

1 (Transcript excerpt follows.)

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2:15 PM

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THE COURT: Please be seated everyone.

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Before imposing sentence, I do want to explain the factors that a district court must take into consideration in determining the sentence to be imposed in a particular case. Under Title 18 United States Code Section 3553, the factors applicable in this case that are to be considered by a Court in imposing sentence are as follows:

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One, the nature and circumstances of the offense and the history and characteristics of the defendant.

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Two, the need for the sentence imposed to serve the various purposes of a criminal sentence, which I will discuss in a moment.

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Three, the kinds of sentences available.

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Four, the kinds of sentence and the sentencing range established for your category of offense committed by someone with your Criminal History Category under the Sentencing Guidelines.

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Five, any pertinent policy statement issued by the Sentencing Commission. And if I depart in determining the range suggested by the Sentencing

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1 Guidelines I'm required to state my reasons in open
2 court. And if the applicable range under the Guidelines
3 exceeds 24 months, I am also required to state in open
4 court my reasons for selecting a particular point in the
5 range as the subjected sentence under the Guidelines.

6 Six, the need to avoid unwarranted sentence
7 disparities among defendants with similar records who
8 have been found guilty of similar conduct.

9 I have taken into account each of these
10 factors, Mr. Loles, and I will explain to you how I've
11 reached a decision as to what I believe is the
12 appropriate sentence in your case.

13 First of all, I have reviewed the Presentence
14 Report prepared by the Probation Office.

15 I have considered the statements that were
16 made here in court and also those that were submitted in
17 writing by the victims of your offenses, including the
18 memorandum submitted on behalf of St. Barbara's Church.

19 I've considered the testimony of witnesses,
20 including you, who've testified at the hearings that
21 have been held in connection with your sentencing, as
22 well as the exhibits that were introduced at those
23 hearings.

24 As you know, I have received a number of
25 sentencing memoranda from the government as well as from

1 defense counsel, and there were numerous exhibits
2 attached to those documents.

3 I've considered your counsel's remarks today
4 as well as your remarks and the remarks of counsel for
5 the government.

6 I've also taken into account the need for the
7 sentence in this case to serve the various purposes of a
8 criminal sentence. Pursuant to Section 3553, the
9 sentence should be sufficient but not greater than
10 necessary to serve these purposes.

11 First, I must consider the need for the
12 sentence imposed to provide just punishment for the
13 offense. Part of the meaning of a just punishment is
14 that it not be unduly different from sentences received
15 by defendants with similar records who have been
16 convicted of similar conduct.

17 Second, I must consider whether there is a
18 need for the sentence imposed to protect the public from
19 further crimes committed by you.

20 Third, I must consider the need for the
21 sentence imposed to afford adequate deterrence to
22 criminal conduct.

23 Fourth, I must consider the need for the
24 sentence imposed to reflect the seriousness of the
25 offense and to promote respect for the law.

1 And finally, I must also consider the need for
2 the sentence imposed to serve the goal of
3 rehabilitation.

4 Under the statute I am required to look at
5 defendants with similar records who have been found
6 guilty of similar conduct. There are numerous fraud
7 cases I am aware of where a defendant caused a huge
8 loss, but the loss was spread out among many investors
9 in the stock of the company. Other fraud cases I am a
10 care of are ones involving a Ponzi scheme where the
11 defendant gets no more than a few thousand dollars from
12 each of many victims. Other cases are ones where
13 defendants sold phony bonds in the amount of up to as
14 much as \$100,000, sometimes less, to several people, and
15 in one case to as many as a dozen people.

16 In each of these instances, even ones where
17 the fraud ran for several years, the defendants duped
18 their victims but they did not cultivate them sometimes
19 over long periods of time the way that you did.

20 The victim who spoke on Monday, Mr. Solomon,
21 explained in very clear terms what has been referred to
22 by many other victims, namely, how you cultivated the
23 investor's friendship, on a group or individual basis,
24 in order to gain their trust while assessing their
25 weaknesses, ultimately convincing them that they should

1 invest with you, and then not only took their money but
2 used them as a referral to others, thereby leveraging
3 the position you had carefully crafted for yourself as a
4 respected and trusted member of the St. Barbara's Church
5 family.

