's a bigger fraud than that, potentially -- that if he's that important to this conspiracy that you allege, then he could have been indicted for other things. And he wasn't.

MR. LOONAM: Well, your Honor, in defining this conspiracy --

THE COURT: Whatever it is.

MR. LOONAM: Exactly.

-- the Government was very narrow and did not seek to hold the Defendant accountable for all of the other countries that were part of the larger conspiracy. And, so, we focused solely on the mining company conduct that the defendant was directly involved in. And, so, we're not contending that he was involved in the Libya conduct or the DRC conduct that's set forth with respect to, perhaps, the larger conspiracy. We were very careful in sort of tailoring the charge to the conspiracy that concerned the mining conduct that the Defendant participated directly in.

And with respect to that conspiracy, that conspiracy concerning the mining company, he was a key and central player. You're right, your Honor, if we define the conspiracy as overarching with respect to Libya and DRC, his relative role --

THE COURT: DRC was a big part of what was going on, at least in terms of what I've seen in the civil cases, which are also before me. No?

MR. LOONAM: It was other very significant criminal conduct that was -- is different than this conduct. So I agree, if we define the conspiracy to include all of that conduct, his relative role is smaller because there was a lot of criminal conduct, frankly. So, if you add sort of to the scope of the conspiracy, yes, this part of it is smaller.

But the conspiracy he was charged with is the mining company conduct in Chad, Niger, and Guinea. And we're talking about hundreds of millions of dollars. And with respect to that conduct and those high level government officials, he was a critical player. So, with respect to our charging decision --

THE COURT: I'm not asking you about your charging decision particularly, I just know that I got deferred prosecution with Och-Ziff on my docket. So, there are no other -- there's nobody else who has been charged, individually been charged with a crime in this court, at

least -- and you can tell me about all the other courts -- with regard to this kind of behavior.

Am I wrong?

MR. LOONAM: Not yet. Your Honor, I have to say that's where we are; at this stage, your Honor is correct.

THE COURT: I see.

MR. LOONAM: At present, Mr. Mebiame is the individual who's been charged in connection with conduct arising and connected with the conduct alleged against Och-Ziff, and, with respect to that conduct, Mr. Mebiame was involved only in the conduct in Chad, Niger, and Guinea.

THE COURT: Got it. Thank you.

Anything you want to add, sir?

MR. MCDONALD: No, your Honor. Thank you.

THE COURT: You sure? You're here.

MR. MCDONALD: I am here.

THE COURT: I always want to give everyone a chance to have their two cents.

Mr. Krantz, what say you?

MR. KRANTZ: Obviously we have some pretty strong disagreements with the Government, as your Honor knows from our fairly detailed sentencing submissions, which I'm confident you've read and considered carefully.

THE COURT: I have read them all.

MR. KRANTZ: To respond to Mr. Loonam, we are two

ships passing in the night here. In our view, in my earnest view, the Government is being terribly unfair to Mr. Mebiame. In my view, frankly, the Government's sort of tenor changed dramatically pre plea and post plea, to my way of thinking. I like Mr. Loonam, I'm not casting dispersions on that, but I certainly never expected the accusations that we are getting as to the extent of Mr. Mebiame's participation.

I would say that the Government is sort of parsing words here, meaning it's using the Och-Ziff scheme as the backdrop to suggest the severity of it all; but then when it says he's a central player, it's really parsing its words carefully because it's really just saying he's a central player in what he did. Everyone is a central player in what they did. That's kind of a tautology.

He is not a central player in the Och-Ziff scheme, which has, from my reading of the public documents, involves over $200 million in alleged or I guess admitted bribes in various African countries, the largest of those offenses having absolutely nothing to do with Mr. Mebiame, and countries that he has no connection to. So, I think to call him a major player and then to sort of parse those words is not fair.

I do think that, from my vantage point, Mr. Mebiame is here due to his own unfortunate lack of sophistication about the U.S. legal system. Unlike many others in this case

who are represented by top firms -- when I say "this case," I'm now talking about the Och-Ziff investigation -- and are wise enough not to walk into the Government's office without a lawyer and just start talking.