6 These victims included people who were among
7 the most vulnerable, for example, elderly individuals
8 living on fixed incomes and people in ill health who
9 could not afford to lose their life savings. These were
10 not nameless, faceless strangers or even casual
11 acquaintances you victimized. Rather, they were people
12 you knew well, whose trust you cultivated and
13 manipulated by identifying their points of vulnerability
14 and exploiting them.

15 Your offense was one of those crimes that was
16 committed in a way that was up close and very personal,
17 and in not only a personal but sometimes even in an
18 intimate setting by projecting yourself as the person
19 who could be leaned on by someone who was suffering a
20 serious illness and you would reassure that their money
21 was safe, or by a grieving widow who had received the
22 proceeds of her husband's life insurance policy and
23 retirement account, or by a family that was burying a
24 husband and father, or by a couple you introduced as
25 your children's grandparents, and who included the man

1 you said who was like a father to you and said you were
2 like a son to him.

3 I think Mr. McGarry described the situation
4 accurately when he said the victims did not stand a
5 chance and there was an aspect of soullessness to what
6 you did.

7 For these reasons, most of your victims have
8 been sentenced to a life time of emotional distress, as
9 they will have constant reminders of things that would
10 have been meaningful to them but they will be unable to
11 do, in some cases their legacy to an institution that
12 was good to them, or a legacy to others who are less
13 fortunate, or a legacy to a family. In some cases it
14 will be the ability to live longer in their own homes as
15 they age that they have lost. In every case as they
16 think about what they cannot do they will know that it
17 is because you took their money so you could live a
18 lavish life-style. And you will haunt the individual
19 investors for the rest of their lives.

20 Even your conduct with respect to your
21 institutional victim, St. Barbara's Church, was
22 particularly heartless. You are not the first person to
23 steal from a church endowment fund, and unfortunately
24 you will most likely not be the last. But the
25 circumstances under which you stole money from

1 St. Barbara's Church are among the most aggravated of
2 circumstances. Those circumstances include your
3 witnessing the efforts made by so many people, including
4 the little children of the church, to raise money for
5 St. Barbara's endowment funds. So I do not agree that
6 this is a case where only money was involved.

7 Over the years I have sentenced a lot of
8 people who committed the category of crimes that you
9 committed. I can think of only one other defendant
10 whose conduct was as depraved and callous as yours.
11 That individual stole a lot less money than you did and
12 he had an addiction. In addition, he did not display a
13 lack of remorse, as I conclude you have. Although I
14 wish it were not so, having not only heard from others
15 about you, but having also had the chance to watch you
16 testify at length and speak here in the courtroom, I
17 have concluded that there is no remorse here, only lies
18 and more lies and manipulation.

19 Moreover, when I consider your conduct -- some
20 of which has occurred in front of me -- that forms the
21 basis for the obstruction of justice enhancement, I must
22 conclude that you are the most sinister defendant I have
23 ever sentenced for this category of crimes.

24 Therefore, I have concluded that although I
25 must, as required by the statute, consider how you

1 compare to defendants with similar records who have been
2 found guilty of similar conduct, it provides a more
3 meaningful perspective on your history and your personal
4 qualities and the nature and circumstances of your
5 offense if I look at you in the context of another group
6 of defendants to whom you are most appropriately
7 compared, and that group is those defendants who are
8 among the most sinister individuals in our society, that
9 is, people from whom society needs to be protected. And
10 that is an unusual conclusion, for me at least, in a
11 white collar case.

12 I note that I am influenced by the fact that
13 it required a lot of hard work on the part of a
14 prosecutor and investigators who are quite experienced,
15 and also on the part of an experienced judge to see
16 through deception by you. And I was struck by how
17 convincingly you explained to your victims today how
18 meaningful it was for you to go to confession on Monday
19 morning. The reason I was struck was because I also saw
20 you continue to commit perjury on Monday afternoon.

21 Thus, I conclude that dishonesty, combined
22 with a lack of remorse, and a great skill at deception
23 appear to be simply part of who you are at this time.
24 Perhaps it is driven by the narcissism mentioned in the
25 psychological report, but I do not believe it is based

1 on the other factor mentioned in that report.