Mr. Mebiame did not have that level of sophistication. When he was stopped in July 2015 at the airport, he agreed to fly to New York and spend time with the prosecutors. I accept Mr. Loonam's statement that there were portions of that where he minimized conduct; from my own experience over the years, that's virtually always the case, that's commonplace.

But having read the Government reports and having read the complaint, it's quite clear that Mr. Mebiame created the evidence as to which he is being prosecuted. It is my understanding, although the Government surely had documents reflecting some participation that he had, it did not have a narrative as to what happened. And Mr. Mebiame, as I understand it, essentially provided that narrative.

Now, to my way of thinking, the fact that the Government let him go home in 2015 suggests to me that they did not have a present intention of prosecuting him. I am just getting that from surmise and years of experience on both sides of the criminal justice system.

To my experience, the Government is not in the business when it has in its hands someone they view as a

central player in a massive scheme who is from another country and they're sitting in the Eastern District of New York and they plan to charge them because of what they've done, they don't let them go home uncharged, no bail, no restrictions, no nothing. So, I infer from that that Mr. Mebiame was somewhat of a side issue for the Government and, at that time, they did not plan to charge him.

Now, he goes back home, he spends time in Gabon and in France, and a year later he does voluntarily contact the Government. We have the report that we've quoted in our memo on July 5, 2016. He calls the IRS agent and says: I'm coming back and I want to meet with you again.

He's not in the United States at that time. He doesn't have to come here.

The agent engages in a dialogue saying: Great, we want to meet with you too. Come to our office.

And Mr. Mebiame, again, being highly unsophisticated about his predicament at that point -- surely, if he had called a competent legal criminal defense lawyer he would have been told the perils of what he was doing, but he didn't at that time. And he mistakenly believed that he was a position that he was not a person that the Government was intending to charge. Obviously, when he finally got here in 2016, as we describe it in our memo, he's low hanging fruit at that point; he's back in New York, he's already incriminated himself.

And a few days before that meeting, the Government gets a complaint sworn out and they have an arrest warrant waiting for him for his return. That arrest was not a product of anything he said at the 2016 meeting. The arrest warrant was already in place and, as I understand it -- I was not there -- he was told immediately upon arriving or shortly after arriving that he was going to be placed under arrest.

So, he finds himself here oddly, and, I would say sympathetically as his lawyer, the only person charged in what has been a large government investigation. And I believe that having charged him, frankly, institutional considerations set in with the U.S. Attorney's Office. These are FCPA cases, they're governed by Main Justice, everything is vetted through Main Justice, and there are policy considerations that impact decisions, recommendations that are made.

And the policy decisions, as I understand it, are harsh in FCPA cases, which is why there is a bevy of cases out there where the Government is asking for a very high sentence and the defendant is not sentenced anywhere near that.

You might ask, well, why is it that in FCPA cases it seems to be happening more commonly than others, and I suggest that, to my understanding, the reason is because it's one of those cases where there's a centralized policy that's being implemented. And I respect the policy. The thinking is that stiff sentences will send a message, deterrent, corruption is

a bad thing. We accept all that. But it can't be done, in our view, on the back of Mr. Mebiame's life.

So, it must be tempered, and, in my view, the Government has not adequately tempered it here with consideration of the human being who is before your Honor. This is a human being. I've represented him now for almost ten months. I've spent hours and hours and hours with him at the MDC. I have found him to be dignified, respectful, appreciative, and he has my respect for that. And he's earned my respect for that despite the offense conduct.

I've also seen the suffering that he has endured imprisoned for the first time in his life, first time he's charged with a crime. He did grow up in a relatively privileged way. We don't dispute that. He's fortunate enough to have been born the son of someone who became the Prime Minister of Gabon. So, spending time in a jail cell is about the last thing that he's ever experienced before. And I've seen the depression and sadness and missing of his family and his 13-year-old daughter. And it has weighed on me and I've been worried about him as to what would happen to him here today.

We've submitted to the Court -- I won't rehash it -- many letters on his behalf discussing that he's a good, loyal family member, friend; he's a loyal person to his government in Gabon when he has worked for the government. And we think

that these human factors must be balanced against the institutional desire to create a deterrent effect for FCPA cases.