2 As I try to project how you will be in the
3 years to come, I cannot envision any basis for hope that
4 there will be a change. So I do not think that you can
5 be deterred from committing criminal offenses in the
6 future. In that respect I agree with one of your
7 victims who explained that an early return to society by
8 you would simply allow you to return to your predatory
9 ways.

10 Thus, the purpose of sentencing that is most
11 important here is protecting society.

12 Mr. Loles, my conclusions about you are harsh,
13 but they are what I believe the record in this case
14 requires. I regret that you had to listen to them on a
15 day when a significant term of imprisonment will be
16 imposed upon you. However, I am required not only to
17 explain the reasons for the sentence imposed, but also
18 to make the reasons very clear for purposes of appeal.

19 The government has suggested that a sentence
20 of at least 30 years of imprisonment would be
21 appropriate in your case. Based on what I have learned
22 about you and your conduct, I cannot dispute that a
23 sentence of 30 years would be reasonable in your case
24 and well deserved. However, because we are dealing with
25 such a high Guidelines range, I believe I do have a

1 responsibility to look at United States versus Lauerson,
2 even if it is not raised by the defense, as it has been,
3 and I have done so.

4 In light of the fact that you did plead guilty
5 in this case and you saved the government the time and
6 expense of a trial, which I believe would have been a
7 very difficult one, and the fact that the range is
8 life -- I started with a range of 360 to life and I
9 started at the bottom of the range, 360 months, in doing
10 my Lauerson analysis. And I really did it two ways.

11 First, I looked at the things that I thought
12 were just so much a core of what you did that they
13 should be counted with full weight. That was the base
14 offense level, the amount of the loss, the number of
15 victims and obstruction of justice. I then added a
16 number of months for each of the additional enhancements
17 as if each one was the first enhancement being added.
18 So I simply added a number of months for each
19 enhancement as opposed to going up brackets.

20 I then did the calculation a second way
21 because I am very aware of the fact that when we talk
22 about the enhancement for number of victims we jump from
23 10 to 50 to 250, and you're very close on the 50 or more
24 victims. So I did a second calculation using a
25 two-level increase for the number of victims as opposed

1 to a four-level increase. That proved to be more
2 favorable to you than the first calculation I did. It
3 came out to an adjusted or recalculated Guideline range
4 of 300 months to 333 months.

5 I must say that your case is not one where
6 there are persuasive considerations in terms me being
7 persuaded that I should exercise my discretion to
8 depart, but I am mindful of the fact that the statute
9 requires that I impose a sentence that is sufficient but
10 not greater than necessary to serve the purposes of
11 sentencing.

12 So in my mind, at least, the question was
13 whether a sentence at the bottom of that range, which is
14 300 months, or 25 years, is sufficient to protect
15 society. Looking at your personal circumstances, I have
16 concluded that it is. So I will make a Guidelines
17 departure under Lauerson and impose that sentence.

18 Would you please stand, Mr. Loles.

19 Mr. Loles, I hereby sentence you to a total
20 effective sentence of 300 months, which is 25 years.
21 Specifically, I sentence you to the custody of the
22 Bureau of Prisons for a period of 240 months on Count 4
23 and 240 months on Count 9 to be served concurrently, and
24 60 months on Count 20 and 60 months on Count 32 to be
25 served concurrently with each other and consecutively to

1 the sentences imposed on Count 4 and Count 9, all with
2 credit for time served.

3 Your counsel has requested a recommendation to
4 the 500-hour residential drug abuse program. I'm really
5 not comfortable making such a recommendation because
6 it's based on representations made by you and I have no
7 confidence in any representations made by you. I will
8 leave it to the Bureau of Prisons to assess any
9 application that you make.

10 After imprisonment, you shall be placed on
11 supervised release for a period of three years on
12 Count 4, three years on Count 9, three years on Count 20
13 and three years on Count 32 to be served concurrently.

14 A condition of your supervised release will be
15 that you not commit another federal, state or local
16 crime during the term of supervision.

17 As a further condition of your supervised
18 release, you shall not possess a controlled substance.

19 A further condition is that you shall
20 cooperate in the collection of a sample of your DNA.

21 I am waiving the mandatory condition that you
22 refrain from any unlawful use of a controlled substance
23 and submit to periodic drug testing because there is a
24 low risk of substance abuse by you in the future.