In this situation, where Mr. Mebiame created the only evidence, the principal evidence, against himself and voluntarily did so and voluntarily returned and pled guilty pre-indictment, pre-Rule 16 discovery, we believe that he's entitled to sentencing credit for that. Significant sentencing credit. And we think a sentence at the statutory maximum would be cruel and unfair. And that is why we have urged the contrary result: A sentence of time served, which essentially is a sentence of a year and a day.

Obviously, it's up to your Honor. And if you view that as not enough punishment, we would accept that. We believe it should be in that range. We'll leave it to your Honor as to, of course, what you believe is fair and just.

I also point out that whatever additional time he serves and whatever time he served now, he suffers more than the average defendant in prison. He has no family to visit. When he is sentenced, he will not get halfway house treatment. He will not be eligible for a camp facility, which, as your Honor knows, in most white collar cases people go to a camp facility and, in the relative scheme of things, it's not so bad. When you go a step up from a camp facility, there is a tremendous difference and it's much harder time, and that is

an appropriate consideration at sentencing.

Your Honor, beyond that I think I will just rest on our papers, which we spent a lot of time on, and ask for your Honor's careful consideration and mercy.

THE COURT: Thank you.

Let me just hear, anything else from the Government? Is there anything else from the government?

MR. LOONAM: No, your Honor, except to say that the Government considered the Defendant as a person, considered the Defendant in the circumstances of voluntary interviews. And when we resolved this case, that resulted in statutory maximum at half the applicable guidelines range. So, the Government believes it was reasonable and measured in resolving this case. And given where -- the count of conviction and what the guidelines are and the offense conduct, the Government submits that a guideline sentence is appropriate.

THE COURT: Thank you.

Sir, is there anything you would like to say before I sentence you?

THE DEFENDANT: Yes, sir.

THE COURT: Just speak up.

THE DEFENDANT: Thank you, your Honor.

I would like to say that I'm very, very sorry for what I did. I really miss my family, especially my daughter.

It's not been very easy the last ten months and I miss home.

That's all I wanted to say. Thank you.

THE COURT: Thank you.

Well, I understand the Government's objectives in bringing this prosecution and I understand the Government's objectives in bringing the civil cases and the cases against Och-Ziff. And I think it's really ironic that in the other cases that I have, to put it as dispassionately as possible, the room was filled with lawyers, high-priced lawyers from major law firms. This Defendant shows up at the door of the IRS without any representation. And I have a real concern about whether he had a real understanding of the potential consequences.

Not that anything was done improperly by the Government, but even a fare beater on the New York City subway before he or she goes before a judge gets legal representation. And here we have this massive fraud scheme against three countries' governments by a major entity or entities, and this gentleman was a participant in it in a significant way, but the rest of the people who were engaged in this are off on some golf course. There is an incongruity, there's an imbalance here, frankly.

Now, it may be there isn't sufficient evidence to prosecute certain people. That may be. But I have all this information that I received in connection with other cases

which indicates that the Government is well aware of certain behavior that happened over an extended period of time throughout Africa. And all I have here is I have these deferred prosecution agreements on the one hand, which are not part of this case that's before me today, and then I have this defendant who came forward with information -- some of it may have been correct, some of it may have been misleading, I don't know -- but he voluntarily came and disgorged this information which demonstrated that he was guilty of a conspiracy to bribe foreign officials for mining licenses, and he's been sitting at the MDC since August 16, 2016 and he faces the statutory maximum.

If Congress wanted make the statutory maximum 20 years, they certainly have had the opportunity to do that. They had the opportunity to create mandatory minimums. They do that all the time in other areas, but they haven't done that in this area, on this particular charge.

So, I'm at a loss about how one balances the different considerations in creating a sentence that is sufficient but not greater than that necessary to fulfill the purposes of sentencing in this case.

Hundreds of millions of dollars in those three countries in bribes, right?

MR. LOONAM: In those three countries, Chad, Niger, and Guinea, they obtained assets worth hundreds of millions of

dollars.

THE COURT: Assets.

MR. LOONAM: $400 million. The bribes were millions of dollars.

THE COURT: Millions of dollars.

MR. LOONAM: Correct, your Honor.

And one point, if I may.

THE COURT: Sure.

MR. LOONAM: The Defendant was initially stopped at Miami Airport when he came into the country and was showed documents of wire transfers that evidenced his --

THE COURT: You mean the first time?