25 Special conditions of your supervised release

1 will be as follows:

2 One, you shall make restitution payments in
3 accordance with the restitution order that is being
4 entered in this case.

5 Two, you shall participate in a mental health
6 treatment program, either inpatient or outpatient, and
7 the details as to the selection and schedule of the
8 program shall be approved by the United States Probation
9 Office. You shall pay all or part of the costs of such
10 treatment based on your ability to pay as approved by
11 the United States Probation Office.

12 Three, you shall not incur into credit card
13 charges or open additional lines of credit without the
14 permission of the probation officer until your criminal
15 debt obligation is paid.

16 Four, you shall provide the Probation Office
17 with access to requested financial information.

18 Five, as ordered by the Court, you shall
19 notify third parties at risk that may be occasioned by
20 your criminal record or personal history and
21 characteristics, and you shall permit the probation
22 officer to make such notifications and to confirm your
23 compliance with such notification requirement.

24 And six, you shall not possess a firearm or
25 other dangerous weapon.

1 Of course all of the standard conditions of
2 supervised release in this district shall also apply in
3 your case and those conditions will be set forth in the
4 judgment in this case.

5 If you violate any of these conditions during
6 your period of supervised release, the Court will be
7 free to sentence you to additional time in prison of up
8 to two years. So in effect, you will have a sentence of
9 up to two years hanging over your head during the period
10 of time that your on supervised release. The
11 consequences of a failure to comply with the conditions
12 of supervised release are extremely serious and the
13 Court would not hesitate to sentence you to additional
14 time in prison if you violated the terms of your
15 supervised release.

16 I am not ordering you to pay a fine because
17 your financial status is such that you will not have the
18 ability to pay a fine in addition to the restitution
19 that is being ordered.

20 As to restitution, I did not have time to go
21 back and recalculate the numbers to take into account
22 the \$700,000 adjustment as to Mr. Nicholson, so I'll
23 read what they were, but for all the numbers with
24 respect to investors, it will be minus the \$700,000
25 adjustment with respect to Mr. Nicholson.

1 So the amount of restitution payable by you
2 attributable to the amount of the loss set forth in
3 Court Exhibit 1 is \$27,198,025.94 with the \$700,000
4 adjustment.

5 Out of the \$1,950,218.54 attributed there to
6 St. Barbara's Church, \$40,000 will be payable to its
7 insurer, American States Insurance Company and American
8 Economy Insurance Company d/b/a Peerless Insurance.

9 In addition, restitution is being ordered for
10 expenses incurred by St. Barbara's Church during
11 participation in the investigation and prosecution of
12 the offense and attendance at proceedings related to the
13 offense. St. Barbara's Church has submitted records
14 establishing that it incurred \$166,425.65 in expenses.
15 I have excluded expenses related to the insurance claim,
16 namely, \$7,500 with respect to Attorney Bjorkman and
17 \$4,879.50 with respect to Wiggin & Dana as not falling
18 within Section 3663A(b)(4). So the total amount of
19 extensions being included is \$154,046.15. The sum of
20 \$154,046.15 and \$27,198,025.94 is \$27,352,072.09, then
21 with the \$700,000 adjustment.

22 Consequently, you shall pay restitution in the
23 amount of \$27,352,072.09 with the \$700,000 adjustment to
24 the victims of your offense pursuant to the plea
25 agreement and Title 18 United States Code Sections 3663A

1 and 3664. I am waving interest pursuant to
2 Section 3612(f)(3) of Title 18 of the United States Code
3 because you will not have the ability to pay interest.

4 The proceeds of your interests in the two
5 apartments in Paleo Faliro, Greece, if I'm pronouncing
6 that correctly, transferred to you on August 28, 1990,
7 shall be applied towards restitution. These apartments
8 are described in the Book of Transfers of Mortgage
9 Registry of Paleo Faliro in Volume 285, serial number 12
10 and serial number 13 under Number 9282.

11 In addition, you shall make monthly payments
12 in the amount of \$250 on the 10th day of each month
13 during the first 34 months following your release from
14 imprisonment and the balance of the amount of
15 restitution ordered shall be due and payable on the 10th
16 day of the 35th month following your release from
17 imprisonment. In addition, I note that nothing in this
18 order shall prevent the Bureau of Prisons from
19 implementing the restitution payments in accordance with
20 its inmate financial obligations program. Each payment
21 will be for the benefit of the victim making a claim on
22 a basis that is pro rata with the amount of their
23 respective losses.

24 As required by Title 18 United States Code
25 Section 3664, I have arrived at this schedule after

1 considering your financial resources and other assets,
2 including whether any of those assets are jointly
3 controlled; your projected earnings and other income;
4 and any of your financial obligations, including
5 obligations to dependents.

6 In that the purpose of restitution is
7 essentially compensatory to restore a victim, to the
8 extent money can do so, to the position he or she or it
9 occupied before sustaining injury -- I'm citing United
10 States versus Qurashi -- I am making the restitution
11 order contingent upon your ability to pay, and I am
12 requiring full and complete financial disclosure by you
13 to the Probation Office on a quarterly basis during your
14 period of supervised release.

15 Finally, I want to note for both your benefit
16 and the benefit of the victims of your offenses that a
17 victim, the government or the offender may petition the
18 Court at any time to modify a restitution order as
19 appropriate in view of a change in the economic
20 circumstances of the offender.

21 You shall pay a mandatory special assessment
22 of \$400, which is due and payable immediately.

23 Please be seated, sir.

24 The judgment will be prepared for my signature
25 by the Clerk's Office.

1 Mr. Loles, I want to make sure that you
2 understand that you and the government have the right to
3 appeal within 14 days any sentence that the Court
4 imposes. Also, the Court will allow you to appeal and
5 to use the services of an attorney at no cost to you if
6 can you not afford to pay yourself.

7 Do you understand that, sir?

8 THE DEFENDANT: I do.

9 THE COURT: Thank you.

10 Mr. McGarry, is the government moving or will
11 it file a written motion to dismiss other counts in the
12 indictment?

13 MR. MCGARRY: If it's okay with Your Honor,
14 I'll make an oral motion to dismiss the following counts
15 of the indictment: Counts 1, 2 and 3; Counts 5, 6, 7
16 and 8; Counts 10 through 19 inclusive; Counts 21 through
17 31 inclusive.

18 And I might also point out for the record,
19 Your Honor, that while there is a notice of forfeiture,
20 the grand jury came back with a notice of forfeiture,
21 and while the government may have been entitled to seek
22 forfeiture, similar to what you said about a fine, it's
23 my understanding from working closely with the financial
24 litigation unit that restitution makes it easier to get
25 any funds to the victims. And since it would be the

1 government's intention and the United States Attorney's
2 Office intention that if there are any monies found or
3 the apartments in Greece, which I believe both Mr. Loles
4 and his counsel have agreed to surrender all rights to
5 and not to contest the government from seeking them,
6 that by them agreeing to do that -- and I see
7 Mr. Donovan was nodding -- that restitution is an easier
8 mechanism for the government to get the money to the
9 victims, whatever money there is, and therefore we're
10 not pressing forfeiture.

11 THE COURT: The motion is granted.

12 MR. MCGARRY: Thank you, Your Honor.

13 THE COURT: Are there any other matters to
14 address before we recess?

15 MR. DONOVAN: As you heard, Mr. Loles was
16 planning to lead his future life in Atlanta. I wonder
17 if Your Honor would recommend to the Bureau of Prisons
18 that he be incarcerated, if possible, at an institution
19 near Atlanta.

20 THE COURT: I would be happy to put that
21 recommendation in.

22 In that case thank you both very much.

23 MR. MCGARRY: Thank you for your time, Your
24 Honor.

25 THE COURT: We're in recess.

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(Whereupon, a recess followed at 2:50 PM)

(End of transcript excerpt.)

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C E R T I F I C A T E

UNITED STATES V. GREGORY LOLES

3:10CR00237(AWT)

I, Corinna F. Thompson, RPR, Official Court Reporter for the United States District Court for the District of Connecticut, do hereby certify that the foregoing pages, pages 1 - 21, are a true and accurate transcription of AN EXCERPT OF my shorthand notes taken in the aforementioned matter on February 26, 2014, to the best of my skill and ability.

/s/ _____

CORINNA F. THOMPSON, RPR
Official Court Reporter
450 Main Street, Room #225
Hartford, Connecticut 06103
(860) 547-0580