MR. LOONAM: Correct, your Honor. And that is what started his engagement.

THE COURT: Okay.

MR. LOONAM: So, everything else being the same --

THE COURT: He didn't go out and call Mr. Krantz at that point.

MR. LOONAM: Correct, your Honor.

THE COURT: Or some other lawyer.

MR. LOONAM: Correct, your Honor.

He was, my understanding was, meeting with a very famous law firm for a real estate transaction, Greenberg Traurig --

THE COURT: They have an office in Miami.

MR. LOONAM: At that time, yes.

-- but did not bring them to the meeting with us.

MR. KRANTZ: And did not consult with anyone, as I understand it, consulted with no attorney on this issue, your Honor.

THE COURT: Well, it's clear that this is an intelligent, articulate, and experienced individual who has engaged in criminal misconduct, of which he admits freely, and that the victims are his misconduct are, in the end, the people of the countries where the bribery took place. And that's no small matter. In fact, some of the poorest people in the world live in those countries.

Whether they would have benefited if he had not engaged in this conduct, I'm not entirely sure as I'm not an expert on the politics of the nations in question. My guess, though, is that this kind of behavior is rather common in those countries and the population is often victimized by the government officials who are sworn to protect and defend the population. But that having been said, the Defendant's behavior is unacceptable, he's pleaded guilty, and he deserves a substantial sentence.

My biggest problem with this case and this defendant is a lack of balance between the sentence that's requested and the fact that while he's a player, there are many other people who are obviously as accountable or more accountable than he

is for what's been going on, and in all this time I haven't seen anybody brought forward who has been brought in and held accountable. Now, I don't know what will happen tomorrow or next year, but this has been going on a long time.

The only people who seem to do well in this kind of a situation are lawyers at big law firms, and I'm really sick and tired of it when they march into my courtroom and they get a deferred prosecution agreement for their clients, also who have a presumption of innocence, obviously, and I don't discount that.

But this is a very troubling situation. I'm not going to hold Mr. Mebiame responsible for all the ills of corruption in Africa, or anywhere else for that matter, but he's the only person standing in front of me.

Are you ready to be sentenced?

THE DEFENDANT: Yes.

THE COURT: Based on all of the factors that are relevant under 18 United States Code Section 3553(a), the sentence that I'm going to impose I believe is sufficient but not greater than that necessary to fulfill the purposes of sentencing.

It's important that the sentence that is imposed send a message that this kind of behavior will not be sanctioned. On the other hand, it's also important that the sentence that is imposed temper justice with mercy and take

into account the fact that the Defendant did make an effort without the assistance of counsel to assist in identifying the nature and details of the bribery which was taking place or had taken place in those African countries.

I impose the following sentence on you: 24 months in the custody of the Attorney General and a $100 special assessment. I'm not imposing a fine as you do not appear to have the ability to pay a fine. I'm not imposing any supervised release as there's a detainer and you will be deported at the completion of your sentence.

You have a right to appeal your sentence to the United States Court of Appeals for the Second Circuit if you believe the Court has not properly followed the law in sentencing you. You're time to appeal is extremely limited. I recommend you speak to Mr. Krantz at once as to whether an appeal would be worthwhile.

I've guess I've said it three times and I'll say it again: It's time for people who are responsible for this kind of behavior to be held accountable; not just one person, but everybody. And, so, to those people in Washington who are busy having conversations with white-shoe lawyers all over the East Coast, I think it's time for them to get real and stop resolving matters by avoiding the difficult decisions that need to be made. We have a law, so why don't you go out and enforce it?

And I'm not talking to these prosecutors, I'm talking to everybody down at the Justice Department. If one person is this responsible, that means that a lot more is going on. You don't have to be a Rhodes scholar to understand that this kind of behavior is rampant in third world countries.

Anything else?

MR. LOONAM: We're working on it, Judge.

THE COURT: Good to hear it.

MR. KRANTZ: Just one moment, your Honor.

(Pause in proceedings.)

MR. KRANTZ: Nothing else, your Honor.

THE COURT: All right. Have a good day.

THE DEFENDANT: Thank you.

MR. KRANTZ: Thank you for your careful consideration. I appreciate it.

(Matter concluded.)

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Linda A. Marino — June 1, 2017

LINDA A. MARINO — DATE